

CHILD RIGHTS SITUATION IN NEPAL

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Submitted By:

Child Centred UPR Reporting Coalition

Members of the Coalition

Children as Zones of Peace and Protection (CZOPP), www.czop.org.np

Consortium of Organizations Working for Child Participation (CONSORTIUM-Nepal), www.consortium.org.np

National Child Protection Alliance (NCPA), www.ncpa.org.np

Child Care Homes Network Nepal (C-NET Nepal)

National Association of Organization Working on Street Children (NAOSC),
www.streetchildren.org.np

National Campaign for Education (NCE) Nepal, www.ncenepal.org.np



Child Centred UPR Reporting Coalition is a coalition developed in 2014 for joint stakeholders' submission on UPR second cycle by six different child rights coalitions with more than 600 member I/NGOs working in the field of child rights in Nepal.

Technical and Financial Contributors

Save the Children
International Nepal

World Vision International Nepal

Plan



Contact Details:

CZOPP Secretariat, Sinamangal, Kathmandu Nepal,

Phone: +977(1) 4460080/4478650/4468128

E-mail: coordinator@czop.org/cn@childnepal.org

1. Overview of Country Situation

- 1.1 Nepal ranked 145th position on Global Human Development Ranking having Human Development Index (HDI) value of 0.540¹ with population of 26 million with 41.84% of children's population and growth rate of 1.35 per annum². One fourth of the total Nepalese population³ and more than one third of children's population⁴ are living below the line of poverty. Each day 1500 to 1800 youths are migrating abroad for work. The remittance is contributing to 24% of national economy⁵. Nepal is a party to the seven out of nine core human rights conventions and some of their protocols⁶ including the Convention on the Rights of the Child (CRC) and its two optional protocols⁷. Nepal has not ratified the third Optional Protocol to the CRC on a communications procedure. Nepal is also a party to 11 ILO Conventions including Minimum Age Convention, 1973 (ILO 138), Worst Forms of Child Labor Convention, 1999 (No.182). As per the Nepal Treaty Act 2047 (1990), Section 9 has provisioned that the treaty provisions to which Nepal is a party is enforceable as good as laws and state shall void contradicting provisions and should make necessary arrangements for enforcement.
- 1.2 The political transition of country is prolonging with delay in promulgating new constitution⁸. Currently Nepal has Interim Constitution promulgated in 2007 (Eighth Amendment 2010), which has ensured a number of human rights provisions to the people and citizens of Nepal under Part

¹ UN Human Development Report, 2014.

² National Population Census Report 2011, Central Bureau of Statistics, Government of Nepal.

³ National Living Standard Survey Report 2011, Central Bureau of Statistics, Government of Nepal.

⁴ Child Poverty and Disparities in Nepal Report 2010 Overview, National Planning Commission, New Era and UNICEF.

⁵ Labor Migration for Employment A status Report of Nepal 2013/14, Government of Nepal, Ministry of Labor and Employment, Department of Foreign Employment.

⁶ Nepal is not party to International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2003), International Convention for the Protection of all Persons from Enforced Disappearance (2010), Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2013) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2006) and Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2013)

⁷ Nepal has ratified The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (OPAC) in 2007 and The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in 2006.

⁸ With the success of Peoples Movement in 2006 for reinstating democracy and parliament, Nepal entered into peace process ending a 10 years long armed conflict waged by Communist Party of Nepal (Maoist). After the failure of the first Constituent Assembly to promulgate new constitution in 2012, another new constitution assembly election happened in 19 November 2013. In the current constitution assembly political parties had agreed to promulgate new constitution by 22 January 2015 which has already been crossed.

Three, which also includes children's specific rights as fundamental rights under Article 22.

1.3 Nepal had received 135 recommendations including 34 recommendations focused on child rights at the 10th session in the first cycle of Universal Periodic Review (UPR) in 2011. Nepal government accepted 31 recommendations related to child rights and children. The government adopted a plan of action to implement the accepted recommendations. Nepal government presented a vague and confusing timeline mentioning the term "Due Course of Time" in the plan of action. Such terms allowed the government to delay on realising the recommendations and skip accountability. Furthermore, Nepal government did not submit mid term report on the status of recommendations from the first cycle of the UPR.

Recommendations:

- *Nepal government should mention a specific timeline on its plan of action to implement the relevant recommendations from the first and all accepted recommendations from the second cycle of the UPR as well as concluding observations from treaty bodies.*
- *Nepal government should prepare a mid-term review report and share publicly so that people can seek state accountability on its commitment to implementing the recommendations.*

2. Introduction to the Report and Methodology

2.1 Recognizing the opportunity of having stakeholders' submission in the Universal Periodic Review (UPR), organizations and civil society groups involved in child rights campaigning jointly prepared and submitted this report. A separate child centred submission is made recognizing the high vulnerability of children, significance of their concerns and to highlight children's citizenry status.

2.2 The report is prepared applying methods of consultation, document review and interview. In the process of preparation, pre drafting consultations were organized involving children and child rights practitioners from various NGOs representing all five regions of Nepal and interviews were conducted with key informants from government and non government sectors. During the consultation adult participants shared their practical experiences on implementing child rights and seeking accountability from state agencies including local governments

and schools. Children presented their views in the form of stories, poetry, short drama, songs and pictures. Child rights experts provided comments in the draft versions and validation workshop was organized to refine recommendations. The children's opinions and creations are presented in the Annex.

2.3 31 documents have been reviewed which include laws and policies of Nepal government, national statistical data from the Central Bureau of Statistics, ministries, government departments, performance review and status report of government departments, publicly available UN agencies' reports, research reports from non government organizations (NGOs) and National Human Rights Commission (NHRC)..

