

Nepal

**Report of
Non-governmental Organisation on
Universal Periodic Review**

Submitted to
UN Human Rights Council
March 2015

**Nepal NGO Coalition for
Universal Periodic Review**

NEPAL

**Report of Non-governmental Organisation on
Universal Periodic Review**

**UPR Working Group of the Human Rights Council
March 2015**



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Report of Non-governmental Organisation on Universal Periodic Review

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Preface

This report presents the overall human rights status and trends in Nepal within the last four and half year period with an aim to review and analyse state policies, legislations, programmes, and institutional arrangements, as well as their implementation in the context of transitional period of the country. It is a combined effort of 295 human rights organisations and civil society members on behalf of Nepal NGO Coalition for UPR, Women Coalition for UPR and Durban Review Conference Follow-up Committee Nepal (DRCFC), who provided grass-root information to the UN Human Rights Council for the purpose of upcoming review of human rights record of the country under Universal Periodic Review (UPR) process in November 2015.

Nepal is now in transition from a decade-long armed conflict to 'lasting peace', a phase devoid of unequal social, political and economic systems that sustain structural discrepancies and discrimination among different groups of people. As such, the Nepali society is in a critical point of time, one filled with enormous challenges. The culture of impunity that enabled the crimes in the first place have remained intact, further increasing public distrust and incentives to resort to violence. The first Constituent Assembly was dissolved after failing to promulgate the constitution and election for the second constituent assembly has held.

This report is prepared on the basis of various levels of regional, central and thematic discussions which comprise of issues specially those which have not been given enough attention by the state, the special issues that have been neglected and the suggestions for further improvement. Several people and organisations have contributed to the preparation of this report. I would like to thank the member organisations working within the Women Coalition for UPR and Durban Review Conference Follow-up Committee under the Nepal NGO Coalition for UPR (NNC-UPR) for their efforts in preparing this report. Likewise, my sincere thanks go to the participants of the regional, national and thematic consultative meetings who gave us firsthand information on the human rights situation.

I would like to acknowledge the support of Durban Review Conference Follow-up Committee, Women's Rehabilitation Centre (WOREC) and Informal Sector Service Centre (INSEC) regional offices in conducting the regional workshops. And, I would like to thank the organizations for the financial and technical help during its preparation. I would like to thank CARE Nepal for publication of this report and other technical support. I am equally thankful to other NGOs/CSOs who assisted us by providing information and other technical support.

I would like to specially thank Advocate Hari Phunyal, Advocate Prabina Bajracharya, Advocate Yam Kishan and Advocate Hom Yamphu for being part of the report preparation committee and preparing the report. The efforts that Samjah Shrestha, Prashannata Wasti and Prasiddha Pandey from Secretariat, INSEC, for NNC-UPR put on for the co-ordination is highly accredited. I would like to express my gratitude INSEC's Yogish Kharel for his editorial input and officer Gita Mali for the design and the layout. Likewise, the WOREC Secretariat of National Women Coalition and Durban Review Conference Follow-Up Committee(DRC-FC)'s Secretariat, Jana Utthan Pratisthan also deserve my gratitude.

INSEC is humbled for being given the significant and historical responsibility for the coordination of the Nepal NGO Coalition for UPR in order to prepare the report for Universal Periodic Review. We are confident that the report will be useful for the Human Rights Council and other relevant bodies to understand and act on behalf of the international community to help improve the human rights and rule of law situation in Nepal.

Thank you

Subodh Raj Pyakurel
Chairperson, INSEC
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NEPAL
Nepal NGO Coalition Submission to the United Nations
Universal Periodic Review
23rd Session of the UPR Working Group of the Human Rights Council
March 2015

INTRODUCTION

This joint submission has been prepared by three coalitions, Nepal NGO Coalition for UPR (NNC-UPR), National Women Coalition and Durban Review Conference Follow-up Committee (DRCFC) Nepal comprising of 295 civil society organizations (Annex 1).

METHODOLOGY

This report is the outcome of six national coordination meetings, and 25 regional, national and thematic consultations with relevant stakeholders. This submission also includes two different thematic submissions of DRC FC (Annex-2) and Women Coalition as annexes (Annex-3).

IMPLEMENTATION STATUS OF UPR 2011 RECOMMENDATIONS

1. In Universal Periodic Review 2011, the HRC made a number of recommendations (135) to the Government of Nepal. While reviewing, it was found that 7.5% recommendations are fully implemented and 56.66% recommendations are partially implemented while 30.84% are not implemented.¹ Also the National Human Rights Commission (NHRC)'s assessment report notes "the implementation parts of those recommendations turned out to be extremely weak due to the political instability in the country".²

I. BACKGROUND AND FRAMEWORK

A. Scope of International Obligations

2. The UPR first cycle recommended ratification of several international treaties for holistic improvement of human rights situation.

Recommendations:

- Ratify CED, CMW, and all three Additional Protocols to Geneva Conventions 1949.
- Accede to the Rome Statute of ICC and ILO Convention 189.
- Ratify Optional Protocols to ICESCR, CAT and CRC (OP III), Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
- Initiate for separate international convention on elimination of caste-based discrimination and untouchability.

1 Draft joint report for UPR of NHRIs 2015.

2 NHRC, Mid-Term Report on the Implementation status of Conclusion and Recommendations of Universal Periodic Review of Nepal (2013, pg 39).

B. Constitutional and Legislative Framework

3. **Constitution Drafting Process³:** Following the dissolution of the first Constituent Assembly (CA) on 28 May 2012, an interim government headed by the then Chief Justice conducted election of the second CA. CA could not promulgate the Constitution on the deadline of 22 January despite the political agreement made by the political parties. The differences persist in some key issues such as federalism, forms of government, electoral system and judiciary.
4. **Fundamental rights (FR)** section of the Interim Constitution include economic, social and cultural rights along with the clauses to protect inclusiveness, but some of the clauses have provisions 'as prescribed by law' which limits accessibility to justice. Right to remedy clause includes condition to promulgate law in two years to enforce the rights mentioned in FR limiting justiciability. In the present Constitution, the provision of citizenship is progressive as it allows citizenship in the name of either father or mother. This provision should be continued and other provision of restrictions should be removed in the new constitution to decrease risk of statelessness.
5. **Participation:** Nepal accepted to ensure full participation of ethnic and caste groups, women, IPs, Dalits, Muslims, Madhesis, Persons with Disabilities (PWDs) and Sexual Minorities in the constitution-making process. However, participation of these groups in the second CA decreased.

Recommendations:

- Ensure effective negotiation on contentious issues and create an environment to promulgate constitution as early as possible.
- Remove restrictive clause in the draft of the FR and make right to remedy clause fully and immediately enforceable.
- Ensure equal and full citizenship rights for women to acquire and transfer citizenship; and citizenship by descent to children equally and independently through mother or father.
- Initiate consultative process with women, IPs, Dalits, Muslims, Madheshi and sexual minorities guaranteeing their rights in the new constitution.
- Formulate comprehensive Act consistent with Article 21⁴ of the Interim Constitution including Inclusion Bill 2010 and regulation on Caste-based discrimination.

³ Recommendation No. 106.1,2 and 45.

⁴ Article 21. Right to social Justice: The economically, socially or educationally backward women, Dalits, indigenous peoples, Madhesi communities, oppressed classes, poor farmers and labors shall have the right to take part in the structures of the State on the basis of the principle of 'proportional inclusion.

6. **Domestication of International Law**⁵: New bills on Criminal and Civil Codes⁶ contain provisions such as torture and disappearance. These provisions do not fully comply with the international obligations, and amendments⁷ are needed. Separate Torture Bill, 2014 and anti-witchcraft allegation bill are tabled in the parliament. Nepal has not fully domesticated many treaties such as CRPD and CAT.

Recommendations:

- Fully incorporate international obligations into Nepali laws while adopting a Comprehensive Human Rights Act and amend contradictory legislations.
- Enact a consolidated law to domesticate treaties to address civil, political and socio-economic rights and human rights violation such as sexual violence⁸
- Create a mechanism for effective monitoring of treaty obligations.

C. Institutional and Human Rights Infrastructure and Policy Measures

7. **National Human Rights Institutions (NHRIs)**⁹: NHRC Act 2012 does not comply with the Paris Principles with regards to staffing, structure and financial independence.¹⁰ Implementation of NHRC recommendations¹¹ is ineffective. NHRC lacks a will to blacklist human rights violators and recommend for departmental actions. Other NHRIs including National Women Commission (NWC)'s legislation has not been amended and its resources are inadequate.¹² National Dalit Commission (NDC) and National Muslim Commission (NMC) are established by an executive order but do not have separate laws to establish their independence and autonomy. The Supreme Court (SC) has issued a mandamus for establishing Madhesi Commission.¹³

Recommendations:

- Ensure full independence of NHRC, NWC and NDC¹⁴ according to the Paris Principles and effectively implement their recommendations.
- NDC and NWC should be given a status of constitutional body.

5 Recommendation no. 106.1, 2, 3, 10, 18, 19, 20, 34, 35, 107.18, 20, 108.5, 11, 24, 25, 109.1, 2, 7, 10 and 13.

6 The Bills are Criminal Code Bill, Criminal Procedure Code Bill, Civil Code Bill, Civil Procedure Code Bill and Penal Bill to the Legislative-Parliament.

7 Torture Bill's definition of crimes, retrospective effect, and right of victims, statutory limitation and duration of imprisonment are narrowly conceived. The crime of genocide is only referred as aggravating factor of crime. However the war crimes, crimes against humanity and genocide are not defined as crimes in the Criminal Code Bill. The crime of rape is defined with wider scope in the Criminal Code, but has limitation such as penetration by object is excluded. The words 'other sexual offences' such as stripping, forced pregnancy, forced abortion, forced sex with contraceptives and other similar acts are not covered as crimes.

8 Provisions of short statutory limitations for rape and other sexual violence; increased punishment for rape, marital rape and other sexual violence; adequate victim and witness protection mechanisms; compensation from state; and measure to address special need of girls below 16.

9 Recommendation no. 106.6, 7, 8, 25, 107.5 and 6.

10 National Human Rights Commission Act, 2068 (2012), sec 30.

11 NHRC, Annual Report of National Human Rights Commission 2070-2071 B.S. (in Nepali), 2014.

12 Recommendations no. 106.8, 107.6 and 108.11.

13 <http://www.ekantipur.com/the-kathmandu-post/2015/03/09/news/sc-orders-govt-to-form-madhesi-commission/274025.html> available on 15 March, 2015.

14 See recommendation, "Continue promoting the work of the National Commissions for Women and for Dalit, through the reinforcement of resources that allows them to work in an efficient manner (Bolivia) (para 106.8 UPR Nepal 2011; A/HRC/17/5)" and "Provide the National Dalit Commission and the National Women's Commission with sufficient resources to effectively realize their mandate (Slovenia) (para 107.6 UPR Nepal 2011; A/HRC/17/5)."

- Form commissions such as Disability, IPs and Minority assuring autonomy and effectiveness as per the Paris Principles.
- Establish a National Inclusive Commission to address the aspirations and diversity and for monitoring and effective implementation of the laws.¹⁵

8. **Elections of Local Bodies:** The elections of local bodies have not been held since 1997¹⁶. As a result, overall governance and development process is affected. This has led to corruption and lack of grass-root political participation.

Recommendations:

- Hold the elections of local bodies immediately.
- Make election process transparent, accountable and responsible with effective monitoring.

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS, TAKING INTO ACCOUNT OF APPLICABLE INTERNATIONAL LAW

A. Equality and Non-discrimination

9. **Gender Equality:** Women of Dalit, IPs, Muslim, women with disabilities and women from other minority groups continue to face gender-based and identity-based discrimination. Around 23.65% of the Nepali population is without citizenship certificate.¹⁷ Despite constitutional guarantee and the SC decision,¹⁸ the government officials refuse to grant citizenship based on the mother's name¹⁹. Single mothers, trafficked victims, conflict victims of sexual violence and women migrant workers continue to face problems in transferring citizenship to their children.

Recommendations:

- Implement laws, circulars and the SC decisions to make citizenship easily available in mother's name.
- Ensure effective implementation of prevailing non-discriminatory laws and policies on gender equality allocating sufficient resources.

15 The Committee further recommends that special units be established to monitor the implementation of programs to protect and promote full enjoyment without discrimination of the economic, social and cultural rights by disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups (para 32 CESCR Concluding observations 2008; E/C.12/NPL/CO/2).

16 In February 2006, the then King Gynandra conducted the municipality elections which majority parties boycotted and was largely adulterated and little reflective of public aspiration or choice

17 Forum for Women, Law and Development (FWLD), Acquisition of Citizenship Certificate in Nepal: Estimating Prevalence, April 2013, Kathmandu.

18 Sabina Damai's case- Sabina Damai was not able to trace her father, approached the Lamidanda Village Development Committee (VDC), Dolakha twice to obtain citizenship certificate in her mother's name, who is a Nepali citizen. However, after repeated refusal from the District Administration Office (DAO), Sabina turned to the Supreme Court for justice. In 2011 the Supreme Court made a landmark decision of granting citizenship by descent to children if either the mother or the father has citizenship by descent.

19 SC favors citizenship through mother, http://www.myrepublica.com/portal/index.php?action=news_details&news_id=90222

10. Discrimination against Dalits: Despite national and international obligations and enactment of "Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 (CBD Act), dalits are facing many forms of discrimination. There are still 37 discriminatory provisions existing in several laws against Dalits.²⁰ Implementation of CBD Act is ineffective as very few investigations are carried out and no comprehensive study has been conducted to repeal those provisions.

Madhesi Dalits are more excluded, marginalized, and landless²¹ and discriminated within the Dalits and Madhesi community. They face severe hurdles to acquire of citizenship cards. Dalit women are facing discrimination based on class, caste and gender. Madhesi Dalit women are facing additional region-based discrimination. Badi woman are facing sexual exploitation.

Dalit youths and children face caste-based discrimination and untouchability in schools, temples and in public and private places. They are deprived of education and face malnutrition, child labor, trafficking and sexual violence.

Recommendations:

- Adopt policies, plans, strategies, programs and budget allocation²² for effective implementation of CBD Act.
- Amend all discriminatory laws, regulations, rules, directives, policies and programs.
- Adopt laws and policies to address all forms of discrimination and atrocities based on caste and community including sexual exploitation, trafficking and prostitution of Dalit and Badi women.²³
- Ensure 11-point regarding rights of dalits drafted by the constitution drafting committee of CA are incorporated in the new constitution
- Ensure protection for all inter-caste married couples²⁴
- Ensure that all opportunities, resources and services are proportionally distributed among the hill and Madhesi Dalits and Dalit women as per their respective population ratio

20 Still, there are many discriminatory provisions existed in different laws of the country incompatible with international human rights instruments. The study carried out by National Dalits Commission has revealed that there more than 23 discriminatory provisions. (NDC.2005. *Study of the discriminatory and amendable legal provision against Dalit community*. Kathmandu: National Dalit Commission)

21 Sustainable Development Forum, *Ownership of Dalits in Land: A Study*. Kathmandu: Sustainable Development Forum 2006.

22 See previous recommendations, "...Government's priorities include combating caste-based discrimination, ensure that the policy is fully implemented also by the local authorities in rural and remote areas (Czech Republic) (para 106.24 UPR Nepal 2011; A/HRC/17/5); Take the necessary legal and policy measures to end discrimination, including of women, children and Dalits (Netherlands) (para 107.11 UPR Nepal 2011; A/HRC/17/5); ...caste-based discriminations be reported, investigated, perpetrators prosecuted and victims of such violence are compensated (Czech Republic)" (para 108.12 UPR Nepal 2011; A/HRC/17/5).

23 See recommendation, "The persistence of sexual exploitation, in particular among the Dalit community, and the persistence of the root causes of trafficking and prostitution, including poverty (para 21 CEDAW Concluding observations 2011; CEDAW/C/NPL/CO/4-5)."

24 See CERD recommendation, "to take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community (para 32 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)", 2002.

- Ensure proportional representation of Dalits, to the state structures²⁵ including all law enforcement agencies²⁶.
- Resolve the landlessness and ensure citizenship rights of Madhesi Dalits.
- Ensure equal rights and proportional representation of Madhesi Dalits and Dalit women within women, Dalits and Madhesis.
- Formulate required policies, laws, strategies and programs eliminating class, caste, gender and regional based discrimination against Dalit and Madhesi Dalit women
- End sexual exploitation of Badi women
- Implement measures to enforce rights to education, adequate food, health services and freedom from child labor, trafficking and sexual violation.

11. Muslim and Religious Minorities: Ten types²⁷ of religious groups exist in Nepal. The concern of all religious minorities is lack of effective implementation of "secularism". Muslim²⁸, is one of the marginalized groups tends to identify and recognize itself as community rather than religious minority.

12. Muslim women have less access to health, justice and education because of cultural and language barrier. They suffer from multiple forms of discrimination -as women and Muslim including within Muslim community.

Recommendations:

- Effectively implement all kind of mechanisms to secure secularism.
- Ensure that all religious groups have equal access to resources to preserve and protect religious, cultural heritage and to build religious infrastructures.
- Ensure religion, region and community based non-discrimination.²⁹
- Recognize and mainstream *Madrasha* education system and establish Madrasha Educational Board.
- Ensure that Muslim children have access to education in a culturally appropriate way and provide adequate scholarships.
- Recognize all mother tongues as national language.
- Ensure the proportional representation of Muslim women within the Muslims and within the women

²⁵ See previous recommendation, "Seek to remove the obstacles faced by victims trying to access justice (Republic of Korea) (para 106.37 UPR Nepal 2011; A/HRC/17/5)."

²⁶ See CERD recommendation, "to ensure where relevant that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account (para 22 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1).

²⁷ Hindu is in majority (81.3%) and followed by Buddhism, Islam, Kirat, Christianity, Prakriti, Bon, Jainism, Bahai and Sikhism are in minority status

²⁸ Muslim occupies 4.4 % of national population

²⁹ See previous recommendation, "Make further efforts to overcome the difficult issue of discrimination on the grounds of religion, gender, race or otherwise (Japan); continue its efforts to end discrimination on the grounds of religion, race or gender in law and practice (Pakistan) (para 106.21. UPR Nepal 2011; A/HRC/17/5)."

13. **Madhesis:** Madhesi people have been discriminated on the basis of complexion, region, language and socio-cultural identity. Government has made several agreements with Madhesi which need to be implemented.³⁰

Madhesi women have faced multiple forms of discrimination and exclusion as women and Madhesi. They face domestic violence, dowry-related violence including murder, sex-selective abortion and forced divorce. Sexual violence against Madhesi women and girls especially from Dalit and OBC caste groups is rising.

Recommendations:

- Ensure equal and proportional representation of Madhesi including women in State structure.
- Ensure that National Madhesi Commission will be inclusive among Madhesi women, Madhesi Dalit, and Other Backward Communities (OBC)³¹.
- Ensure elimination of all kinds of prejudice, discrimination, exclusion against Madhesis including Madhesi women
- Allocate and distribute resources in equal footing on the basis of population density of Tarai-Madhes

14. **Indigenous Peoples (IPs):** Nepal has ratified ILO 169 and signed UNDRIP in 2007. Some legislations³² are not compatible with treaty obligations and undermine the principle of Free, Prior and Informed Consent (FPIC). The booming of hydro-projects constitutes an imminent threat to IPs' culture, resources, environment and society.³³

Recommendations:

- Make existing laws compatible with ILO 169 and UNDRIP.
- Ensure FPIC of IPs with full and effective participation in planning of projects located in IPs' area

15. Due to language barrier, the IPs have limited access to justice, education, government services, information, and socio-economic opportunities.³⁴ Despite Nepal being secular, discriminatory legal provisions still persist. There have been no laws recognizing the

30 The government had done the 22 points agreement with Madhesi Janadhikar Forum, on 30 August, 2007 and 6 points agreement with United Democratic Madhesi Front on 23 February, 2008.

31 There are 29 communities in the OBC recognized by the government. They are Kushwaha, Kurmi, Kumhar, Kahar, Kewat, Kanu, Kamar, Kalwar, Teli, Dhanuk, Nuniya, Baniya, Bhedihar, Mali, Mallah, Musalman, Baraiya, Yadav, Rajbhar, Rauniyar, Lohar, Lodh, Sudi, Saini, Sonar, Haluwai, Hajam, Amat, Maghaiya

32 Environment Protection Act, 1997, Land Acquisition Act, 1977, National Parks and Wildlife Conservation Act, 1973

33 Very recently, the government has signed Power Development Agreement (PDA) that gives operation license two Indian companies : Satluj Vidhut Nigam and JMR

34 The government has formulated Multilingual Education Implementation Guidelines in 2009 to implement multilingual education. But, it is not being implemented effectively due to inadequate human and financial resources. Bilingual education is only implemented in 24 out of more than 7,500 schools across the country (NFIW's report).

customary practices of some communities.³⁵ The government has not recognized all indigenous communities in the official schedule³⁶. The government has not yet implemented the recommendations³⁷ of the task force.

16. Indigenous women continue to suffer from various forms of exclusion and discrimination. In comparison to other women, they have insufficient access to public and social services, justice and education and limited access to land, water, forests and other natural resources.

Recommendations:

- Recognize indigenous languages in state affairs alongside Nepali.
- Formulate mandatory provision that allocated budgets for IPs are spent in their socio-economic development with full participation.
- Fully ensure protection and promotion of socio-economic and cultural rights of the IPs in culturally appropriate ways.
- Implement recommendations of Task Force 2009 and recognize all other indigenous groups.
- Ensure proportional representation of indigenous women at decision-making levels and state polity.
- Collect disaggregated data on indigenous women that will reveal the situation of their well-being, forms and degree of discrimination and formulate policies and plans accordingly to address their exclusion.

17. **Peoples with Disabilities (PWDs):** PWDs face discrimination to enjoy rights on equal basis such as to access government and public buildings, roads, housing and transportation and also the right to personal assistance. The services provided to them on many cases do not comfortably fit to them. The government's categorization of disability ignores social origin. PWDs from IPs Dalits and vulnerable groups are subject to further discrimination.³⁸

35 Country Code 1963 has provisions that slaughtering, killing, administering poison or beating cows/bullocks and attempting to do so are considered sins and punishable up to 12 years of imprisonment. On June 5, 2014, the police arrested Kumar Tumbapo, Bal Bahadur Tumbapo and Jagat Rai for allegedly slaughtering an ox. A complaint was filed in the district court by Gauvansha Samraskhyan Manch (Cow Protection Forum). They were harassed and tortured while in police custody. At least eight such cases are documented in a recent report by the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP). See more at: <http://recordnepal.com/wire/wrong-side-thin-blue-line#sthash.4b73Qj47.dpuf>

36 Only 59 indigenous communities have been listed in the official schedule.

37 The government formed a High Level Task Force in 2009 to revise the list, and the Task Force recommended enlisting 81 different indigenous communities. High Level Task Force Report 2010 submitted to the government.

38 A study notes that, for example, women with disabilities access to education and other services is affected not only by gender and disability but also by their type of their disabilities, the socio economic status of their family, their race/ethnicity, whether they live in urban or rural areas and a host of other factors. Along with disability and gender, persons with disabilities rights are denied in services based on their identities like being ethnic, Dalit, or backward geography. 90.9% women with disabilities expressed that intersectional discrimination prevails them which impacts receiving information and access to services. The state as well National Federation of the Disabled Nepal (NFDN) has not taken into account as a human right issue of indigenous peoples with disabilities in Nepal. The existing executive committee of NFDN is discriminatory towards vulnerable indigenous persons with disabilities. <http://www.socialinclusion.org/np/newfile/pratimagurung>

18. PWDs face discrimination at family level. The ratio of discrimination experienced by women is significantly higher than disabled men.³⁹ They have least access to education, employment, food, health, justice, parental property and rehabilitation schemes. Their rights to choose partner, get married and to bear child are often violated. They have been victim of domestic violence, abuse and negligence.
19. Existing health facilities do not address sexual and reproductive health of disabled women. Disabled victims of rape and sexual violence do not have means to pursue justice in absence of prerequisite services including sign language. Women with intellectual and severe disabilities are compelled to forced sterilization from their parents.⁴⁰

Recommendations:

- Revise and implement laws ensuring non-discrimination against PWDs.
- Formulate plans and policies regarding PWDs after collecting desegregated data on the basis of severity of disabilities as well as social origin.
- Ensure accessibility to government and public infrastructure, transportation, education, employment, health services and to information guaranteeing basic social security arrangements
- Make available sign language interpretation services.
- Ensure participation and representation of persons with disabilities in state structure, public sectors, and civil services.
- Ensure formal justice system provides prerequisite services for disabled
- Ensure disabled women's access to sexual and reproductive health to meet special needs

20. Sexual and Gender Minorities:

To some extent, the government's policy and plans recognize the sexual and gender minorities⁴¹. However, citizenships with identity are not provided retrospectively. The Civil and Criminal Code Bills contain provisions that are against LGBTI people's rights.⁴² The government facilities, including security check posts and public toilets are not LGBTI-friendly neither the budget is allocated for the advantage of the community.

Recommendations:

- Recognize sexual and gender identity in all official documents.
- Implement recommendations of Same Sex Marriage Committee's Report.
- Revise Civil and Criminal Code Bills according to the SC decision

39 Monitoring the rights of persons with disabilities in Nepal, National Federation of the Disabled-Nepal In collaboration of Disability Rights Promotion International and York University, Canada 2013 <https://ia902600.us.archive.org/4/items/nfdnepal/Nepal-CMP-Disability-Rights-Holistic-Report-Final%28PrintingVersion%29.pdf>

40 Economic and Social Council United Nation Permanent Forum on Indigenous Issues 12th Session E/c.19/2013/6.

41 The SC in 2007 recognizes sexual and gender minorities as a ground of non-discrimination. The draft constitution follows the SC decision. The government came with equal and non-discriminatory citizenship and passport policy to the community in 2013 and 2014 respectively.

42 In the consultation processes, the executive director of Blue Diamond Society (BDS) informed that the drafted civil and criminal code contains more than 286 provisions that are against LGBTI people's rights. <http://www.hrw.org/world-report-2012/world-report-2012-nepal>.

21. **Former Bonded Labor:** *Kamaiyas*⁴³ and *kamlaris*⁴⁴ to the hill immigrants are unable to continue their traditional life.⁴⁵ Despite legal prohibitions⁴⁶, bonded labor systems persist in different places of Nepal, although the government had abolished the Kamaiya System in 2000.⁴⁷ The government has failed to effectively implement the Act.⁴⁸
22. Most of *Haliyas* are *Dalits* who worked as bonded labors to landlords for generations. They are socially, culturally and economically exploited and discriminated by the landlords traditionally. *Haruwa*, *Charuwa* and *Baligahre* systems are other forms of bonded labors based on indebtedness.⁴⁹

Recommendations:

- Provide housing, employment, nutrition, education and health services according to government's agreements with these communities.
- Ensure the freed bonded labors enjoy secure and equitable land rights
- Adopt quotas system to ensure proportional representation of freed and bonded labors
- Establish a responsible High Level Commission to protect and promote the rights of freed bonded labor
- Revise the Rehabilitation Plan in full and effective participation of freed and bonded labors.

43 Much of the land formerly controlled by Tharus passed into the hands of immigrants. Many of these immigrants used their education and their caste and kinship affiliations with local government functionaries to appropriate Tharu land. An example will illustrate the sorts of methods used. A Brahmin who came to Chitwan after the malaria eradication program became notorious in the surrounding villages for the way he amassed land. He readily provided loans to Tharus; when they found themselves unable to pay back the loan within the stipulated time, he would extend the repayment period, but in return they would be asked to agree to the addition of another zero to the sum specified on the promissory note. The Tharus, illiterate and unfamiliar with written documents, would fail to see the significance of this and would readily consent. The debtor, eventually confronted by the moneylender with a promissory note for a sum far greater than that which he had originally borrowed, and well beyond his ability to repay, would lose all or part of his land in fulfillment of the debt. See Arjun Guneratne Modernization, the State, and the Construction of a Tharu Identity in Nepal 1998, p759.

44 Girls and women, especially of Tharu community, bonded for their labor at landlords' houses.

45 "In Dang, following on 'loss of land, mass migration and poverty . . . [several major festivals that were previously celebrated annually are now no longer celebrated at all, because of a lack of economic resources" (Cox n.d., 11). In Chitwan, the wholesale destruction of the forest by settlers following the success of the malaria eradication project removed from the ritual calendar the worship of many gods whose jungle shrines had been destroyed in the process. Chitwan Tharus believe that the power of their deities is closely linked to the presence of forests; when the forests are destroyed, they believe the gods abandon the area. When rituals are no longer performed, the young are no longer socialized into their performance, and they disappear from the local knowledge system." See Arjun Guneratne Modernization, the State, and the Construction of a Tharu Identity in Nepal 1998, p 760.

46 During the consultation processes, representatives of freed *Kamaiya* and *Kamlari* reported that some of their friends are still working as *Kamaiya*. More than 412 *Kamlaris* are working as bonded labor in various districts. In Dang, Bardiya, Kailai, Kanchanpur and Banke at least 5000 freed *Kamaiyas* are yet to be identified.

47 During the consultation processes, representatives of freed *Kamaiya* and *Kamlari* reported that some of their friends are still working as *Kamaiya*. More than 412 *Kamlaris* are working as bonded labor in various districts.

48 Measures of Rehabilitation that the provisions of house construction allowance 10,000 NPR, 75 cubic fits of timber for the construction of houses, land allocation and other support measures are partially implemented. In contrast to government's commitment to provide free higher education to freed *Kamaiya* and *Kamlaris* the schools are imposing fees under various tittles.

49 Landlords provide loans when they found themselves unable to pay back the loan within the stipulated time, the landlord would extend the repayment period and the debtor eventually confronted by the moneylender with a promissory note for a sum far greater than that which he had originally borrowed, and well beyond his ability to and becomes bonded to the debt.

B. Right to Life, Liberty and Security of the Person

23. **Extra-Judicial Killing**⁵⁰: The report shows 69 people being the victims of extra-judicial killings from 2010 to 2014.⁵¹ Witnesses and family members of the deceased reported that many of these victims were killed after arrest.⁵² The number of such killings has continued and demand for investigation into such killings remains unheeded.

Recommendations:

- Take measures to prevent warrantless arrests, torture, extrajudicial killings and other misconduct⁵³

24. **Torture and CID**⁵⁴: Criminal Code Bill and Torture Bill do not incorporate CAT definition of torture. The Bills have short statute of limitations; punishment is only up to 5 years and does not recognize retrospective application of torture, providing impunity for past and present perpetrators

Recommendations:

- Revise Torture Bill to be in consistence with CAT provisions
- Revise provisions of Enforced Disappearances in Criminal Code Bill as per international obligations.
- Ensure proper mechanism for rehabilitation and reparation of torture victims.
- Build capacity of Nepal Police, providing them with proper mechanism to investigate torture and CID allegations.

25. **Violence Against Women**: VAW still remains major challenge with increased reporting of cases.⁵⁵ In 2014, 238 women and 525 girls were raped⁵⁶. In February, one case of acid attack against two schoolgirls was reported. In March, a 6-year-old girl, rape victim, died due to sexual and physical violence suffered.

50 Recommendation no. 106.36, 107.15, 108.17,18, 19 and 109.14.

51 Nepal Human Rights Yearbook 2011-2015. Informal Sector Service Centre (INSEC), Kathmandu, Nepal.

52 Nawal Kumar Yadav, 30, from a Tarai district Siraha Raghobpur VDC-9 and cadre of an armed group based in Tarai was killed at Janakpur Municipality-6, Dhanusha district on February 5, supposedly in a confrontation with police but locals stated that he was shot dead after being detained. In the name of controlling the increasing criminal activities in Tarai, the government seems to have been in different to the arbitrary killings. The accused were not punished and similar incidents were not even investigated. Nepal Human Rights Yearbook 2011: pg 15. Informal Sector Service Centre (INSEC). Kathmandu, Nepal. 2011

53 See previous recommendation, "Take necessary measures for the prevention of such deeds as reported warrantless arrests, torture, extrajudicial killings and other misconduct and ensure swift and fair investigations on alleged misconduct by law enforcement authorities (Japan); investigate all cases of ill treatment and abuse, such as enforced disappearances, cases of torture, arrests without warrants and extrajudicial killings by the police as well as the national army and ensure the delivery of justice regarding these serious human rights violations (Hungary) (para 107.15. UPR Nepal 2011; A/HRC/17/5); Investigate credible allegations of extrajudicial killings and introduce an independent complaint mechanism on the conduct of the security forces (Denmark) (para 108.18. UPR Nepal 2011; A/HRC/17/5); and Impartially investigate all allegations of extra-judicial killings and arbitrary executions, to prosecute those responsible, and accept the requests for a visit by the Special Rapporteur on extrajudicial, summary or arbitrary execution, and the Working Group on Enforced or Involuntary Disappearances (Italy) (para 108.19. UPR Nepal 2011; A/HRC/17/5)"

54 Recommendation no. 106.3, 107.1, 15, 16, 17, 109.1, 13, 15.

55 Documentation from 2011 to 2014 reveals increasing trend of VAW with 1569, 1581, 1703 and 2225 cases documented respectively (WOREC documentation)

56 Nepal Human Rights Yearbook 2015. INSEC. pp. 349-350.

26. Domestic Violence (DV), witchcraft allegations, dowry⁵⁷, sexual and gender-based violence, trafficking, polygamy and harmful traditional practices including *Chhaupadi*, *Kanyadan*, suicide and girl child labor are the worst forms of VAW. DV is the biggest category of reported VAW with increasing reports.⁵⁸ 35-day statutory limitation in rape cases and insufficient definition of DV and provisions of mediation in DV Act result in ineffective legal action.

Recommendations:

- Implement the SC verdicts from August 2009 and July 2013 for amendments in DV Act and provision of fast tract case hearing in VAW cases.
- Establish safe houses in all districts with improved and professional operational modality.
- Ensure legal protection against abetment to suicide, by criminalizing it.

27. **Human Rights Defenders (HRDs):** HRDs including journalists face threats and physical harms that impose self-censorship⁵⁹. Women HRDs (WHRDs) share equal responsibility but face a higher level of risk. WHRDs advocating for sexual and reproduction rights and against sexual and domestic violence get constantly threatened for their work⁶⁰.

Recommendations:

- Ensure recognition, support and security to HRDs and WHRDs including with new legislative, policy and programmatic interventions.
- Take immediate actions to ensure full freedom of expression.
- Take measures to systemically investigate intimidation, threat, physical harm, aggression against HRDs.
- Define restrictions on freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity in accordance with international standards.

28. **Trafficking**⁶¹: Emerging trend of trafficking in labor migration has been overlooked. The government policy of 30 years age limit for women migration is perpetuating trafficking as women are resorting to illegal and informal channels. Internal trafficking is taking place with women and girls being trafficked into entertainment sectors facing some of the worst forms of labor exploitation. Current legal and policy framework do not sufficiently address this issue. Dalits and Indigenous girls are more vulnerable to trafficking.⁶²

57 In 2014, nine women lost their lives due to dowry-related violence. Nepal Human Rights Yearbook 2015, INSEC.

58 The number of DV cases reported to WOREC in 2011 is 1002 (64% of total cases documented), 2012 is 1019 (64% of total cases documented) and 2013 is 1040 (61%) and in 2014 1503 (67.6%).

59 Free the press, <http://www.ekantipur.com/the-kathmandu-post/2014/05/01/oped/free-the-press/262316.html>

60 Nepal Human Rights Yearbook (Nepali edition), pg. 246, Informal Sector Service Centre (INSEC), Kathmandu.

61 Recommendation no. 106.4, 31, 108.20 and 21.

62 A study shows, 76 per cent of women survivors of the total 821 women were from indigenous communities followed by Dalits (12 %) and Bahun and Chhetri (12%) available at <http://www.indigenousvoice.com/7-out-of-every-10-victims-of-trafficking-in-person-are-indigenous-women-and-girls-in-nepal.html#sthash.oRTS5TL2.dpuf>.

Recommendations:

- Adopt comprehensive legislation strengthening existing laws and take concrete measures to rehabilitate the survivors.
Amend Human trafficking Act addressing emerging trend of trafficking

C. Administration of justice, including impunity, and the rule of law

29. Right to Fair trial⁶³: Criminal justice system lacks appropriate legal framework and adequate resources. There lacks effective coordination amongst the investigation, prosecution and adjudication. Many detainees face torture or inhuman treatment and are denied fair trial.⁶⁴ Victim and witness protection is ad hoc and not intrinsic. The prison has the capacity of around 8,985 but 17,146 are detained.⁶⁵

Recommendations:

- Develop law, infrastructure and invest in criminal justice mechanisms to enhance fair trials.
- Establish a formal mechanism like criminal justice coordination committee to coordinate among criminal justice institutions.
- Enact comprehensive witness and victim protection law.

30. Access to Justice and Effective Remedy⁶⁶: Case backlog at the courts is a general problem.⁶⁷ Judicial procedure is expensive and tiring and use of confession makes justice administration doubtful. Legal aid hardly reaches to indigent people, including women. Formal justice is still a challenge for many women due to political, social and legal limitations. Criminal Code Bill increases statutory limitation for rape and sexual violence to one but is still insufficient. Women victims of violence, often sexual violence and victims of caste based discrimination are coerced to opt for mediation rather than pursuing legal remedy.

Recommendations:

- Ensure access to justice adopting measures as fast track court and effective continuous hearing of cases.
- Allocate sufficient human and financial resources to judiciary and quasi-judicial bodies
- Enact new Nepal Police Act with principles of democratic and HR- friendly policing

⁶³ Recommendation no. 106.35 and 107.15.

⁶⁴ 46.7% of the court hearing do not take place in time, 40% are arrested without warrant, 60% not presented in court within 24 hours, 45% were in handcuffs, 73% were coerced for statement, 6.7% did not know the reason for arrest, 55% were asked by the District attorney, 33% were crossed by the judge during custody hearing, 60% not able to consult with lawyer and 53.3% were not treated humanely in the custody: Swashya Sunuwai Sambandhi Anushandanmulak Ek Adhyan (An investigative study of Fair Trail), National Judicial Academy and INSEC, November 2012 pp 157-185.

⁶⁵ Nepal Human Rights Yearbook 2015, INSEC, p 357.

⁶⁶ Recommendation no. 106.5, 23, 37, 38, 107.15, 23, 108.22, 26.

⁶⁷ According to Supreme Court Annual Report, there were 1237 cases in district court and 378 cases in appellate court were older than two years.

31. **Transitional justice**⁶⁸: TRC Act came into effect despite criticisms of some provisions⁶⁹ from human rights communities and the victims⁷⁰. Recent SC decision⁷¹ invalidated some of the provisions of the Act. Politically influenced appointment of commissioners may undermine the purpose of the commission for truth, justice, reparation and institutional reforms. The effectiveness of the relief provided by the government is not made public.⁷²
32. Women conflict victims are left behind in the TJ process. They feel government is focusing on physical reconstruction and establishment of the TJ mechanisms only, ignoring economic, social, cultural and physiological effects of the conflict. Survivors of conflict related sexual violence have not been acknowledged as conflict victims. Interim Relief Programs (IRP) do not recognize survivors of sexual violence as Conflict Affected Persons. There is no official data of conflict related sexual violence survivors. Cases of sexual violence during the conflict are yet to be investigated.
33. Transitional justice approach has not included proper vetting process. Security institutions have some provisions of vetting⁷³ but it's focused on UN peacekeeping mission. The repatriation of Major Niranjan Basnet from Congo⁷⁴ and detention of Kumar Lama by the UK government⁷⁵ shows failure to prosecute conflict related cases.

Recommendations:

- Respect decision of the SC⁷⁶ to handle serious human rights violation.
- Recognize survivors of sexual violence occurred in conflict period as conflict victims and include them in all support programs including IRP.
- Immediately make available appropriate support services to the survivors including medical, psycho-social, legal and livelihood support.
- Ensure protection for survivors and witnesses who come forward to TJ mechanisms.
- Ensure that law and institution reform, and vetting approach is used in the TJ process.

68 Recommendation no. 106.13, 18, 27 33, 34, 36, 107.25, 108. 22, 24, 25, 30.

69 TRC Act Section 2(e), 22, 25 2 (a), 26,

70 Ordinance on Truth and Reconciliation Commission and Commission on Investigation of Disappeared Persons to the president for endorsement on 27 August 2012 but the victims moved the SC as some its provisions were perpetrator-centered. On January 2014, the SC ruled that the provisions of the TRC ordinance contravened the international standard of human rights and ordered for the amendment. However, the government went ahead with the tabling the bill inserting minor changes on the same ordinance.

71 The SC, on February 26, 2015 made it clear that sub-judice cases cannot be the subject of TRC and CIDE. There must be clear consent of victims for reconciliation. No amnesty can be granted in rape and other serious offences such as torture, enforced disappearance and extra-judicial killings. The commissions can directly recommend to the Office of the Attorney General for the prosecution. Further, the SC has directed to the commissions to use the previous judgments of the SC as guidelines for their functioning.

72 Nepal Police, Nepal Army and Armed Police Force http://advocacyforum.org/downloads/pdf/publications/Discriminations_and_Irregularities_A_painful_tale_of_Interim_Relief_in_Nepal.pdf

73 Alexander Mayer-Rieckh, Building Trust and Strengthening the Rule of Law Vetting the Security Sector in Nepal, ICTJ Briefing April 2012, <http://www.ictj.org/sites/default/files/Nepal%20Building%20Trust%20and%20Strengthening%20the%20Rule%20of%20Law%20August%20final2012.pdf>.

74 Extrajudicial Killing of Maina Sunar: A Case Report, <http://www.inseconline.org/pics/1272358753.pdf>

75 Advocacy Forum Nepal, Vetting In Nepal Challenges and Issues, (Kathmandu: 2014), <http://www.achrweb.org/reports/DPKO-Nepal.pdf>.

76 The decision to void amnesty provisions by the SC, forced reconciliation should be upheld

34. Impunity⁷⁷: Serious offences like torture and enforced disappearance are not sufficiently defined in law. Still a number of FIRs are refused to be registered. EJKs are not investigated properly. In some cases, convicts are not arrested because of the political affiliation⁷⁸.

Recommendations:

- Make police responsible and accountable to register the FIRs
- Design approach to check impunity to maintain equality of law and rule of law.

35. Corruption: Public corruption is rampant as indicated by TI ranking.⁷⁹ Even PM Sushil Koirala has admitted the high level of corruption.⁸⁰ Mere action against bribery cannot produce positive results.⁸¹ Nepal is second riskiest state in South Asia for money laundering.⁸² CIAA has been proactive but in most of the cases limited to apprehending junior officials.

Recommendations:

- Make institutional policy to control corruption with strict actions and prompt conclusion of corruption cases.
- Increase punishment and fines and ensure accountability of the high level officials.
- Ensure transparency and general accessibility in the process of complaint, investigation and adjudication.

36. Poverty Alleviation⁸³: Poverty is one of the most pressing issues in Nepal. There are many poverty alleviation programs introduced by the government but are not implemented effectively. Most of the poverty alleviation fund is misused.

Recommendations:

- Prepare effective plans and policies with proper implementation and supervision of implementing bodies.
- Ensure transparency in use of funds in poverty alleviation programs.
- Consult stakeholders and coordinate amongst the ministries.
- Conduct impact assessment of the plans and policies related to poverty alleviation.

⁷⁷ Recommendation no. 106. 31,38, 107.2, 3.

⁷⁸ <http://www.ekantipur.com/the-kathmandu-post/2011/05/17/top-story/impunity-watch-cases-against-maoists-beingfast-withdrawn/221795.html>: Advocacy Forum, 'Evading Accountability by Hook or by Crook: The issue of amnesties in post conflict Nepal' (Kathmandu: 2011) pp. 2, 8, available at: <http://www.advocacyforum.org/downloads/pdf/publications/evadingaccountability-by-hook-or-by-crook.pdf> and República, 'Victim's Kin Condemns Proposal to Pardon Maoist Lawmaker', República, 3 October 2011, http://www.myrepublica.com/portal/index.php?action=news_details&news_id=36828; KiranChapagain, 'PM, AG solicit President of pardon Dhungel', República, 7 November 2011, http://www.myrepublica.com/portal/index.php?action=news_details&news_id=37996.

⁷⁹ The annual survey by Transparency International has placed Nepal in 126th position with a score of 29 among 175 countries. It was placed 116th on the index among 176 countries last year.

⁸⁰ <http://www.tinepal.org/?p=161986>

⁸¹ <http://www.ekantipur.com/2014/12/04/top-story/nepal-slips-on-ti-corruption-index/398522.html>

⁸² <http://www.ekantipur.com/2014/08/25/capital/anti-money-laundering-report-nepal-is-second-riskiest-in-sasia/394062.html>

⁸³ Recommendation no. 106.43, 44, 45, 48,

D. Right to privacy, marriage and family life

37. Child marriage: Child marriage is still widely practiced⁸⁴. Kidnapping of girls for marriage is also occurs in many communities in different parts of the country⁸⁵. Lack of implementation of existing legal provisions remains an issue. Child marriage⁸⁶ raises risk to uterine prolapsed and a high adolescent pregnancy rate.

Recommendations:

- Ensure effective enforcement of legal minimum age of marriage.
- Protect girls from subsequent sexual abuse and violence and reproductive health harms and violations.

E. Right to work and to just and favorable conditions of work

38. Right to work in favorable condition⁸⁷: Women's work and contribution⁸⁸ from entertainment sectors such as bars and restaurants is not recognized and not governed by labor laws. This result in abuse and stigmatization including unequal and low salaries, uncertain duty hours, job insecurity, harassment and violence at workplace and arbitrary arrests.

Recommendations:

- Bring the women's work in restaurants, bars and other entertainment sectors under labor laws, creating environment conducive for work
- Protect women working in entertainment sectors, improve working conditions and ensure job security and establish complain mechanism

39. Right to Food (RtF)⁸⁹: Forty-three districts lack sufficient food supplies.⁹⁰ Of them, 23 suffer from food shortage. The marginalized communities including women, Dalits, children⁹¹, IPs, PWDs, freed bonded labors, haruwas, charuwas and balighares are more vulnerable. Food sovereignty is protected under Interim Constitution⁹² and the SC has held state responsible to ensure people's easy access to food.⁹³ Accessibility, Adequacy, Availability and Quality is concern in food sovereignty. Women are deprived of nutritious food, even during pregnancy and after child birth.

Recommendations:

- Ensure that new constitution includes right to food as FR.

84 23.09% of women and 7.05% of males in the age group 15-19 are married indicates the persistence of the early marriage of girls (Population Monograph Of Nepal Volume I (Population Dynamics), Central Bureau of Statistics First Edition, 2014, p 78)

85 Kidnapped at 13: Nepal's Dalit child brides, <http://news.yahoo.com/kidnapped-13-nepals-dalit-child-brides-044202169.html>

86 A national survey (NDHS) in 2011 survey shows 29% girls are married between 15-19 years

87 Recommendation no. 106.40, 46, 107.20, 108.31, 32, 35.

88 Ministry of women, Children and Social Welfare data states 40000 and NGO (Women Forum for Women in Nepal) data shows 50,000 in Kathmandu only.

89 Recommendation no. 106.46, 49, 50.

90 <http://www.usaid.gov/sites/default/files/documents/1866/Nepal%20CSI%20FY%202014.pdf>

91 http://www.fao.org/fileadmin/templates/righttofood/documents/project_b/Nepal-GCPGLO324NOR-ConceptNote.pdf

92 Interim Constitution of Nepal 2007, article 18(3)

93 Prakash Mani Sharma and Others, NKP, 2065(2008), p.149.

- Formulate laws, policies and regulations on RtF that prioritize marginalized and vulnerable groups. Improve food storage management system and ensure just, fair and reasonable public food distribution.
- Modernize agriculture including land zoning laws and ensure rights of affected people from development projects.

40. Social security: Government provides allowances for senior citizens, widows, children, dalits and endangered ethnic groups. However, many senior citizens do not get it easily as they do not have citizenship certificate⁹⁴.

Recommendations:

- Social security program should include measures other than allowances.
- All single and household heads women who are below poverty line and victims of violence should receive it.

41. Right to Health (RtH):⁹⁵ Despite bringing forth some new plans and policies,⁹⁶ government has failed to bring new plans on Health Insurance and Health Social Security Services. The problems such as high maternal mortality rates⁹⁷, number of doctors⁹⁸ and access to safe abortion shows government measures are ineffective. Awareness of sexual and reproductive health as FR is needed⁹⁹.

42. Women suffering from uterine prolapsed and obstetric fistula are being subjected to further discrimination and increased violence¹⁰⁰. Girls ((15-19 years) lack access to critical information on sexual and reproductive health and related services.¹⁰¹

Recommendations:

- Ensure proportional distribution of resources in health services.
- Create universal health insurance and make primary health service free and accessible.
- Create better surveillance of communicable diseases and make better arrangement for quarantine.
- Ensure universal access to sexual and reproductive health care, information and services especially for socio-economically marginalized women and adolescent girls.

⁹⁴ The age in citizenship certificates are mistakenly lowered

⁹⁵ Recommendation no. 106.41, 46, 52, 108.35.

⁹⁶ The Government of Nepal has formulated 20-year Second Long-Term Health Plan, 2054- 74 (1997-2017), Nepal Health Sector Plans and more recently, New National Health Policy 2014.

⁹⁷ MMR at 229 and IMR at 46 per thousand live births

⁹⁸ Out of 561 doctors that are to be working in rural areas only 314 are working.⁹⁸

⁹⁹ Only one in three women know that abortion is legal and only one in two women know the services are available.

¹⁰⁰ Nepal National Medical Standard for Reproductive Health, Volume II: Other Reproductive Health Issues, Family Health Division, 2003, part 6 on genital prolapse. In addition, women suffering from uterine prolapse are often unable to carry out their work in the same way they had before they experienced the condition. Women told Amnesty International that family members. Amnesty International (AI Index: ASA 31/006/2014) and National Alliance for Pelvic Organ Prolapse Management – Nepal, October 2014.

¹⁰¹ Unmet need for contraceptive information and services for girls in the age group 15-19 is 42% and for women of 20-24 age group is 37%.5. In lack of services and information 25% of women of reproductive age experience unplanned, teen age pregnancies.

- Enact a comprehensive law on safe abortion as per SC decision.¹⁰²

43. Right to education¹⁰³: School dropout is the major concern in educational sector.¹⁰⁴ Government's policy of compulsory and free education¹⁰⁵ is not effective. Text books, stationary and uniform do not reach in public schools and in remote districts on time. Politicization at teachers and student level and corruption¹⁰⁶ in education sector are a big concern. Also the difference in quality of education in private and public school is immense. Gender disparity still exists and the education system is unfriendly towards children with disabilities.

Recommendations:

- Strengthen free education scheme, adopt measures to realize compulsory education at elementary level
- Improve accessibility and quality education particularly for girls¹⁰⁷, dalits¹⁰⁸ and children with free education and scholarship.¹⁰⁹
- Implement strategies to control school dropout problem.
- Ensure availability of text books and teachers in rural areas
- Enforce existing plans for multi-lingual education from primary to higher level.
- Increase access to technical and professional education for all including the children of marginalized communities.

44. Right to information (RtI): RtI is not an absolute right¹¹⁰ and government promotes official secrecy. There is no dedicated government agency to implement RtI Act. Budget is not allocated for information dissemination.

Recommendations:

- Conduct awareness and capacity building of stakeholders.
- Promote effective role of National Information Commission (NIC) and implement its recommendations.
- Recognize the use of digital technology for storing and receiving information.
- Form Nodal agencies in government and other public organizations.¹¹¹

¹⁰² Lakshmi and Others v. Government of Nepal, 2009

¹⁰³ Recommendation no. 106.12, 17, 41, 46, 52, 53, 54, 107. 18, 26, 108.4, 33, 34,35, 36,

¹⁰⁴ In primary level, 86.3% enroll for school but only 33.2% enroll for secondary level.

¹⁰⁵ Ensuring Free and Compulsory Basic Education for Disadvantaged Groups in the Context of Education for All, Research Centre for Educational Innovation and Development (CERID), 2009

¹⁰⁶ In only eight Tarai districts, there are 600 fake schools that misused NPR 1 billion annually on paper projects concerning schools. , <http://www.tinepal.org/?p=10032>

¹⁰⁷ See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106,53 UPR Nepal 2011; A/HRC/17/5)."

¹⁰⁸ See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106, 53 UPR Nepal 2011; A/HRC/17/5)."

¹⁰⁹ See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106.53 UPR Nepal 2011; A/HRC/17/5)."

¹¹⁰ RTI Act, Section 3(3) (a) : Provides a list of circumstances when information may be exempted from disclosure.

¹¹¹ Implementation of the Right to Information in Nepal: Status Report and Recommendations, The World Bank, 2011, page 3

45. **Migrant Workers**¹¹²: Lack of opportunities in Nepal is creating an exodus¹¹³ of youths and women to foreign countries for employment¹¹⁴. Migrant workers lack proper information to make informed decisions. Women are contributing 11% of remittances however their migration is still an issue of public scrutiny. When they fail to bring back money, they get stigmatized by family and society and are criticized for failing to adhere to traditional values.
46. Labor attaché have not been appointed at all diplomatic missions. Chances of human smuggling and trafficking have added woes to the victimized migrant workers. Government has to facilitate to ensure insurance of deceased migrant citizens and to bring dead bodies back home.¹¹⁵

Recommendations:

- Monitor the recruitment agencies and simplify the compensation procedure.
- Ensure labor migration services and information reach to the potential migrant workers
- Have labor and employment agreement with the host countries and have diplomatic protection extended for the Nepali citizens
- Provide skills and language trainings to the potential migrants
- Ensure safe return of labors from the host countries and their proper rehabilitation
- Assist the migrants detained and ensure their rights are protected.
- Use remittance fund for development and wellbeing of migrants.
- Ensure protection of women migrating for employment including lifting the ban as well as through bilateral agreements with the destination countries to protect women working in informal and domestic labor sector.

47. **Refugees**¹¹⁶: Nepal generally respects the principle of non-refoulment. The SC decision¹¹⁷ directing the State to promulgate refugee legislation and to accede to 1951 Refugee Convention and its 1967 Protocol has not been complied. The asylum seekers complain against use of immigration laws including fines and imprisonment¹¹⁸. Freedom of association and peaceful assembly has been denied, mainly to Tibetan refugees.¹¹⁹

Recommendations:

- Ensure rights including right to freedom of assembly and expression and rights against arbitrary detention.

112 Recommendation no. 106.40.

113 District & VDC Profile of Nepal 2014/15 A socio economic Development Database of Nepal, Intensive Study and Research Center Pvt. Ltd, May 2014, pp 32.

114 The Census 2011 shows that a total of 7.20% of population was living abroad; most of them are for foreign employment. The Census 2011 shows that a total of 7.20% of population was living abroad; most of them are for foreign employment.

115 http://nhrcnepal.org/nhrc_new/doc/newsletter/HR%20situation%20of%20Nepalese%20Migrant%20Worker%20Report%20Aug30-Sept7-2013.pdf

116 Recommendation no. 108.36, 109.7, 8, 9, 10,

117 *Mahmood Rashid v. Government of Nepal Ministry of Home Affairs et.al.* Writ no. 0040 of 2064 BS decided on 2064 Asoj 7 (24 September 2007).

118 There is legal provision and practice of fine even against those who have received temporary protection by the UNHCR-Nepal and overstayed. In principle, once provided asylum seekers status, no fine can be imposed to such persons.

119 See generally: Human Rights Watch, Under China's Shadow Mistreatment of Tibetans in Nepal, available on http://www.hrw.org/sites/default/files/reports/nepal0314_ForUpload_2.pdf, p 46.

- Consider promulgating refugee protection law and ratifying Refugee Convention 1951 and its Protocol 1967

48. Internally displaced persons: With the internal Displacement Policy 2007, the Guidelines on Citizens Relief and Local Peace Committee and three Directives on Psychosocial Counseling Service 2013, the government is trying to resolve the issue of conflict-related IDPs. But, their captured land and properties are yet to be returned¹²⁰ hampering their wish to return.

Recommendations:

- Ensure return of the property of the IDPs.
- Provide proper compensation to their damaged properties.
- Ensure safe return and rehabilitation of those IDPs willing to return.

49. Right to development and environmental issues¹²¹: Nepal is placed among the most climate-vulnerable countries. The share of Nepal in the global emission of greenhouse gases is negligible (0.13).¹²² Significant glacier retreat, deforestation, land degradation and threatened agro-biodiversity, as well as significant areal expansion of several glacial lakes has also been documented in recent decades, with an extremely high likelihood that such impacts are linked to rising temperatures.¹²³ The climate change impact on women is direct since they are more dependent on natural resources. Use of intensive pesticides following decreased productivity due to climate change is impacting their health conditions¹²⁴. Nepal have pledge its support to Sustainable Development Goals but have not done any consultation and dissemination of information with stakeholders regarding the SDG.

Recommendations:

- Ensure proper implementation of environmental laws and policies including to encounter the climate change
- Ensure that there is strict carbon emission reduction criterion and make arrangement for the better use of climate fund.
- Ensure proper management of natural resources and disaster preparedness.
- Adopt a Rights based approach to development that would be a frame of reference to ensure the rights of IPs in the projects works.

50. Right to housing: International standards on eviction procedure are not followed by government, eviction are mostly forceful putting women, including pregnant and lactating in the most vulnerable situations. Government is evicting the landless squatters without providing them any alternatives. There is no safeguard for housing rights for women who

¹²⁰ Appeal at LPC Seeking Return of Captured Land <http://www.inseconline.org/index.php?type=news&lang=en&id=15409>

¹²¹ Recommendation no. 106.42, 43, 44, 45, 47,

¹²² Neil Adger *et al.*, 'Impacts, Adaptation and Vulnerability', Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, 2007

¹²³ Shardul Agrawala *et al.*, *Development and Climate Change in Nepal: Focus on Water Resources and Hydropower*, OECD, 2003, p.13.

¹²⁴ Disturbance in menstrual cycles, white discharge, cancer in uterus, miscarriage and infertility

have been expelled by family following domestic violence and women with HIV positive status.

Recommendations:

- Effectively implement the Janata Awas Yojana¹²⁵ (Public Housing Project) for dalit and marginalized groups and expand the scheme to other indigent communities
- Abide by the UN Basic Principles and Guidelines on Development-based eviction and displacement

51. Right of Child¹²⁶:

Children in Nepal face trafficking, hazardous work conditions and sexual exploitation. Draft of Child Act, intended to replace the old one, is still to be enacted. The implementation status of existing initiatives in child rights has been insufficient.¹²⁷ Nepali laws prohibit child labor however 39.9% still face child labor.¹²⁸ Government allocates some amount as a social security for children in specific districts however in comparison to the price of commodities such benefits are insignificant. The juvenile justice system lacks adequate reform houses. Further 191 children are living with parents in the different prisons.¹²⁹ National budget allocated for the children is decreasing in percentage.

Recommendations:

- Ensure protection of child's best interest in every legislation and policies aiming at their utmost physical and mental development.
- Amend the present Children Act in line of most recent developments and at par with International treaties.
- Make an expressed provision to safeguard children from conflict and outlaw enrollment of children as child soldiers as expressed laws with stiff punishment.
- Make provision for juvenile justice based on reformatory approach and also remove dependent children from prison and make arrangement of institutional protection of such children.

125 The government declared Janata Awas Yojana (Public Housing Project) in the budget of FY 2009/10 to provide housing for Dalits, poor and Muslim families

126 Recommendation no. 106.9, 13, 14, 27, 30, 31, 32, 46, 52, 53, 54, 107.1, 8, 11, 18, 19, 20, 108.2, 4, 11, 14, 20, 21, 35, 36,

127 The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children.

128 Human Development Report 2014, Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience, United Nations Development Programme (UNDP) page 202.

129 Nepal Human Rights Yearbook 2015, pp. 357. INSEC

List of Civil Society Organizations for UPR 2015

1. Aadhibasi Jana Jati Mahasangh
2. Aadhibasi Rastriya Utthan Prathisthan
3. ABSACCOS
4. Adibashi Janajati Adhikar Manch (AJAM)
5. Advocacy Forum (AF)
6. Association for Dalit Women's Advancement of Nepal (ADWAN)
7. Akhil Nepal Women's Association (ANWA)
8. Al Amin Muslim Women Nepal
9. Alliance Against Trafficking in Women and Children (AATWIN)
10. Association for Dalit Women Advancement of Nepal (ADWAN)
11. Association of Kirat Chamling Language and Culture Development (AKCLCD)
12. Association of Nepal Kirat Kulung Language Culture Development (ANKKLCD)
13. Association of Youth Organization Nepal (AYON)
14. Badi Development Committee
15. Bahing Kirat Mulukhim (BKM)
16. Beyond Beijing Committee (BBC)
17. Blue Diamond Society (BDS)
18. Bung Public Welfare Center (BPWC)
19. CDC Nepal
20. CEDAW Writing Committee (CWC)
21. Center for Agro-Ecology and Development (CAED)
22. Center for Legal Study
23. Centre for Ethnic Studies and Development (CESD)
24. Centre for Himalayan Integrated Development and Social Welfare (CHIDSW)
25. Centre for Human Rights and Democratic Studies (CEHURDES)
26. Centre for Indigenous Ethnic Peoples' concern, Nepal (CIEPCON),
27. Centre for Protection of Law and Environment (CPLE)
28. Centre for Study on Gender and Development Study (CSGS)
29. Centre of Victims of Torture (CVICT)
30. Chamlang Creative Youth Society (CCYS)
31. Chi: Halamtung Bantawa Yuva Hup Nepala
32. Child Nepal (CN)
33. Child Rights Concern Nepal B(CONCERN Nepal)
34. Child Workers Concern Center Nepal (CWIN)
35. Children and Women in Social Service and Human Rights (CWISH)
36. Children as a Peace Zone (CZOP)
37. Chulachuli UNESCO Club (CUC)
38. Citizen's Task Force to Combat Impunity (CTCI)
39. Civic Concern Nepal (CCN)
40. Collective Campaign for Peace (COCAP)
41. Community Action Center (CAC Nepal)
42. Community Help Centre (CHC)
43. Community Self-reliance (CSRC)
44. Conscious Society for Social Development (CSSD)

45. Constitutional Lawyers' Forum (CLAF)
46. Cooperative Society for National Development Nepal (COSFONAD-Nepal)
47. Cruise AIDS Nepal
48. CSGS (Centre for Studies on Gender, Society and Development Study)
49. Dalit Human Rights Organization (DHRO)
50. Dalit Literature and Cultural Academy (DLCA)
51. Dalit National Liberation Front of Nepal
52. Dalit NGO Federation – Nepal (DNF)
53. Dalit NGO Federation (DNF)
54. Dalit Rights National Forum, Nepal (DRNF)
55. Dalit Study and Development Center (DSDC)
56. Dalit Welfare Association (DWA)
57. Dalit Welfare Organization (DWO)
58. Disability Human Rights Centre (DHRC-Nepal)
59. Dynamic Group for Change (DGC), Nepal
60. Dynamic Society
61. Educational Journalists' Group (EJG)
62. Eighteen Magarant Magar Language Literature Culture Preservation, Research and Development Academy (EMMLLCPRDA)
63. Society for Local Integrated Development Nepal
64. Environment and Child Development Center
65. Environment and Rural Development Centre (ERDC)
66. Environment, Peace and Social Justice Centre (SCOPE Nepal)
67. Federation of Indigenous Kirat Association (FIKA)
68. Federation of Nepalese Journalist (FNJ)
69. Federation of Sexual and Gender Minorities Nepal - FSGMN
70. Feminist Dalit organization (FEDO)
71. FORCE Nepal
72. Forest Resources Studies and Action Team (Forest Action)
73. Forum for Indigenous Nationalities Concern (FINCO), Gorkha
74. Forum for Indigenous Nationalities Development (FIND)
75. Forum for Protection of People's Rights Nepal (PPR-Nepal)
76. Forum for Public Awareness Rural Development and Environmental Conservation (FPARE)
77. Forum for Women Law and Development (FWLD)
78. Gaderi Samaj
79. Gandharba Culture and Art Organization (GCAO)
80. Gandharba Samaj
81. Gramin Samaj Utthan Kendra
82. Gramin Utthan Abhiyan
83. Group for Human Rights and Socio-legal Research (GOHRAS)
84. HDRF Nepal
85. Help Nepal
86. Hill Development & Conservation Group Nepal (HDCGN)
87. Him Rights
88. Himalaya Bhote Society (HBS)
89. Himalayan Indigenous Society (HIS) Nepal
90. Himalayan Natural Fiber Foundation (HNFF)
91. Hospital and Rehabilitation Center for Disabled Children
92. Human Rights Alliance Nepal
93. Human Rights and Community Development Center

94. Human Rights and Democratic Forum (FORHID)
95. Human Rights Education Radio Listeners' Clubs Nepal (HRERLIC)
96. Human Rights Journalists Association, Nepal (HURJA Nepal)
97. Human Rights Protection and Promotion Center
98. Human Rights Treaty Monitoring Coordination Committee (HRTMCC)
99. Human Rights without Frontiers- Nepal (HRWF)
100. Human Welfare Committee HWC – Nepal
101. Hurhure Yuwa Club (HYC)
102. IL Center
103. Independent Living Centre (CIL)
104. Indigenous Ethnic Lawyers Council- Nepal (IELCN)
105. Indigenous Nationalities Development Forum (INDF), Nawalparashi
106. Indigenous Non-Governmental Organization District Coordination Forum (INGODCF)
107. Indigenous Research and Resource Development Centre (IRRDC)
108. Indigenous Rural Development Social Services Nepal (IRDSSN)
109. Indigenous Women Legal Awareness Group (INWOLAG)
110. Informal Sector Service Centre (INSEC)
111. INHURED International
112. Institute of Human Rights Communication Nepal (IHRICON)
113. Islami Associate
114. Jagaran Media Center (JMC)
115. Jagaran Nepal
116. Jaghrit Nepal
117. Jan Prerna Kendra , Janakpur
118. Jana Utthan Pratisthan (JUP)
119. Janajati Development Forum (JDF)
120. JASEC Nepal, Nayabaneshor (Contact Office)
121. Jero Kirat Radu Society (JKRS)
122. Jimi Rai Utthan Samajh (JRUS)
123. Justice and Rights Institute-Nepal (JuRI)
124. Kalimati Yuva Club (KYC)
125. Kanchanjangha Women's Development Group (KWDG)
126. Kapan Dalit Utthan Sangh
127. Karani Cummunity Development Center (KCDC)
128. Karmarong (Karani) Society Service Association (KSSA)
129. Kathmandu School of Law (KSL)
130. Kirat Community Development Centre (KCDC)
131. Kirat Khaling Rai Development Association (KKRDA)
132. Kirat Khaling Utthan Sangh
133. Kirat Rodu Nachhiring Sakham, Kathmandu (KRNS)
134. Kirat Welfare Society (KWS)
135. Kirat Yakthum Chumlung
136. Kirat Youth Society (KYS)
137. Kosish Nepal
138. Kulung Sangh
139. Kulung Vidyarthi Sangh
140. Lawyers Association fro Human Rights of Nepalese Indigenous People (LAHURNIP)
141. Lawyers National Campaign Against Untouchability (LANCAU)
142. Legal Aid Consultancy Centre (LACC)
143. Limbu Language and Culture Development Centre (LILDA)
144. Limbu Language Development Organization (LLDO)
145. Lohorung Yakhkhama Yuyong (LYY)
146. Lok Kalyan Nepal (LOK)
147. Loom Nepal

148. Love Green Development Committee (LGDC)
149. LUMANTI, Nepal
150. Luzza Nepal
151. Madesh Human Rights
152. Madheshi Dalit Sewa Samaj
153. Madhesi Dalit Development Federation (MDDF)
154. Madhesi Dalit Mahasangh
155. Madhesi Journalist Association
156. Mahakulung Youth Council (MYC)
157. Mahila Prajanan Adhikar Samaj
158. Mahila Rastriya Sanjal
159. Mahila Sewa Samaj
160. Mahila Utthan Tatha Seep Bikas Kendra
161. Mahottari Magar Service Society (MMSS)
162. MAHURI HOME
163. Maiti Nepal
164. Makalu Yakkhaba Chuptham
165. Man Engage
166. Media Advocacy Group (MAG)
167. Mewahang Yakhomma
168. Mission Today daily
169. Mitini Nepal
170. MOP Nepal
171. Multipurpose Development Service Institute
172. Muslim Cultural Society MCS
173. Nagarik Aawaz
174. National Alliance for Women Human Rights Defenders (NAWHRD)
175. National Association of Deaf Hard of Hearing (NADH)
176. National Association of Physically Disabled (NAPD-Nepal)
177. National Coalition Against Racial Discrimination (NCARD)
178. National Coalition for International Criminal Court (NCICC)
179. National Federation of Disable-Nepal (NFDN)
180. National Human Rights Foundation (HURFON)
181. National Indigenous Women
182. National Indigenous Women Federation (NIWF)
183. National land Concern Group (NLRCG)
184. National Muslim Federation (NMF)
185. National Muslim Forum Nepal (NMFN)
186. National Network of Indigenous Women (NNIW)
187. National School of Research
188. Nepal Association of the Blind
189. Nepal Disable Association (NDA)
190. Nepal Disabled Women Association (NDWA)
191. Nepal Goodweave Foundation
192. Nepal Indigenous Disabled Association (NIDA-Nepal)
193. Nepal Kewarat Bikas Samaj
194. Nepal Kirat Kulung Bhasa Sanskriti Utthan Sangh
195. Nepal Mahila Ekata Samaj (NMES)
196. Nepal Muslim Women Welfare Society (NMWWS)
197. Nepal National Dalit Social Welfare Organization (NNDSWO)
198. Nepal Paralympic Committee
199. Nepal Rajat Jankalyan Sametee
200. Nepal Rana Tharu Society (NRTS)
201. Nepal Rana Tharu Society (NRTS), District Committee
202. Nepal Society of the Disabled (NSD)
203. Nepal Stutters Association
204. Nepal Tamang Ghedung (NTG)
205. Nepal Tamang NGO-federation
206. Nepal Tamang Women Association (NTWG)
207. Nepal Wheel Chair Club (NWCC)
208. NGO-Federation

209. NGO-Federation of Indigenous Nationalities Nepal (Affiliated member organizations)
210. NGO-FONIN District Committee, Dolakha
211. Nepal National Federation of the Deaf and Hard of Hearing (NFDH)
212. Non-Governmental Organization Coordination Committee (NGOCC)
213. Pabitra Paldor Society (PPS)
214. Papachha Guskham
215. Parent Association of Intellectual Disability
216. Parichaya Samaj
217. Partnership Nepal
218. PEWA Nepal
219. Physician for Social Responsibility (PSRN)
220. Population Watch (Pop-Watch)
221. POURAKHI-Nepal
222. Pravashi Nepal
223. Prayash Mahottari
224. Prisoners Assistance Nepal (PAN)
225. Professional Development and Research Center (PDRC)
226. Pro-Public
227. Public Health Concern Trust (PHECT Nepal)
228. PWEDO
229. Rajak Janaklyan Samiti
230. Rastrya Dalit Network –Nepal RDN - Nepal
231. Rasuwa Nationalities Development Committee (RNDC)
232. Rauta Community Welfare Centre (RCWC)
233. Read Nepal
234. Redef Nepal
235. Rehabilitation and Empowerment Center on Disability
236. Remote Area Women and Children Empowerment Centre (RAWCEC)
237. Resource Centre for Primary Health Care (RECPHEC)
238. Resource Centre for Rehabilitation and Development (RCRC)-Nepal
239. Right to Food Network (RtFN)
240. Rural Basic Service Organisation (RBSO)
241. Rural Ethnic People's Development Forum (REPDF), Udayapur
242. Rural Reconstruction Nepal (RRN)
243. SAATHI
244. SAATHI Women Shelter
245. Sahara Nepal
246. Samabesi Foundation
247. Samata Foundation
248. Samudaik Sashaktikaran Kendra
249. Samyukta Apana Ekta Aawaj Kendra
250. Sancharika Samuha
251. Santal Utthan Manch
252. SANTIMALIKA
253. Sustainable Agriculture for Rural Development Concern, Nepal (SARCS, Nepal)
254. Shakti Milan Samaj
255. Shakti Samuha
256. SHEDC Nepal
257. Shree Jana Utthan Sarokar Kendra,
258. Shree Mirmire Bihani Club (SMBC), Ilam
259. Silichong Club, Social Development Centre (SCSDC)
260. Social Development
261. Social Environment Welfare Association Society (SEWA), Kailali
262. Society for Indigenous Development Nepal (SID Nepal)
263. Society For People In Needs (SPIN)
264. Society for the liberation of Oppressed Caste, Nepal
265. Society for Upliftment of Disabled and Orphan

266. Society for Women's Empowerment for Sustainability (SHRISTI)
267. SOLID Nepal
268. Sudhar Nepal (Reformation Nepal)
269. Sungava (ID) Women Vocational Center
270. Sustainable Agriculture for Rural Development Concern Society Nepal
271. Sustainable Livelihood Forum (SLF) Nepal
272. Tharu Youth Innovative Society Nepal (THYINS-Nepal)
273. The East Foundation (TEF)
274. Thulung Women Society
275. Tilpung-Kathmandu Tamang Society (TKTS)
276. UCEP -Nepal
277. Unified Dalit Rights Forum, Nepal
278. Upatyaka Mandal (Kewat) Samaj
279. Voice of Children
280. Voice of Mustang
281. Women Awareness Centre Nepal (WACN)
282. Women Coalition for UPR
283. Women Development Self-Empowerment Training Center (WDSETC)
284. Women Federation
285. Women Forum for Women in Nepal (WoFoWon)
286. Women Human Rights Defender's Network
287. Women Human Rights Defenders Network Kathmandu
288. Women Human Rights Defenders Network Lalitpur
289. Women Rehabilitation Centre (WOREC)
290. Women Security Pressure Group (WSPG)
291. Yamphu Kirat Samaj
292. Youth Action Nepal
293. Youth Advocacy Nepal
294. Youth Federation of Indigenous Nationalities (YFIN)
295. Youth Federation of Indigenous Nationalities, Nepal (YFIN Nepal)

**Marginalized Groups' Joint Submission to the United Nations
Universal Periodic Review (UPR) of Nepal
UPR Working Group of the Human Rights Council
23rd Session**

Submitted by

DURBAN REVIEW CONFERENCE FOLLOW-UP COMMITTEE (DRCFC)

Jana Utthhan Pratisthan (JUP), Secretariat for the DRCFC, dedicated to promotion and protection of the Human Rights of Dalit. JUP has Special Consultative Status with United Nations Economic and Social Council

20th March 2015

Nepal

I. INTRODUCTION AND METHODOLOGY

1. This stakeholders' report is a joint submission of Durban Review Follow-up Committee (DRCFC), founded in 2009. DRCFC is a network working for protection and promotion of human rights of various marginalized groups of Nepal, namely: Dalit, Indigenous Peoples, Freed bonded laborers, Sexual and Gender minorities, Persons with Disability, Muslim and Religious minorities and Madhesi.
2. This report presents implementation status of UPR 2011 recommendations, and highlights major emerging themes of concerns regarding the human rights of the various vulnerable groups. This report is the outcome of an intensive consultation processes undertaken from October 2014 to January 2015 in regional and national basis. During this period, DRCFC conducted six regional consultations with the members of marginalized groups in five development regions and eight thematic and national consultation meetings at national level. In these consultations processes, nearly 682 representatives of 68 organizations attended and provided valuable information for this report (Annex-A).

II. BACKGROUND AND FRAMEWORK

2.1. Scope of International Obligations

3. To ensure full compliance with international human rights standards, Nepal accepted recommendation (108:11)¹³⁰ as a commitment to review and adopt relevant legislation and policies. However, in practice, the government has not taken any steps in this regard. Being a state party to many major international treaties and conventions such as ICESCR, CERD, CRPD, CBD and Convention No. 169 (ILO 169), Nepal has international obligation to incorporate these international laws and conventions in domestic legislation, but none of them have been incorporated.

130 Recommendation made by UPR 2011: 108.11 Review and adopt relevant legislation and policies, including bills related to caste-based discrimination, the Women's Commission, the Dalit Commission, the rights of indigenous peoples and the rights of the child, to ensure full compliance with international human rights standards (Norway).

A. Constitutional and Legislative Framework

4. Article 154 has a provision for the establishment of Human Rights Commission of Indigenous Peoples, *Madhesi*, Person with Disabilities, Labors, and farmers under which the government has yet to establish these commissions. Similarly, Article 13 of the Constitution provides right to affirmative actions and social inclusion for women, *Dalits*, indigenous peoples, *Madhesis* and for other vulnerable groups. The government has not materialized the constitutional provision of proportional representation of indigenous peoples, *Dalit*, women, *Madhesis*, and other marginalized communities in state structure as stated in Article 21 of the Interim Constitution. The Constitution itself permits education in the mother tongue only up to primary level Article 17(1) Article 33 (d) (d1), Article 35(14). Indigenous peoples' languages are not recognized as official languages of the nation Article 5 (2).¹³¹ Article 7 (2)¹³² identifies the "cow as the national animal and crimson as the national colour" which is against indigenous peoples. The Constitution has provided for the establishment of a Disability Rights Commission and for provision of social security for Persons With Disabilities (PWDs).¹³³

2.3. Institutional and Human Rights Infrastructure and Policy Measures

5. The only institutional mechanism set up for the upliftment of indigenous peoples in Nepal is National Foundation for the Development of Indigenous Nationalities (NFDIN). NFDIN can only focus on the documentation of indigenous languages, histories, arts, literature, technologies, traditional knowledge and so forth. Its activities also include empowerment and scholarship programs for the indigenous peoples. However, the organization is bound to limited activities as it is authorized only to make documents under NFDIN Act 2002. Apart from that, the government has not provided NFDIN with sufficient funds and resources. The Government established National Women Commission, National *Dalit* Commission, National Muslim Commission, Dalit Development Committee and *Badi* Development Committee. However, required laws for NDC and NMC are yet to be adopted. As a result, the commissions and committees have been ineffective. The government has set up Disabled Service National Coordination Committee (DSNC) to support the National Policy and Plan of Action on Disability (NPPAD) in 2006 and to assist policy formulation, implementation of and monitoring activities under the plan of action. However, the committee has been ineffective.

V. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

5.1. Cooperation with treaty bodies and other UN mechanism

6. The government often fails to implement the recommendations of UN treaty bodies, special procedures¹³⁴ and other UN mechanism.

131 The Article 5 (2) of the Interim Constitution stipulates "The Nepali language in the Devanagari script shall be the language of official business"

132 The Article 7 (2) of the Interim Constitution stipulates "...Crimson is the national colour, the Cow is the national animal.."

133 Article 18 (2) of the Interim Constitution of Nepal 2007

134 James Anaya, the Special Rapporteur on the situation of human rights and fundamental freedom of indigenous peoples, Report on the Situation of Indigenous Peoples of Nepal, Human Rights Council Twelfth Session Agenda Item 3, A/HRC/12/34/.

Recommendations:

- Fully comply with each recommendation made by the Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous peoples in full partnership with indigenous peoples.
- Establish intuitional mechanism or Parliamentary Committee on Indigenous Peoples Human Rights to consider and follow up recommendations of UN mechanism.

7. Implementation status of the first UPR 2011 recommendations: In Universal Periodic Review session 2011, the government of Nepal accepted a range of recommendations (135). From among those recommendations, the assessment found that 50 recommendations, which are very general, have only been implemented partially, and 4 recommendations are fully implemented.¹³⁵ Human Rights Commission's assessment report notes "the implementation parts of those recommendations turned out to be extremely weak due to the political instability in the country".¹³⁶ This clearly indicates that the government has failed to implement its firm commitment pledged in the UPR 2011.

Recommendations:

- Fully comply with all the recommendations made by the first UPR 2011.

5.2 Equality and Non-discrimination

A. Indigenous Peoples

8. Nepal accepted recommendations (106.1 and 106.2)¹³⁷ that ensure full participation of ethnic and caste groups in the constitution-making processes. It also accepted that the New Constitution incorporates and protects the basic human rights of indigenous peoples. However, it has just been rhetoric. Nepal is in the process of drafting new constitution through Constitution Assembly (CA) that comprises 601 members out of which 204 CA members are from indigenous communities. But being chosen by political parties, not by indigenous peoples' organizations, these CA members act in strict conformity with the manifestos of those parties rather than working for indigenous peoples' human rights. In the part of the government, it has also not taken any concrete steps despite its commitment and the agreement of 20 August 2007 according to which the government is obliged to incorporate indigenous peoples' demands in the new constitution. In addition, the state elites have been misinterpreting and distorting indigenous peoples' demands - identity based federalism, self-governance, greater linguistic equality, proportional representation, and guaranteed access to common property/resources – as being secessionist and racist.

135 Nepal Mid-Term Implementation Assessment 2013, p.3 accessed from <http://followup.upr-info.org/index/country/nepal>

136 NHRC (2013:39), Mid-Term Report on the Implementation status of Conclusion and Recommendations of Universal Periodic Review of Nepal

137 Recommendations made by UPR 2011: 106.1 and 106.2 Give its full support to ensure that the Constituent Assembly successfully fulfills its mandate of drafting a new Constitution by May 2011, giving due consideration to the views of the different groups that compose Nepalese society (Republic of Korea); ensure full participation of ethnic groups and castes in the Constitution-making process, in particular in the Constituent Assembly (Poland); ensure that the new Constitution being formulated and its national legislation is in line with international human rights instruments acceded to by Nepal (France); continue the process of bringing its national legislation in line with international standards (Azerbaijan)

Recommendations:

- Initiate a consultative process with indigenous peoples to ensure that the new constitution explicitly incorporates the rights of indigenous peoples fully in compliance with the international standards to which Nepal is party.
 - Implement the agreement made between indigenous peoples and the government.
9. Indigenous peoples' collective and individual rights over lands and natural resources are not recognized in the national legislation. Development projects such as national parks, protected areas and hydro-projects have displaced indigenous peoples from their lands.¹³⁸ The current strategy of the government on hydro-project gives private companies access to water resources in indigenous peoples' areas without their consent and adequate coordination of the indigenous peoples affected by the projects. The growing number of hydro-projects constitutes an imminent threat to indigenous peoples' culture, society, resources and environment.¹³⁹ Laws such as Environment Protection Act 1997; Land Acquisition Act 1977; National Parks and Wildlife Conservation Act 1973 undermine the principle of Free, Prior and Informed Consent.
10. The CBD is the most important international legal instrument addressing issues of protected areas, the protection of traditional knowledge systems and genetic resources of indigenous communities and measures for their equitable utilization (articles 8j and 10c), but the convention has not been incorporated in domestic legislation.

Recommendations:

- Ensure full and effective participation of indigenous peoples, including women and local communities, in full respect of their rights to Free Prior Informed Consent before and during the planning of any projects located in indigenous peoples' land, and hold genuine consultations with them before signing Project Development Agreement (PDAs).
 - Incorporate CBD into domestic legislation. Develop mechanisms for promoting the full and effective participation of indigenous peoples and local communities with specific provisions for the full, active and effective participation of women in all activities related to policy-creation and implementation of the CBD.
 - Adopt a Rights Based Approach to Development that would be a frame of reference to ensure the rights of indigenous peoples in the projects works.
11. Despite Nepal's ratification of ESCR, ILO 169 and its support to UNDRIP, indigenous peoples continue to experience violation of their economic, social and cultural rights. The Constitution has declared *Nepali*, a language spoken by the dominant groups, as the official language. This provision discriminated Indigenous peoples to have access to justice, education, government services, information, and socio-economic opportunities available to them.¹⁴⁰ Similarly, though the government declared Nepal as a secular state, the government is promoting one religion- *Hinduism* as *National Culture*. The government promotes and protects Hindu festivals, rituals, and symbols at the expense of other religions. (e.g., cow as national

138 For example, Chitwan National Parks, Baridya National Park, Kulekhani Hydro-project, Kali Gandaki –A Hydro-project and other have displaced hundreds of indigenous peoples from their ancestral lands.

139 Very recently, the government has signed Power Development Agreement (PDA) paper that gives operation license two Indian companies : Satluj Vidhut Nigam and JMR

140 The government has formulated Multilingual Education Implementation Guidelines in 2009 to implement multilingual education. But, it is not being implemented effectively due to inadequate human and financial resources. Bilingual education is only implemented in 24 out of more than 7,500 schools across the country (NFIW's report).

- animal). Indigenous peoples are being arrested for alleged cow slaughter in many districts.¹⁴¹ This is a direct violation of human rights of indigenous peoples as many of them have customary practices that require consuming cow/bullock's meat.
12. The government has recognized 59 indigenous groups, but there are various groups excluded from the official schedule. The government formed a High Level Task Force for this proposes in 2009, which has recommended the government to enlist eighty-one different indigenous communities in the official schedule.¹⁴² The government has not implemented the recommendations till today.
 13. The joint submission acknowledges the government's initiatives to allocate local budget for indigenous peoples and other marginalized groups for their socio-economic development. However, those budgets are not being utilized for targeted communities.

Recommendations:

- Recognize indigenous languages for use in state affairs alongside Nepali language.
 - Provide schools with sufficient resources and funds to expedite multi-lingual teaching-learning environment.
 - Review the Civil Code (Muluki Ain) in compliance with international human rights.
 - Provide sufficient resources and funds to NFDIN so that indigenous peoples' culture can be better preserved and promoted in a better *in situ* rather than the current practice of *ex situ*.
 - Formulate mandatory provisions to ensure that allocated budgets for indigenous peoples and other marginalized groups are used for the socio-economic development with their full participation.
 - Fully ensure that the socio-economic and cultural rights of indigenous peoples are protected and promoted in culturally appropriate ways.
 - Implement the recommendations of High Level Task Force and take concrete actions to ensure the recognition of all those indigenous groups, which are excluded from the official list with due regards to their self-identity.
14. Nepal accepted the recommendation (107:28)¹⁴³ to take effective measures to increase the participation of the indigenous peoples, minorities and vulnerable groups in the civil services and

141 Country Code 1963 has provisions that slaughtering, killing, administering poison or beating cows/bullocks and attempting to do so are considered sins and punishable up to 12 years of imprisonment. On June 5, 2014, at around eight p.m., the police arrested Kumar Tumbapo, a father of six, from his home in Goldhap village, Jhapa for allegedly slaughtering an ox. They also arrested Bal Bahadur Tumbapo and Jagat Rai, who happened to be at his house that evening. The three men were kicked and beaten while being dragged and shoved into a police van. As it turned out, inspector Devi Prasad Poudel was responding to a complaint filed in the district court by Gauvansha Samraskhyan Manch (Cow Protection Forum), a Birtamod-based organization that has succeeded in getting many other Indigenous peoples arrested on similar charges. Kumar Tumbapo was harassed and tortured while in police custody. "You are the main culprit, you killed an ox and ate beef!" policed said, and beat him with a rod until his feet were swollen. At least eight such cases are documented in a recent report by the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP). See more at: <http://recordnepal.com/wire/wrong-side-thin-blue-line#sthash.4b73Qj47.dpuf>

142 High Level Task Force Report 2010 submitted to the government.

143 Recommendation made by UPR 2011: 107.28. Take more effective measures to increase the involvement of the indigenous peoples, minorities and vulnerable groups in the civil service, law enforcement agencies and local authorities (Malaysia).

state polity. In this regards, the government implemented some social inclusion policies,¹⁴⁴ but the impact of these policies have remained ineffective. Study¹⁴⁵ indicates that after 1990s, the situation of inclusion in civil service has become further deteriorated. The government has proposed Inclusion Bill to amend the existing provisions of inclusion in the existing Acts¹⁴⁶ but the status of the bill is unknown.

15. **Indigenous Women:** Non-recognition of indigenous women's identity and right is a critical problem affecting their life towards multiple layers of discrimination and vulnerability. However, the state fails to include them in national census data, in national plans and policy documents of the government. Based on their distinct identity, the problems, discrimination and structural exclusion they face in their daily lives varies from women of dominant caste groups like they have insufficient access to public and social services, justice, education and in decision making mechanism apart from having limited access to productive resources such as land, water, forests and other natural resources. Because of the practice of keeping Nepali women in a single category irrespective of their caste, ethnicity, religion, and language and social structure, most of times the vulnerable women like indigenous women remain left out while the women from the dominant caste enjoy the privileges.
16. Trafficking women has become a widespread social reality in Nepal. The trends of this flesh trade show that indigenous girls are more vulnerable to trafficking. A study shows that 76 per cent of women trafficking survivors of the total 821 were from indigenous communities followed by *Dalits* women (12 %) and *Bahun* and *Chhetri* (12%) women¹⁴⁷. Deeply rooted exploitation, discrimination, poverty and structural inequality are responsible for this vulnerability.¹⁴⁸

Recommendations:

- Ensure the proportional representation of indigenous women at decision-making levels and state polity by recognizing their identity as "Indigenous Women".
- Collect disaggregated data on indigenous women that will reveal the situation of their well-being, forms and degree of discrimination together with the extent of exclusion/inclusion, and formulate policies and plans accordingly.

144 The Interim Constitution 2007, National Plans, amended Acts and Regulations such as Civil Service Act 1993, Police Regulations, 1991 etc. The Civil Service Act has allocated 45% reserved seats for women, indigenous peoples, Madhesi, Dalits, persons with disabilities and candidate from remote areas. Considering 45% seats as whole pie, women-33%, indigenous peoples -27%, Madhesi-22%, Dalit-9%, persons with disabilities-5% and Remote Area-4% seats have been reserved. The point excluded groups are critique of is that the Civil Service Commission firstly publishes the results of reservation seats followed by the results of open seats. This prohibits the selection of indigenous peoples and other excluded groups for open seats that are mainly provided to candidates of dominant caste groups. At the same time, the appointments are firstly provided to those successful under the open seats thus providing them seniority than those successful under reservation seats.

145 For example, UNDP report 2012 show that before 1990s, the ratio of officer level civil servants was around 70% High caste group Brahmin, Chhetri 30%, indigenous peoples 21.6%, and Madhesi 8.5%. But in FY 2000/00, it was quite discouraging as the percentage of representation of Brahmin/Chhetri went up 87%, while indigenous peoples and Madhesi representation dropped to 13%.

146 According to a report of UNDP 2012, the proposed Inclusive Bill aimed to amend the following Acts: Police Act, 2012, Development Committee Act, 2013, Education Act, 1971, Nepal Special Service Act, 2042BS, Nepal Sanskrit University Act, 2043, Kathmandu University Act, 2048, Tribhuvan University Act, 2049, Civil Service Act 2049, Eastern Regional University Act 2050, Pokhara University Act 053, Health Service Act 2053, Armed Police Service 2058, Nepal Army Act 2063, Lumbini University Act, Legislative Parliament Act 2064, Public Service Commission Act 2066, Far Western Regional University Act 2067, Mid-Western Regional University Act 2067 and Agriculture and Forestry University Act 2067.

147 See more at: <http://www.indigenousvoice.com/7-out-of-every-10-victims-of-trafficking-in-person-are-indigenous-women-and-girls-in-nepal.html#sthash.oRTS5TL2.dpuf>

148 National Indigenous Women's Federation (NIWF) Workshop report 2014. "A Report on the Consultation Workshop on the Key Concerns of Indigenous Women, Kathmandu, Nepal

- Adopt legislation to strengthen existing laws to deal with domestic violence and women trafficking, and take measures to rehabilitate the trafficking survivors.
- Prioritize and mention indigenous women separately to providing them with special measures in addressing their vulnerability in fundamental rights of the constitution.

B. Dalits

17. *Dalits* community are politically, socially, economically, religiously, culturally, and historically oppressed, excluded and are treated as untouchables. Census 2011 reported 13.21 percent *Dalits* of the total population. *Dalits* are scattered throughout the country with further classification into 26 castes, faiths, culture, and language groups internally.¹⁴⁹ Despite national and international provisions legislating against caste-based discrimination and Caste-based Discrimination and Untouchability (offence and punishment) Act, 2011[CBD&U (O&P) Act], they are facing many forms of discrimination. *Dalits* have become victims of discriminatory laws; study shows that there are still 37 discriminatory provisions existing in several laws related to the *Dalits*.¹⁵⁰ Therefore, enactment and implementation of existing anti-discriminatory laws and measures, dismissal of existing discriminatory provisions,¹⁵¹ and eliminate of caste-based discrimination and untouchability are the prime concerns of *Dalits*.

Recommendations:

- Adopt the relevant policies, strategies, plans and programs and allocate adequate budget to eliminate caste-based discrimination and untouchability within specific time frame
- Ensure secure and equal rights to lands and other natural resources for all *Dalits*
- Ensure effective implementation of existing laws.¹⁵²
- Formulate and enact the rule/regulations of CBD&U (O&P) Act for effective implementation of this law.¹⁵³
- Review and amend all discriminatory laws, regulations, rules, directives, policies and programs that are against the human rights and dignified life of *Dalits*.

149 The Dalits community occupies 13.21 per cent of total population and comprised 26 castes; such as Badi, Damai, Gaine, Kami, Sarki, Pode, Chyame, Bantar, Chamar, Chidimar, Dhobi (Hindu), Dom, Dusadh, Halkhor, Kakaihiya, Khatbe, Khatik, Kori, Tatma, Mushar, Natuwa, Dhandi, Dharikar/Dhankar, Pasi, and Sarvanga.

150 Still, there are many discriminatory provisions existed in different laws of the country incompatible with international human rights instruments. The study carried out by National Dalits Commission has revealed that there more than 23 discriminatory provisions. (NDC.2005. *Study of the discriminatory and amendable legal provision against Dalit community*. Kathmandu: National Dalit Commission)

151 The constitutional provision on right against *untouchability* at public places, preamble provision (*chhota-bada*) of the Civil Code, 1963 and a provision relating to respect of the social usages and practices are some of the instances (*Section 10 of Miscellaneous Chapter under Civil Code*). Still, there are many discriminatory provisions existed in different laws of the country incompatible with international human rights instruments. The study carried out by National Dalits Commission has revealed that there more than 23 discriminatory provisions. (NDC.2005. *Study of the discriminatory and amendable legal provision against Dalit community*. Kathmandu: National Dalit Commission)

152 See previous recommendations, "...Government's priorities include combating caste-based discrimination, ensure that the policy is fully implemented also by the local authorities in rural and remote areas (Czech Republic) (para 106.24 UPR Nepal 2011; A/HRC/17/5); Take the necessary legal and policy measures to end discrimination, including of women, children and Dalits (Netherlands) (para 107.11 UPR Nepal 2011; A/HRC/17/5); ...caste-based discriminations be reported, investigated, perpetrators prosecuted and victims of such violence are compensated (Czech Republic)" (para 108.12 UPR Nepal 2011; A/HRC/17/5).

153 See previous recommendation, "Initiate legislative measures to effectively address and eradicate longstanding discrimination, including "untouchability" (Austria)" (para 107.13 UPR Nepal 2011; A/HRC/17/5).

- Adopt necessary policy, directives and schemes to control all forms of discrimination and atrocities based on caste and community, including *Dalit* sexual exploiting, trafficking and prostitution of *Dalit* women as well as *Badi* women.¹⁵⁴
- Recognize NDC as a statutory body in the constitution in compliance with Paris Principles by adopting necessary laws and Acts to monitor the case of human rights violation of *Dalits*.¹⁵⁵
- Allocate adequate funds and human resources to NDC.¹⁵⁶
- Ensure that the rights of inter-caste married couples are protected and any forms of discrimination, atrocities, exiles, violation against them are eliminated.
- Encourage inter-caste marriage by extending the existing provisions and awards.¹⁵⁷
- Ensure that equal and adequate budget is allocated to *Dalits* and make sure that all *Dalits* are benefited equally.
- Implement 10-point agreement with United *Dalits* Struggle Committee, *Badi* Struggle Committee and *Haliya* Struggle Committee.
- Ensure patent rights of *Dalits* to their traditional caste-based occupation, knowledge skills, and arts through the provision of prerogative rights
- Ensure the rights of *Dalits* (11 points) drafted by Constitution Drafting Committee of first CA are incorporated in the New Constitution.
- Formulate relevant Act compatible with the article 21 of the constitution to ensure proportional representation of *Dalits* in all implementing structures, agencies and sectors of the State.¹⁵⁸
- Ensure proportional representation of *Dalits* in all law enforcement agencies including police force, government attorney and courts.¹⁵⁹
- Ensure that all law enforcement agencies are empowered, trained and informed about *Dalit* concerned laws including CBD&U (O&P) Act.¹⁶⁰
- Adopt appropriate laws and extend the existing affirmative actions to ensure the participation of *Dalits* in all state structure, sectors and agencies including community based institutions and private sectors.
- Ensure institutional inclusion of *Dalits* by establishing Dalit Development Authority and Ministry for *Dalit* empowerment.

154 See recommendation, "The persistence of sexual exploitation, in particular among the Dalit community, and the persistence of the root causes of trafficking and prostitution, including poverty (para 21 CEDAW Concluding observations 2011; CEDAW/C/NPL/CO/4-5)."

155 See previous recommendation "Review and adopt relevant legislation and policies, including bills related to... the Dalit Commission, ...to ensure full compliance with international human rights standards (Norway) (para 108.11 UPR Nepal 2011; A/HRC/17/5)."

156 See previous recommendation, "Continue promoting the work of the National Commissions for Women and for Dalit, through the reinforcement of resources that allows them to work in an efficient manner (Bolivia) (para 106.8 UPR Nepal 2011; A/HRC/17/5)" and "Provide the National Dalit Commission and the National Women's Commission with sufficient resources to effectively realize their mandate (Slovenia) (para 107.6 UPR Nepal 2011; A/HRC/17/5)."

157 See CERD recommendation, 2002, "to take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community (para 32 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)."

158 See CERD general recommendation, "To take the necessary steps to secure equal access to the justice system for all members of descent-based communities, including by provision of legal aid, facilitation of group claims, and encouragement of non-governmental organizations to defend community rights (para 21 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)."

159 See CERD recommendation, "to ensure where relevant that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account (para 22 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)."

160 See CERD recommendation, "to encourage and facilitate constructive dialogue between the police and other law enforcement agencies and members of the communities (para 26 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)."

18. Madhesi *Dalits* are more excluded, marginalized, landless,¹⁶¹ and discriminated within the Dalit and Madhesi community. They are deprived of getting citizenship card.

Recommendations:

- Ensure citizenship rights and rights to lands to Madhesi *Dalits* addressing the problems of landlessness and statelessness.
 - Adopt relevant laws to ensure the proportional representation of Madhesi *Dalits* within the Dalit and Madhesi community.
 - Eliminate discrimination against Madhesi *Dalits* based on caste, descent, region, language and culture.
 - Ensure proportional distribution of socio-economic opportunities, resources and services among the hill *Dalits*, Madhesi *Dalits* and Dalit women with respective to their population sizes.
 - Review and revise the existing laws to ensure the access to justice¹⁶² of *Dalit*
19. Dalit women are facing three-fold discrimination based on class, caste and gender. Moreover, Madhesi Dalit women are facing four-fold discrimination including regional dimension, and *Badi* woman facing sexual exploitation for centuries as tradition.

Recommendations:

- Formulate relevant policies, laws, strategies and programs to eliminate discrimination based on class, caste, gender and region.
 - Stop sexual exploitation of *Badi* women, and implement the agreements made by the government with *Badi* struggle committee.
 - Ensure proportional representation of Dalit women within *Dalits* and within women.
20. Dalit youth and children are discriminated as untouchables in schools, temples and other public and private places. They have least access to education, health and nutritious food. Child labor, trafficking and sexual violations are other serious regarding Dalit children.

Recommendations:

- Ensure that *Dalit* children are not discriminated in school and public/private spaces, and ensure that perpetrators involved in such acts should be penalized.
- Take measures to ensure that Dalit children's rights to education, adequate food, and health services.
- Ensure free education for all *Dalits* children, increase the quota of scholarships for higher education, and adopt legislative measures that make private schools provide Dalit students at least 10 percent scholarship.¹⁶³

C. Muslim and Religious minorities groups¹⁶⁴

21. The census report (2011) recorded 10 religious groups, among them Hindu is in majority (81.3%) followed by Buddhist, Islam, Kirat, Christian, Bon, Jain, Bahai and Sikh. Despite

161 Sustainable Development Forum. 2006. Ownership of Dalits in Land: A Study. Kathmandu: Sustainable Development Forum

162 See previous recommendation, "Seek to remove the obstacles faced by victims trying to access justice (Republic of Korea) (para 106.37 UPR Nepal 2011; A/HRC/17/5)."

163 See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106.53 UPR Nepal 2011; A/HRC/17/5)."

164 There are ten types of religion categories reported in the census. Hindu is followed by 81.3 % (21,551,492) of the population followed by Buddhism (9%; 2,396,099), Islam (4.4%; 1,162,370), , Kirat (3.1%; 807,169), Christianity (1.4%; 375,699), Prakriti (0.5%; 121,982), Bon (13,006), Jainism (3,214), Bahai (1,283) and Sikhism (609) (CBS, 2011)

constitutional provision of secularism, all the religious minority groups are discriminated on the ground of religion. Muslim community and other religious minorities groups continue to suffer from various form of discrimination with regard to participation, and economic, social and cultural rights.¹⁶⁵

Recommendations:

- Eliminate that all forms of discrimination against all religious minorities are eliminated by implementing secularism adopting appropriate laws.
 - Ensure that all religious groups have equal access over resources to preserve and protect their cultural heritage, sacred sites and to build sacred infrastructures.
 - Recognize Muslim as a "community" rather than religious minority, and ensure proportional representation of Muslim community in state polity, civil services and other agencies and sector of the State.
 - Recognize *Madrasa* as formal education system and establish *Madrasa* educational board as committed by the government.
 - Ensure that Muslim children have access to education in culturally appropriate way.
 - Strengthen National Muslim Commission as statutory body by adopting relevant laws to monitor the implementation of programs to protect and promote the full enjoyment of their human rights in particular ESCR.
 - Recognize Urdu language/script as a national language.
22. The government has neither legally recognized the marriage and divorce laws of Muslims which take place in accordance with the *Islamic* religion, nor other social traditions and customs stated in Muslim family law. In addition, Muslim people have less access to health, justice and education because of language barrier. Moreover, Muslim women suffer from multiple forms of discrimination -as women, and Muslim women within the Muslim community.

Recommendations:

- Recognize and respect the distinct customs, culture, language and way of life of the Muslim community particularly based on their family law.
- Ensure proportional representation of Muslim women within the Muslims and within women as well.
- Ensure that Muslim women have a separate education system under the Muslim educational system.
- Provide adequate scholarship for Muslim children.

D. Peoples with Disabilities

23. The government has ratified the Convention of Persons with Disabilities (CRPD) in 2010. However, the government has not incorporated CRPD into domestic legislation. The government often fails to ensure that persons with disabilities enjoy their rights on equal basis with other members of the society. The government accepted the recommendations (108.13 and

¹⁶⁵ Id Chapter V

108.14)¹⁶⁶ to ensure non-discrimination such as social, economic and environmental barrier both in private and public spheres. Absence of disabled friendly environment at both private and public spheres such as infrastructures, buildings, roads, transportation facilities and lack of access to information and other service facilities are the major barriers that hinder their day-to-day lives. The government services provided to disabled peoples so far have not been based on the principle of human rights, but merely on the ground of medical and charity approach.

24. Disabled people's families give less priority for their social and cultural development. As a result, they have least access to education, justice, employment, rehabilitation programs, food and health. Their rights to choose their partner and to get married, to get parental property, and to hold child are often violated by their families. They have been victims of domestic violence, abuse and negligence. Among the disabled people, women with disabilities from remote regions, from low caste groups like *Dalits* and from indigenous peoples are more vulnerable to face sexual abuse and violence than others.
25. Government's categorization does not take into account of diversity of persons with disabilities based on their social origin. The government including the relevant stakeholders and Disabled People led Organizations (DPOs) need to realize that persons with disabilities and the discrimination in many aspects of their lives are further compounded by their situation in terms of caste, gender, ethnicity, religion and geographic region. An individual's social identity and class indeed play an important role on how one faces discrimination, violation, abuse and denial of basic rights. Indigenous persons with disabilities suffer more discrimination in the enjoyment of social and cultural rights, access to justice, including institutional and structural discrimination in comparison to disabled people from dominant groups. Similarly, *Dalit* persons with disabilities suffer from caste-based discrimination and untouchability apart from being discriminated as disabled. Likewise, women with intellectual and mental disabilities and those women having severe disabilities are compelled to forced sterilization from their own parents.¹⁶⁷ Therefore, persons with disabilities from indigenous communities, Dalits and vulnerable groups are subject to further underrepresentation and discrimination than others in receiving services and opportunities and in institutional framework.¹⁶⁸

Recommendations:

- Ensure the accessibility of government and public buildings and infrastructures like roads, transportation, and make affirmative environment policies to render services like access to information and the other facilities in light of the CRPD

166 108.13. Implement measures to ensure that persons with disabilities are enabled to participate in job training, vocational training, literacy and numeracy programmes and set concrete targets measurable within one year to this effect, in consultation with persons with disabilities and their representative organizations (New Zealand). 108.14. Ensure, without any discrimination, the rights of people with disabilities and others belonging to vulnerable groups, such as women and children (Chile).

167 Economic and Social Council United Nation Permanent Forum on Indigenous Issues 12th Session E/c.19/2013/6.

168 A study notes that, for example, women with disabilities access to education and other services is affected not only by gender and disability but also by their type of their disabilities, the socio economic status of their family, their race/ethnicity, whether they live in urban or rural areas and a host of other factors. Along with disability and gender, persons with disabilities rights are denied in services based on their identities like being ethnic, Dalit, or backward geography. 90.9% women with disabilities expressed that intersectional discrimination prevails them which impacts receiving information and access to services. The state as well National Federation of the Disabled Nepal (NFDN) has not taken into account as a human right issue of indigenous peoples with disabilities in Nepal. The existing executive committee of NFDN is discriminatory towards vulnerable indigenous persons with disabilities. <http://www.socialinclusion.org/np/newfile/pratimagurung>

- Establish a sign language institution, develop, and make available sign language interpretation services whenever needed.
- Revise laws and other legislations to ensure non-discrimination against persons with disabilities in employment, health services and transportations in line of CRPD.
- Collect statistical data on people with disabilities and classify them into various categories, not just on the basis of the severity of disabilities, but also on the basis their social origin.
- Prioritize the issues of disabled women, disabled Dalits, indigenous persons with disabilities, disabled people from religious minorities and regions in efforts to protect and promote the human rights of disability.
- Implement initiatives to reduce the high incidence of domestic and sexual violence against women with disabilities and its diverse segments.
- Ensure the participation and representation of persons with disabilities in state polity, public sectors, and civil services respecting their identity and dignity.
- Enact and implement laws guaranteeing basic social security arrangements for persons with disabilities on the basis of types and social origin of disability.

E. Sexual and Gender Minorities

26. The government accepted the recommendation (106.23)¹⁶⁹ to take steps to ensure non-discrimination on the ground of sexual orientation and gender identity. However, the recommendation is yet to be transformed into action. Despite such constitutional provisions of non-discrimination, sexual and gender minorities continues to suffer human rights violations such as sexual harassment, physical and psychological violence, sexual assaults, exclusion from community and from even the families. They also experience arbitrary arrests, illegal detention, beatings and rape. Government's policy documents and plans do not fully include the issues of the sexual and gender minorities. The government has tabled civil and criminal code bills in the Legislative of Parliament, which contain many provisions that are against LGBTI people's rights.¹⁷⁰
27. The Government has formed Same Sex Marriage Committee. The committee's report has covered various concerns of LGBTI people. The government has started to provide Citizenship Card based on sexual and gender identity to LGBTI people. However, the government authorities have refused to change issued Citizenship Cards, which do not mention their identity. This provision has yet to be implemented in the case of issuance of passport as well. LGBTI people are deprived of getting passport based on their identity. As the names and sexes stated in the passport of LGBTI people, particularly transsexuals, do not match with their identities, they experience harassment and difficulties most often while traveling abroad. Likewise, they face various forms of discriminations and harassments in the custody due to unfriendly provision of the security system.

Recommendations:

- Acknowledge and recognize the existence of sexual and gender minorities in the preamble of the New Constitution.

¹⁶⁹ Take steps to ensure non-discrimination based on sexual orientation and gender identity including in the proposed civil and criminal laws (New Zealand).

¹⁷⁰ In the consultation processes, the executive director of Blue Diamond Society (BDS) informed that the drafted civil and criminal code contains more than 286 provisions that are against LGBTI people's rights. <http://www.hrw.org/world-report-2012/world-report-2012-nepal>

- Review and adopt relevant laws to allow same-sex marriage, and make LGBTI eligible to adopt a child.
- Recognize sex and gender identity in all official documents.
- Implement the recommendations of Same Sex Marriage Committee's Report
- Revise civil and criminal code bills before its adoption to amend the discriminatory provisions against LGBTI people's rights
- All kinds of discriminations against LGBTI must be addressed and perpetrators involved in such acts should be penalized.
- Incorporate the issues related to sexual and gender minority community into the policy and strategic plans.
- Allow LGBTI's organizations to register without any legal impediments.
- Establish an independent commission to protect and promote the full enjoyment of the economic, social and cultural rights of sexual and gender minority.

F. Madhesi

28. Madhes and Madhesi identity emerged after the Madhes movement in 2007. Although, Terai-Madhes occupies most of the plain and agricultural lands and highly populated zone of Nepal, the Madhesi people are discriminated on the ground of color, region, language and socio-cultural identity since long time. They reflect multi-ethnic, multi-caste, multi-lingual and multi-cultural. The government has made several agreements with Madhes based political parties and various armed groups.¹⁷¹

Recommendations:

- 2 Establish Madhesi Commission, and ensure that the Commission will ensure the representation of Madhesi women, Madhesi *Dalits*, and other Backward Communities (OBC)¹⁷²
- 3 Ensure proportional representation of Madhesi in state polity, civil services, and agencies and establish a National Inclusion Commission for monitoring and effective implementation of the laws.¹⁷³
- 4 Ensure equal and proportional distribution of budget, socio-economic opportunities and other resources among Madhesi women, *Dalits*, indigenous peoples, OBCs and Madhesi caste groups.
- 5 Ensure all kinds of prejudice, discrimination, exclusion based on region, language and color are eliminated.

171 The government had done the 22 points agreement with Madhesi Janadhikar Forum, on 30 August, 2007 and 6 points agreement with United Democratic Madhesi Front on 23 February, 2008.

172 The list of OBC: Kushwaha, Kurmi, Kumhar, Kahar, Kewat, Kanu, Kamar, Kalwar, Teli, Dhanuk, Nuniya, Baniya, Bhediha, Mali, Mallah, Musalman, Baraiya, Yadav, Rajbhar, Rauniyar, Lohar, Lodh, Sudi, Saini, Sonar, Haluwai, Hajam, Amat, Maghaiya. 18% seats have been reserved for the above mentioned castes and communities who are put into OBC group.

173 The Committee further recommends that special units be established to monitor the implementation of programmes to protect and promote the full enjoyment without discrimination of their economic, social and cultural rights by disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups (para 32 CESCR Concluding observations 2008; E/C.12/NPL/CO/2).

- 6 Take measures and immediate action to prevent the warrantless arrests, torture, extrajudicial killings and other misconduct against Madhesi people.¹⁷⁴
 - 7 Ensure that the budget is allocated and distributed on the basis of population density of Madhes
 - 8 Ensure that Madhesi people have easy access to citizenship.
29. Madhesi women have faced multiple forms of discrimination and exclusion as being women and also being Madhesi women. Due to the dowry system, they have faced domestic violence, unwanted divorce, gender based abortion, and even murder. Moreover, sexual violence against Madhesi women and girls especially from Dalit and OBC caste groups is pervasive.

Recommendations:

- Revise and amend Domestic Violence Act and Social Behavior Reform Act in order to address dowry system, which has remained as a brute face of gender inequality and violation in Madhes.
- Ensure proportional representation of Madhesi women in state polity, civil services and other sectors.

G. Freed Bonded Labor (*Kamaiyas and Haliyas*) and *Haruwas/Charuwas*

30. A study submitted to the UN Economic and Social Council has identified three types of bonded labor systems persistent in Nepal: the *Kamaiya* and *Haruwa* in the Terai and the *Haliya* system in the hills.¹⁷⁵ *Kamaiyas* laborers are largely from Tharu community, an indigenous group of Terai. Since 1950s, malaria eradication program and high way construction encouraged a large-scale migration of people from the hills to the lowlands. The immediate consequence of this was that Tharus not only lost their lands, but also lost their status and autonomy to high-caste Hindu settlers. Much of the land formerly controlled by Tharus passed into the hands of immigrants. Many of these immigrants used their education and their caste and kinship affiliations with local government functionaries to appropriate Tharu land,¹⁷⁶ and eventually Tharus were forced to become bonded laborers to the hill immigrants. In addition, following the

174 See previous recommendation, "Take necessary measures for the prevention of such deeds as reported warrantless arrests, torture, extrajudicial killings and other misconduct and ensure swift and fair investigations on alleged misconduct by law enforcement authorities (Japan); investigate all cases of ill treatment and abuse, such as enforced disappearances, cases of torture, arrests without warrants and extrajudicial killings by the police as well as the national army and ensure the delivery of justice regarding these serious human rights violations (Hungary) (para 107.15. UPR Nepal 2011; A/HRC/17/5); Investigate credible allegations of extrajudicial killings and introduce an independent complaint mechanism on the conduct of the security forces (Denmark) (para 108.18. UPR Nepal 2011; A/HRC/17/5); and Impartially investigate all allegations of extra-judicial killings and arbitrary executions, to prosecute those responsible, and accept the requests for a visit by the Special Rapporteur on extrajudicial, summary or arbitrary execution, and the Working Group on Enforced or Involuntary Disappearances (Italy) (para 108.19. UPR Nepal 2011; A/HRC/17/5)"

175 LWF Nepal 2008. Impact Assessment of Development Programme 2003-2007.

176 Arjun Gunaratne (1998:759 in footnote): An example will illustrate the sorts of methods used. A Brahmin who came to Chitwan after the malaria eradication program became notorious in the surrounding villages for the way he amassed land. He readily provided loans to Tharus; when they found themselves unable to pay back the loan within the stipulated time, he would extend the repayment period, but in return they would be asked to agree to the addition of another zero to the sum specified on the promissory note. The Tharus, illiterate and unfamiliar with written documents, would fail to see the significance of this and would readily consent. The debtor, eventually confronted by the moneylender with a promissory note for a sum far greater than that which he had originally borrowed, and well beyond his ability to repay, would lose all or part of his land in fulfillment of the debt (See, Arjun Gunaratne (1998) Modernization, the State, and the Construction of a Tharu Identity in Nepal

loss of forest and pastureland, mass migration and poverty, Tharus became unable to continue their traditional life to perform their customary rituals.¹⁷⁷

31. By introducing two Acts¹⁷⁸ in 2000 and 2002, the government has abolished bonded labor in Nepal. Despite the legal prohibition on bonded labor, these practices persist in different places of Nepal. The government has failed to implement The *Kamaiya* Labor (Prohibition) Act 2002. During the consultation processes, representatives of freed *Kamaiya* and *Kamlari* reported that some of their friends are still working as *Kamaiya*¹⁷⁹. While the liberation of *Kamaiya* came with the government's public commitment to provide necessary assistance for the rehabilitation of the freed *Kamaiya*, this has hardly materialized even today. Measures of Rehabilitation like the provisions of house construction allowance of NPR 10, 000, 75 cubic fits of timber for the construction of houses, land allocation and other support measures are have just partially been implemented. In contrast to government's commitment to provide free higher education to freed *Kamaiya* and *Kamlaris* the schools are imposing fees under various tittles.

Recommendations:

- Provide housing, employment and income-generating activities to freed *Kamaiyas* as per the agreement, and ensure that they are able to access resources to re-establish Their lives and livelihoods
 - Ensure that freed *Kamaiyas* enjoy their rights to housing, nutrition, education, health and employment.
 - Fully implement the *Kamaiyas* (Prohibition) Act 2002 and Rehabilitation Plan
 - Allocate enough quality land so that freed *Kamaiya's* livelihoods would be secured, and extend further financial support to livelihood development and poverty reduction.
 - Recognize the identity of freed *Kamaiyas* and also set up reservation system for them to ensure their proportional representation, where appropriate, at social, cultural, political and economic spheres
-
32. Most of the *Haliayas* are *Dalits* who worked as bonded labors to landlords for generations in Far-Western region of Nepal. *Haliyas* continue to suffer from extreme human rights violations. They are socially, culturally and economically exploited and discriminated by their landlords for centuries. Similarly, *Haruwa/Charuwa* system is another form of bonded labors based on indebtedness and sharecropping. Working in the field of the landlords, a *Haruwa* laborer receives a share of the harvest which is not enough to run his family. By tradition, other family members of a *Haruwa* must also work for the same landlord at very low daily wages.

177 For example, Arjun Gunerate (1998:760) notes, "In Dang, following on "loss of land, mass migration and poverty . . . [several major festivals that were previously celebrated annually are now no longer celebrated at all, because of a lack of economic resources" (Cox n.d., 11). In Chitwan, the wholesale destruction of the forest by settlers following the success of the malaria eradication project removed from the ritual calendar the worship of many gods whose jungle shrines had been destroyed in the process. Chitwan Tharus believe that the power of their deities is closely linked to the presence of forests; when the forests are destroyed, they believe the gods abandon the area. When rituals are no longer performed, the young are no longer socialized into their performance, and they disappear from the local knowledge system."

178 The social movement of bonded labor forced the government to declare the emancipation of thousands of *Kamaiyas* and *Kamlaris* (bonded labor form indigenous Tharu community) in western Nepal, on 17 July 2000. Similarly, in September 2008, the Government announced that it had abolished the *Haliya* system and cancelled the debts of *Haliya* bonded laborers from Dalit community. In 2000 and in 2002, government introduced two Acts: The Bonded Labor (Prohibition) Act and the *Kamaiya* Labor (Prohibition) Act respectively.

179 Reportedly, that More than 412 *Kamlaris* are working as bonded labor in various districts a – Dang, Bardiya, Kailai, Kanchanpur and Banke - and at least 5000 freed *Kamaiyas* are yet to be identified.

Recommendations:

- Establish a High Level Commission to protect and promote the rights of freed bonded laborers.
- Implement 10 point agreement signed between the government and Haliya Struggle Committee.
- Revise the Rehabilitation Plan in full and effective participation of freed *Haliyas*, *Haruwa/Charuwa*.
- Formulate quotas or reservation systems by recognizing the identity of freed *Haliyas* and *Haruwa/Charuwa* to ensure proportional representation, where appropriate, at social, cultural, political and economic spheres
- Establish a High-Level freed *Haliya* Commission to monitor the implementation of rehabilitation programs, and to protect and promote the full enjoyment without discrimination of the economic, social and cultural rights of freed *Haliyas*.

33. **Right to Food:** Forty-three districts lack sufficient food supplies.¹⁸⁰ Among them, 23 are consistently suffering from food shortages. The marginalized communities including women, Dalits, children¹⁸¹, indigenous peoples, people with disabilities, *Haruwa*, *Charuwa*, *Balighare* and freed *Kamaiyas* and freed *Haliyas* are more vulnerable due to the shortage of food. Food sovereignty is protected under Interim Constitution of Nepal,¹⁸² and the SC has held the state responsible of ensuring people's easy access to food.¹⁸³ About the food sovereignty, its Accessibility, Adequacy, Availability and Quality is of big concern. Women are deprived of nutritious food, even during pregnancy and after childbirth.

Recommendations:

- Ensure that the new constitution incorporates right to food as fundamental rights.
- Formulate laws, policies and regulations on the right to food security giving priority to those belonging to marginalized and vulnerable groups such as women, *Dalits*, children¹⁸⁴, indigenous peoples, Muslim, disabled people, *Haruwa*, *Charuwa*, *Balighare*, freed *Kamaiyas*, freed *Haliyas* and HIV/AIDs infected.
- Ensure right to food and health insurance¹⁸⁵ of women, *Dalits*, children,¹⁸⁶ indigenous peoples, Muslim, People with Disabilities, *Haruwa*, *Charuwa*, *Balighare*, freed *Kamaiyas*, freed *Haliyas* and HIV/AIDs infected.
- Adopt and implement social security schemes that provide equal opportunity for Dalit youths in national employment.¹⁸⁷
- Ensure equal distribution of international employment provided by neighboring countries of Nepal.
- Take steps to reduce inappropriate management of food storage system.

180 <http://www.usaid.gov/sites/default/files/documents/1866/Nepal%20CSI%20FY%202014.pdf>

181 http://www.fao.org/fileadmin/templates/righttofood/documents/project_b/Nepal-GCPGLO324NOR-ConceptNote.pdf

182 Interim Constitution of Nepal 2007, article 18(3)

183 *Prakash Mani Sharma and Others*, NKP, 2065(2008), p.149

184 http://www.fao.org/fileadmin/templates/righttofood/documents/project_b/Nepal-GCPGLO324NOR-ConceptNote.pdf

185 See previous recommendation, "106.49. Improve food safety of vulnerable groups, particularly indigenous people, former bonded labourers, Dalits, Muslims, persons with disabilities and those who are infected with HIV/AIDs (Hungary) (para 106.49 UPR Nepal 2011; A/HRC/17/5)."

186 http://www.fao.org/fileadmin/templates/righttofood/documents/project_b/Nepal-GCPGLO324NOR-ConceptNote.pdf

187 See previous recommendation, "Step up efforts to achieve the effective realization of economic, social and cultural rights for the marginalized and vulnerable groups by ensuring that they are provided with adequate access to food, health, education and fair employment (Malaysia) (para 106.46 UPR Nepal 2011; A/HRC/17/5)."

- Ensure just, fair and reasonable public food distribution, and control illegal food shortage practices.
- Formulate land use Act for residential and industrial areas, cultivated land and use of pesticides.
- Ensure the rights of affected and displaced people from mega projects like irrigation, national parks, conservation areas and hydro-projects.
- Preserve traditional occupations of different castes and ethnic groups like *Dalits Chidimar* and others, which have sustained their livelihoods.
- Develop and implement development framework for food security, food right and food sovereignty to the marginalized communities.
- Ensure uninterrupted access to cultivable land to the farmers and land for the shelter for all through appropriate laws and bylaws.

Annex-A List Of Civil Society Organizations

- | | |
|--|--|
| 1. Aadhibasi Jana Jati Mahasangh | 24. Islami Association |
| 2. Aadhibasi Rastriya Utthan Prathisthan | 25. Jagaran Media Center |
| 3. Al Amin Muslim Women Nepal | 26. Jaghrit Nepal |
| 4. Badi Development Committee | 27. Janautthan Pratisthan (JUP) |
| 5. Bahing Kirat Mulukhim | 28. Kapan Dalit Utthan Sangh |
| 6. Blue Diamond Society (BDS) | 29. Kirat Chamling Bhasa Sanskriti Utthan Sangh |
| 7. CDC Nepal | 30. Kirat Jero Raadu Samaj |
| 8. Chi: Halamtung Bantawa Yuva Hup Nepala | 31. Kirat Khaling Utthan Sangh |
| 9. Cocap | 32. Kirat Radu Nachhiring Sakham |
| 10. Dalit Human Rights Organization (DHRO) | 33. Kirat Welfare Society |
| 11. Dalit National Liberation Front of Nepal | 34. Kulung Vidyarthi Sangh |
| 12. Dalit NGO Federation – Nepal DNF Nepal | 35. Lawyers Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) |
| 13. Dalit NGO Federation (DNF) | 36. Madhes Human Rights |
| 14. Dalit Rights National Forum Nepal (DRNF) | 37. Madhesi Journalist Association |
| 15. Dynamic Society | 38. Mahila Utthan Tatha Seep Bikas Kendra |
| 16. Federation of Indigenous Kirat Association (FIKA) | 39. Makalu Yakkhaba Chuptham |
| 17. Federation of Sexual and Gender Minorities Nepal (FSGMN) | 40. MAHURT Home |
| 18. Feminist Dalit organization (FEDO) | 41. Mewahang Yakhomma |
| 19. FORCE Nepal | 42. National Federation of Disable-Nepal (NFDN) |
| 20. Gaderi Samaj | 43. National Indigenous Women Federation (NIWF) |
| 21. HDRF Nepal | 44. National Muslim Forum Nepal (NMFN) |
| 22. IL Center | 45. National Network of Indigenous Women (NNIW) |
| 23. Indigenous Women Legal Awareness Group (INWOLAG) | 46. Nepal Kewarat Bikas Samaj |

47. Nepal Kirat Kulung Bhasa Sanskriti
Utthan Sangh
48. Nepal Muslim Women Welfare Society
(NMWWS)
49. Nepal National Dalit Social Welfare
Organization (NNDSWO)
50. Nepal Rana Tharu Society (NRTS)
51. NGO-Federation
52. Papachha Guskham
53. Professional Development and Research
Center (PDRC)
54. Rastrya Dalit Network –Nepal RDN-
Nepal
55. READ Nepal
56. Redef Nepal
57. Right to Food Network (RtFN)
58. Sahara Nepal
59. Samata Foundation
60. Samyukta Apana Ekta Aawaj Kendra
61. SHEDC Nepal
62. Social Development
63. Society For the Liberation of Oppressed
Caste, Nepal
64. Unified Dalit Rights Forum, Nepal
65. Upatyaka Mandal (Kewat) Samaj
66. Yuth Federation of Indigenous
Nationalities (YFIN)
67. Yamphu Kirat Society
68. Youth Federation of Indigenous
Nationalities, Nepal (YFIN, Nepal)

National Women Coalition' Submission to the UPR Mechanism for the Second Review of Nepal in November 2015

INTRODUCTION

This submission is an integral part of the joint submission of Nepal UPR NGO Coalition. This submission was prepared in joint collaboration of 31 women organizations¹⁸⁸ and was coordinated by Women Rehabilitation Center (WOREC). Five regional consultations and one national consultation were organized for preparing this submission consulting 233 persons working on diverse issues of women's rights.

I. BACKGROUND AND FRAMEWORK

B. Constitutional and legislative framework

- Constitution making process is taking long. Failure of bringing out the constitution within given timeframe, even after election and formation of CA for the 2nd time, has been one of the reasons for impunity, increasing market prices, failure of creating and implementing development programs. This has affected women more intensively.
- **Women participation in Constitution making process:** Women participation in the Constituent Assembly (CA) was very encouraging in first CA (2008 – 2012) with 197 (32.78%) women CA members. In the second CA election women participation decreased to 172 (29.91%) women CA members. Women CA members' role in political negotiations and decision making is limited as all major political negotiations and decisions are made by top leaders of key political parties.
- **Citizenship issue in the Constitution drafts:** Number of recommendations on gender equality were accepted during the first review.¹⁸⁹ The advance drafts of constitution include some fundamental rights for women, however a critical issue of right to acquire citizenship¹⁹⁰ needs to be revised. Draft provision is more restrictive than Interim Constitution, Citizenship Act, and contradicts Nepal's international commitments¹⁹¹ as they allow either parents to independently confer citizenship to their children.
- **New Constitution should guarantee equal and full citizenship rights for women to acquire and transfer, citizenship; citizenship by descent to children equally and independently through either the mother or the father.**

188 SAATHI Women Shelter, Beyond Beijing Committee (BBC), Him Rights, POURAKHI, SOLID Nepal, Youth Action Nepal, Institute of Human Rights Communication Nepal (IHRICON), Community Action Center (CAC Nepal), Women Forum for Women in Nepal (WoFoWon), Forum for Women Law and Development (FWLD), Public Health Concern Trust (Phect) Nepal, Nepal Mahila Ekata Samaj (NMES), Resource Center for Primary Health Care (RECPHEC), Luzza Nepal, Mitini-Nepal, Nagarik Aawaz, Dalit NGO Federation (DNF), Women Security Pressure Group (WSPG), Women Human Rights Defenders Network Kathmandu, Women Human Rights Defenders Network Lalitpur, Women's Reproductive Rights Program-Center for Agro-Ecology and Development(WRRP/CAED), Nepal Disabled Women Association (NDWA), Feminist Dalit Organisation (FEDO), National Alliance for Women Human Rights Defenders (NAWHRD), Nepal Muslim Welfare Society (NMWWS), CSGS (Centre for Studies on Gender, Society and Development Study), Akhil Nepal Women's Association (ANWA), Alliance Against Trafficking in Women and Children (AATWIN), Loom Nepal, Shakti Samuha and Women Rehabilitation Centre (WOREC)

189 Recommendation number 106.2, 4, 5, 10, 13, 14, 21-23, 28, 31, 46

190 The draft provision states that citizenship can be acquired only if both parents are Nepali citizens

191 Article 24 (1) of the ICCPR, Article 9 (2) of CEDAW and Article 7 of the CRC

Legislative frameworks:

- To ensure that violence against women are adequately addressed

Government should:

1. Enact consolidated law addressing all types of sexual violence effectively, including provisions of no statutory limitation for rape and other sexual violence; increased punishment for rape; marital rape and other sexual violence; adequate victim and witness protection mechanisms; compensation from state; and measure to address special need of girls below 16
2. Amend Domestic Violence Act as per Supreme Court decision 2009
3. Amend Human trafficking Act addressing emerging trend of trafficking
4. Enact legislation for recognition and protection of WHRDs
5. Enact laws and formulate policies to address socio-economic rights of women affected by sexual violence during the conflict and to ensure right to justice and effective remedy for survivors of sexual violence during the conflict.

C. Institutional and human rights infrastructure and policy measures

- The NWC legislation has not been reviewed, neither NWC resources are adequate.¹⁹² NWC also lacks outreach without presence outside Kathmandu. **NWC should be made an independent institution ensuring independence as per Paris principles and equipped with authority and adequate resources including for outreach in most remote places.**

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS, TAKING INTO ACCOUNT APPLICABLE INTERNATIONAL HUMANITARIAN LAW

1. Equality and non-discrimination.

- **Discrimination against women, gender equality:** In recognition of various persistent challenges faced by women a series of recommendations were provided on promotion and protection of the rights of women and prevention of their violations.¹⁹³ There are several legal and policy framework aiming at ending gender disparity and ensuring equality for women, nevertheless in reality situation of Nepali women have not changed much. Dalit, indigenous, Muslim, sexual minority, women with disabilities and women from other minority groups continue to face gender based discrimination as well as identity based discrimination.
- **Citizenship issue in the Interim Constitution, prevailing law and practice:** Interim Constitution provided ¹⁹⁴ that children born to Nepali parents are eligible to attain citizenship by descent recognizing equal rights of men and women to transfer citizenship to children. In reality women are unable to transfer citizenship. Even after Supreme Court decision¹⁹⁵ to grant citizenship based on the mother's citizenship, government officials have been stating lack of clear guidelines for not issuing citizenship on mother's name. Single women, single mothers, trafficked victims, victims of sexual exploitation during conflict, and women migrant workers continue to face problems in transferring citizenship to children.

¹⁹² Recommendations no. 106.8, 107.6 and 108.11

¹⁹³ Recommendations no. 106.2, 4.5,10,13,14,21,22,23, 28, 29, 31, 46; 107.11,12,22,23

¹⁹⁴ Article 8, Clause 2 (b)

¹⁹⁵ Sabina Damai's case- Sabina Damai was not able to trace her father, approached the Dolakha Village Development Committee (VDC) twice to obtain citizenship certificate in her mother's name, who is a Nepali citizen. However, after repeated refusal from the District Administration Office (DAO), Sabina turned to the Supreme Court for justice. In 2011 the Supreme Court made a landmark decision of granting citizenship by descent to children if either the mother or the father has citizenship by descent.

- **Inheritance:** Under prevailing law daughters also get entitlement to their inheritance however only if the partition happens before they get married, this provision is perpetuating discrimination at family level.
- **New constitution should guarantee equality between women and men, and prohibition of all kinds of discrimination against women in both public and private domain.**
- **Government should ensure effective implementation of prevailing non-discriminatory laws and policies on gender equality, including by allocating sufficient resources, raising awareness and building capacity of authorities.**

2. Right to life, liberty and security of the person

- **Violence Against Women (VAW):** VAW still remains major challenge with number of cases significantly being increased. Documentation from 2011 to 2014 reveals increasing trend of VAW with 1569, 1581, 1703 and 2225 cases documented respectively.¹⁹⁶ In February 2015 at least two cases of young girls being raped and case of acid attack against school girls were reported. In March 2015 a six years' old girl, rape victim, died due to sexual and physical violence suffered two weeks earlier.
- **Domestic violence (DV):** DV is the biggest category of VAW and is increasing every year.¹⁹⁷ Supreme Court in August 2009 had issued a directive order to revise the DV Act 2006¹⁹⁸ but yet to be amended.
- **Violence in allegation of witchcraft¹⁹⁹:** There has been increasing trend of violence against women in allegation of witchcraft.²⁰⁰ Government has tabled anti-witchcraft bill to the parliament, however has not yet been enacted. Anti-witchcraft law with stringent enforcement mechanisms should be enacted without further delay.
- **Dowry related violence:** Dowry related violence is widely present, mostly in the Terai. In 2014 nine cases of death due to dowry related violence were reported²⁰¹.
- **Sexual and Gender Based Violence:** number of sexual violence on women is increasing, despite the attention gathered by the issue.²⁰² This violence has seen no age bar, girls from age of three to elderly women have been victims of sexual violence. In February and March 2015 at least four young girls were raped, one of the victim 6 years' old girl succumbed to injury on 8 March when world was celebrating international women's day.
- **Girl child labor:** Family-based and informal sector works (including small hotels) is not covered by current child or labor legislation. *Kamlaris* (former bonded labor girls from *Tharu* Indigenous group) still found to be working as domestic maid, even though it is prohibited

¹⁹⁶ WOREC documentation

¹⁹⁷ The number of DV cases reported to WOREC in 2011 is 1002 (64% of total cases documented), 2012 is 1019 (64% of total cases documented) and 2013 is 1040 (61%) and in 2014 1503 (67.6%).

¹⁹⁸ The Supreme Court order was to broaden the definition of domestic violence as the current law does not sufficiently cover serious cases including mutilation by acid attack. The Supreme Court in this directive order had also instructed the government to make the domestic violence cases state case; to make provision as far as possible that a trained female police investigator would investigate such case; free legal aid is provided to the victim and a provision if fast tract court is made.

¹⁹⁹ Allegation of witchcraft is one form of VAW, inflicting the alleged women with severe injury even brutally mutilating them, humiliating and forcing them to eat human excreta, and in some instances killing. The victims are often single, old dalit women.

²⁰⁰ WOREC documentation records from 2011 to 2014 at least 200 cases of different forms of violence to women in allegation of witchcraft are documented

²⁰¹ INSEC Year book 201

²⁰² The number of cases of sexual violence registered at WOREC in 2011 was 279, in 2012 BS it increased to 353 and in 2013 it has drastically increased to 648.

by law. Estimated 12,000 girls and women work in the night entertainment industry in Kathmandu, with majority of children²⁰³ facing worst form of labor.

- **Harmful traditional practices:** *Chaupadi*, the traditional practice mostly in mid and far western regions forcing women and girls to stay in cowshed during menstruation and after child birth, still prevent despite some claims and some *chaupadi* huts being demolished. Deaths, rape and other forms of sexual violence against women and girls linked to the practice are reported.
- *Kanyadan*: There is a tradition of giving away (*kanyadan*) daughters during marriage. The terminology and cultural norms associated with it is very derogatory whereby parents are giving their daughter as donation (*dan*) to the bride and his family, denying equal and individual personal integrity of the daughter. This term as well as the tradition should end, however there has not been much voice against it.
- **Suicides:** An increasing trend of suicide by women has been noticed.²⁰⁴ The suicide victims often have been victims of other forms of violence. The violence they suffer coerced to commit suicide. Current legal provisions do not provide any safeguard from such coercion.
- **Trafficking:** An emerging trend of trafficking in migration cycle has been overlooked. The government policy of restricting women under 30 years for foreign labor migration, is perpetuating trafficking as women resort to illegal and informal channels. A form of internal trafficking is taking place with women and girls being trafficked into entertainment sectors. Current legal and policy framework do not sufficiently address the emerging trend of trafficking in migration cycle or internal trafficking.
- Supreme Court in July 2013 issued mandamus order to ensure speedy trials and decision making on serious crimes including rape and human trafficking through continuous hearing process.²⁰⁵ Continuous hearing in such cases are followed in some courts, however is not practiced in all district courts.

Government should:

- Implement Supreme Court Verdicts from August 2009 and July 2013 for amendments in DV Act and provision of fast track case hearing in VAW cases – including through allocation of adequate resources, provision of training of Law enforcement Officials.
- Establish safe houses in all districts with improved and professional operational modality including by developing and implementing SOP for the safe houses.
- Ensure legal protection against provocation and coercion for suicide, criminalizing provocation and coercion for suicide, bringing people who coerce and provoke for suicide under the law.
- **Women Human Rights Defenders:** Women Human Rights Defenders (WHRDs) share equal responsibility but face higher level of risk. Female (community) health workers play a major role in providing care and information on sexual and reproductive health and rights. As these rights are considered a taboo, these women as well as other WHRDS advocating

203 Terre des Hommes 2010

204 WOREC documented 27 such cases of suicide in 2014.

205 The legal provision provides (in District Court regulation) of continuous hearing process however courts and prosecutors office have been interpreting it as optional provision. The Supreme Court in this mandamus order stated that the legal provision of continuous hearing is not an optional provision and should be implemented in serious cases such as rape and human trafficking.

for these rights and against sexual and domestic violence get constantly threatened for their work alleging that they are interfering at personal matter, harassed and abused.

- **Government should ensure recognition, support and security to WHRDs including with legislative, policy and programmatic interventions.**

3. Administration of justice, including impunity, and the rule of law

- **Access to justice for women:** Number of positive commitments were made to ensure access to justice for women,²⁰⁶ however accessing formal justice is still a challenge for many women. Although there are programs providing legal aid to women, the program do not reach out to women at community level where there is a real need and not free from patriarchal mindset. Women victims of violence, often sexual violence are coerced to opt for mediation rather than pursuing legal remedy. Political interferences also hinder women to seek justice.
- Survivors of Rape and other sexual violence could not pursue the legal remedy due to 35 days statutory of limitation in prevailing laws. Although, Criminal Code Bill increases it with one year, it is still insufficient. There should not be any time limitation to report the sexual violence cases given the nature of the violence and trauma the victims face.
- **Transitional justice and effective remedy:** Conflict victims mainly women have been left behind in the transitional justice process. They feel government is focusing on physical reconstruction and establishment of the TJ mechanisms only, ignoring economic, social, cultural and physiological effect of the conflict. Survivors of conflict related sexual violence have not been acknowledged as conflict victims and current guidelines linked to the Interim Relief Programs (IRP) do not recognize survivors of sexual violence as Conflict Affected Persons. The official data concerning conflict related sexual violence survivors is also lacking. Cases of sexual violence during the conflict are yet to be investigated.
- A civic Tribunal hearing this issue publically ²⁰⁷revealed that majority of survivors of sexual violence during conflict did not make formal complaints because of factors including fear of social stigma and the lack of an enabling environment. Where complaints were made no action had been taken by the relevant authorities. The Tribunal also found that, in most cases, the significant physical and psychological trauma experienced by the women was compounded by their subsequent forced eviction from their marital home, stigmatization, and discriminatory treatment by their families and communities. This left most women in a deeply impoverished state, without access to necessary medical and psycho-social support services.

Government should:

- Recognize survivors of sexual violence during conflict as conflict victim and conflict affected people include them in all support program, including IRP – revising the IRP guidelines and procedures.
- Immediately make available appropriate support services to the survivors and their families, including medical, psycho-social, legal and livelihood support
- Ensure protection for survivors and witnesses who come forward to transitional justice mechanisms.
- Undertake analysis of the differing needs of sexual violence survivors in relation to transitional justice, from reparations to unofficial truth telling processes.

206 Recommendation no. 106.28, 39; 107.8, 11, 22, 23

207 A Tribunal hosted by the National Human Rights Commission and convened by Nepalese organisations WOREC, National Alliance for Women Human Rights Defenders, NagarikAwaj, and Advocacy Forum on 8 December 2014

4. Right to privacy, marriage and family life

- **Child marriage:** Child marriage, a crime, is still widely practiced. Lack of implementation of existing legal provisions remains an issue. A national survey in 2011 shows 29% girls are married between 15-19 years²⁰⁸. Child marriage leads to a high adolescent pregnancy rate, which carries a higher risk of maternal death and morbidity. Child marriage is also leading to uterine prolapsed. In one fourth of uterine prolapsed cases the patients were married at young age.
- **Government should** ensure effective enforcement of legal minimum age of marriage and protect girls from subsequent sexual abuse/violence and reproductive health harms /violations.

5. Participation of women in public and political life

- **Women's participation:** There has been limited progress in women's participation in public and decision making roles despite number of accepted recommendation to increase women participation and ensure gender equality²⁰⁹. In the Constituent Assembly women participation decreased from first to second election. There are still only 3.36% women in judiciary.²¹⁰ Women's representation in civil service gazetted position has increased from 2.1% in 2001 to 16.9% in 2013. A 20% quota has been allocated for women and socially excluded groups for the appointment of police, armed police and army, but women's participation in leadership roles are limited.

6. Right to work and to just and favorable conditions of work

- There are approximately 40 to 50,000 women working in entertainment sectors.²¹¹ However, there is no recognition of women's work and contribution from entertainment sector. Neither this sector is governed by labor laws. The non-recognition has resulted in abuse and stigmatization including unequal and low salaries, uncertain duty hours, job insecurity, harassment and violence at workplace and arbitrary arrests and harassment from police.

Government should:

- Recognize the value of women's contribution from informal sector and bring the women's work in restaurants, bars and other entertainment sectors under labor laws, creating environment conducive for work
- Protect women working in entertainment sectors, improve working conditions and ensure job security and establish complain mechanism

7. Right to social security and to an adequate standard of living

- **Right to Food:** Women are deprived of nutritious food, even during pregnancy and after child birth. There is prevailing discrimination against daughter for nutritious food. Economically, women do not have access and control over resources and culturally women are the one who has to eat last in the family. Health impact due to insufficient food intake in women have been noticed.
- **Social security:** As part of social security government has been providing allowances for widows. Social security program should include measures other than allowances. **Single and**

208 NDHS 2011

209 Recommendation no. 106.2,4,5,10,13,14,21,22,23,29,31; 107.11, 12

210 Secretariat of Constituent Assembly Office of the Prime Minister and Council of Ministers Judicial Council Secretariat, cited in National Review-Beijing Report, p. 34.

211 Ministry of women, Children and Social Welfare data states 40000 and NGO (Women Forum for Women in Nepal) data shows 500000 in Kathmandu only.

household head women below poverty line, and victim of violence should be included in social security program.

- **Right to housing:** There is no safeguard for housing rights for women who have been expelled by family following domestic violence and women with HIV positive status. International standards on eviction procedure are not followed by government, evictions are mostly forceful putting women, including pregnant and lactating in most vulnerable situations. In May 2012 government carried out large scale forced eviction in Kathmandu without following the due process and international guidelines on development based eviction and displacement. The eviction started without prior information to the affected population. The community were not consulted nor provided with any alternative housing and livelihood plans. Government used excessive force destroying 248 houses and a school which left nearly 1000 people homeless. The authorities did not follow any measures to protect pregnant and lactating women leaving these women injured. **Government should abide by UN Basic Principles and Guidelines on Development-based eviction and displacement.**

8. Right to health

- **Sexual and reproductive health:** Ten percent of Nepali Women continue to suffer with uterine prolapse. They are also being subjected to further discrimination and increased violence because of this condition²¹². Obstetric Fistula is an injury affecting childbearing women that has been relatively neglected, despite its devastating impact. This is one of the little known and acted upon health condition that Nepali women are suffering from. There is no morbidity survey done so far to have even estimated cases. That restricted proper planning and budget allocation to address this problem.
- Girls in the age group 15-19 lack access to critical information on sexual and reproductive health and related services. Unmet need for contraceptive information and services for girls in the age group 15-19 is 42% and for women of 20-24 age group is 37%.⁵ In lack of services and information 25% of women of reproductive age experience unplanned, teen age pregnancies.
- **Access to safe abortion:** Access to safe abortion still remains a challenge. Only one in three women know that abortion is legal and only one in two women know the services are available. This limited awareness is resulting in unsafe abortion. Approximately 5% of maternal death are caused by abortion complications. One of the main reasons behind continuation of unsafe abortion is inaccessibility of safe abortion services. Supreme Court in 2009, issued a directive to enact a comprehensive law on abortion, however not yet implemented.

212 Nepal National Medical Standard for Reproductive Health, Volume II: Other Reproductive Health Issues, Family Health Division, 2003, part 6 on genital prolapse. In addition, women suffering from uterine prolapse are often unable to carry out their work in the same way they had before they experienced the condition. Women told Amnesty International that family members. Amnesty International (AI Index: ASA 31/006/2014) and National Alliance for Pelvic Organ Prolapse Management – Nepal, October 2014.

Government should:

- Ensure accessibility, availability, affordability, adequacy and quality of sexual and reproductive health services and create conducive environment for accessing these services, including for safe abortion.
- Ensure universal access to reproductive health care information and services, including of maternal health care, contraception and safe abortion, especially for socio-economically marginalized women and adolescent girls.
- Address disparities in maternal mortality by ensuring that high quality basic and essential maternal health services are available to all women.
- Enact a separate comprehensive law on safe abortion services in line with Supreme Court's 2009 decision.²¹³

9. Women with disabilities

- Disable friendly infrastructure are still lacking. Existing hospitals and health care facilities do not accommodate special reproductive health needs of women with disabilities. Neither any specialized facilities exist for sexual and reproductive health for these women. The social security provided for PWDs is nominal and there is no support system for family or care giver. Women with disability who suffer rape and sexual violence do not have means to pursue legal justice in absence of prerequisite services including sign language during legal redress process.
- Women with disabilities face discrimination within family. A survey revealed 37% women are facing discrimination within family. The ratio of discrimination experienced by women is significantly higher than men with disabilities.²¹⁴ Protection of inheritance rights of women with disabilities is a big challenge.

Government should:

- Ensure formal justice system provides prerequisite services for PWDs, including provision of physical infrastructures and appropriate language, essential for access to justice
- Ensure that PWDs right to inheritance is secured with effective monitoring mechanism and legal aid provisions.
- Allocate resources, formulate special programs to ensure access to sexual and reproductive health including provisions of appropriate service mechanisms to meet special sexual and reproductive health and rights of women with disability

10. Women migrant workers

- There has been increased number of women migrating for employment. Women are contributing 11% of remittances coming into the country. Despite the local and national economic value of remittances provided by women migrant workers, their migration for employment is still an issue of public scrutiny. Once and when fail to bring back money and support family women migrant workers get stigmatized by family and society, criticized for failing to adhere to traditional values. Wives of the migrant workers face various domestic violence and social stigmatization in absence of their husbands.
- Labor migration legal and policy framework are yet to be gender sensitive. Government policy to restrict labor migration of women under 30 years has not only obstructed women's right to mobility but also elevated risk of trafficking as well abuse. Increasing incidences of women returning following abuse, exploitation and torture, has been reported. Most of the

²¹³ Lakshmi and Others v. Government of Nepal.

²¹⁴ Monitoring the rights of persons with disabilities in Nepal, National Federation of the Disabled-Nepal In collaboration of Disability Rights Promotion International and York University, Canada 2013
<https://ia902600.us.archive.org/4/items/nfdnepal/Nepal-CMP-Disability-Rights-Holistic-Report-Final%28PrintingVersion%29.pdf>

services for foreign labor migrants are not available outside Kathmandu leaving the women without enabling environment to make safe or informed choices.

- As committed in the UPR first review²¹⁵ there should be more employment opportunities for women especially in rural setting. Government should ensure protection of women migrating for employment including lifting the ban as well as through bilateral agreements with the destination countries to protect migrant women including in informal and domestic labor sector.

Government should:

- Ensure foreign labor migration services and information reach women in the rural settings too
- Lift the age bar for women for labor migration
- Conclude bilateral agreements with destination countries to protect women in informal and domestic labor sectors.
- Create and implement appropriate mechanism to monitor and provide support to women in need in destination countries.

11. Right to education

- While there has been progress in access to school education gender disparity still continues. Provision of separate girls' toilets, aiming to support retention of female students, is becoming less effective without water availability. **Government should eliminate gender disparity at all levels of education ensuring equal access and retention for girls.**

12. Effects of climate change

- Nepal is placed among the most climate vulnerable countries. The climate change impact on women is direct since they are more dependent on natural resources. Women in the remote areas are seriously disadvantaged because of low literacy rates and lack of access to information. Climate change effects on women's health is also being noticed. However, there has been little focus on the gender component and recognition of women as victims of climate change.
- A study in 2015²¹⁶ revealed following climate change women and girls are facing challenges with increased workload, decreased crop productivity, deteriorating health conditions. Increased workloads has resulted withdrawing daughters from schools. Decreased productivity is resulting in increasing use of intensive chemical fertilizers and pesticides exposing women to these chemicals. Which resulted in disturbance in menstrual cycles, white discharge, uterus cancer, miscarriage and infertility.

215 Recommendations 106.41, 45, 46; 108.31, 32

216 A research report on climate change, agriculture, food security and sexual and reproductive health. WOREC February 2015

List of women coalition for UPR

1. Akhil Nepal Women's Association (ANWA)
2. Alliance Against Trafficking in Women and Children (AATWIN)
3. Beyond Beijing Committee (BBC)
4. Community Action Center (CAC Nepal)
5. CSGS (Centre for Studies on Gender, Society and Development Study)
6. Dalit NGO Federation (DNF)
7. Feminist Dalit Organisation (FEDO)
8. Forum for Women Law and Development (FWLD)
9. Him Rights
10. Institute of Human Rights Communication Nepal (IHRICON)
11. Loom Nepal
12. Luzza Nepal
13. Mitini-Nepal
14. Nagarik Aawaz
15. National Alliance for Women Human Rights Defenders (NAWHRD)
16. Nepal Disabled Women Association (NDWA)
17. Nepal Mahila Ekata Samaj (NMES)
18. Nepal Muslim Welfare Society (NMWWS)
19. POURAKHI-Nepal
20. Public Health Concern Trust (Phect) Nepal
21. Resource Center for Primary Health Care (RECPHEC)
22. SAATHI Women Shelter
23. Shakti Samuha
24. SOLID Nepal
25. Women Forum for Women in Nepal (WoFoWon)
26. Women Human Rights Defenders Network Kathmandu
27. Women Human Rights Defenders Network Lalitpur
28. Women Rehabilitation Centre (WOREC)
29. Women Security Pressure Group (WSPG)
30. Women's Reproductive Rights Program-Center for Agro-Ecology and Development (WRRP)
31. Youth Action Nepal