3. Key Areas of Concerns

Nepal's Normative and Institutional Framework on Child Rights

3.1 Nepal's Interim Constitution (2007) has fundamental rights provisioned in 21 different articles, which are also entitled to children of Nepal with special rights under Article 22. The current Constituent Assembly has agreed to continue some of the children's rights as fundamental rights in draft constitution⁹. However, few pertinent issues demanded by children and civil society groups have not been addressed, such as a designated Child Rights Commissioner in the National Human Rights Commission; protecting school and children from political parties' use and mobilization; right to citizenship from single parent (mainly through mother's identity); children's right to be heard, right to information, assembly and consideration of best interests in all actions related to them. Due to the delay in the promulgation of the Constitution the fundamental rights of children in upcoming Constitution are still uncertain.

Recommendation:

- *Promulgate the new democratic constitution soonest possible with clear and specific provisions of children's rights as fundamental rights, designating an independent Child Rights Commissioner in the National*

⁹ *The current consensus includes the right to education and health, right to identity and birth registration, access to social protection schemes, right to education in mother tongue, right against exploitation, abuse, violence, trafficking, enslavement, recruitment in armed forces, and right to justice in child friendly settings*

Human Rights Commission, addressing all rights of children and preventing children from being statelessness.

3.2 Nepal government received 10 recommendations on policy measures, laws, resources and budgets related to child rights during the 10th session of the UPR, which included: revisiting national laws and policies in compliance with international standards, adoption of new policies and laws and ensuring full implementation of the relevant policies, developing a comprehensive legal framework on combating violence against women and children, increasing budget allocation for effective implementation of the plan of action and adopting new plan of action on violence against women and children¹⁰.

3.3 Nepal has enacted special policy and legislation measures in relation to child rights that include Children's Act, 1992; Children's Rules, 1995; Juvenile Justice (Procedural) Rules, 2006; Child Labour (Prohibition and Regulation) Act, 2000; Children Development and Rehabilitation Fund Rules, 1996; Standards for Operation and Management of Residential Child Care Homes, 2012, National Plan of Action Combating Human Trafficking (2014); Human Trafficking and Transportation (Control) Act, 2007; and National Child Policy, 2012. It has reflected children's rights in various other domestic laws dealing with education, health, domestic violence, rape and other crimes. Most of these Acts and legislations do not meet the standards of the CRC and other human rights treaties and instruments.

3.4 The process of reviewing the Child Rights Act which began in 2004 is still pending. The current draft of child rights bill pending at the Ministry of Women, Children and Social Welfare (MoWCSW), has more than 30 provisions which do not meet standards of child rights as provisioned by the CRC particularly on the issues of juvenile justice, right to participation and protection from family separation and other violence¹¹. Nepal government has tabled five different bills to replace the existing General Code (founded some 161 years ago and revised 11 times ever since) with specific bills on criminal offense, civil offense, proceeding and

¹⁰ Recommendation number: 106.9, 107.8, 107.11, 107.18, 108.2, 108.4, 108.11, 108.20, 108.21

¹¹ Himal Innovative Development and Research, a private agency has reviewed the bill for UNICEF Office in Nepal during 2014 and documented the findings.

sentencing policies. Review of these bills by child rights organizations (all leading coalitions making this submission) has identified 88 provisions not in compliance with child rights standards such as definition of rape, sexual abuse and pornography.

3.5 The budget allocation for children is just between 9-10% of the total budget. In addition, the expenditure rate of children's sector budget is limited to less than 60% of total allocation¹². The Block Grant Guidelines for Local Governments have made local governments to allocate at least 10% of the capital budget in children's sector. But in many local governments such provisions have not been followed. At the same time the budgets allocated by local governments have often been diverted to other sectors and misused and in most of the places children have little access to these funds, as shared by participants of the consultations.

3.6 Nepal has designated the Ministry of Women, Children and Social Welfare (MoWCSW) and Central Child Welfare Board (CCWB) at the national level and District Child Welfare Board (DCWB) at district level are the two designated bodies in charge of the coordination and monitoring of all children related interventions in Nepal. These bodies have very few permanent human resources deployed from the government source and rely largely on external support. The development partners have financed salaries of Child Rights Officers working in 75 districts and their supervisors at CCWB. MoWCSW has no plan to institutionalize these posts.

3.7 It is a positive step that Child Friendly Local Governance has been mainstreamed in Local Governance and Community Development Program (LGCDP) making all local governments to act on child rights targeting indicators on child survival, development, protection and participation. Nepal Government has extended the mandate of Women Development Office as Women and Children Development Office to implement child development and protection measures at local level. However, the human resources deployed in these institutions are not well trained on child rights standards and practical implementation of child rights and not adequately resourced. There is lack of child rights focused social workers at local level.

¹² *Child Sensitivity In Nepal's Budget, CZOPP, 2014.*

3.8 National Human Rights Institution's (NHRIs) independency has been challenged by the newly enacted *National Human Rights Commission Act, 2012* which empowers the Attorney General to inform the NHRC that case cannot be initiated as raised by NHRC¹³. NHRC's recommendations on child rights to Nepal government have not been satisfactorily implemented. The Child Rights Desk at the NHRC has been scrapped. The issue of children is less prioritised and has not been institutionalised yet in National Women's Commission and National Dalit Commission.

3.9 The child rights mechanisms are lacking clarity on their mandate, with overlapping and conflicting roles. A mechanism is needed to monitor and ensure government compliance with child rights standards on its policy, legislations and actions.

Recommendations

- *Expedite the revision process of existing Children's Act and other relevant laws and policies ensuring compliance with child rights standards.*
- *The new Child Rights Act should in particular: (i) Legally prohibit physical and humiliating punishment of children in all settings; (ii) Legally prohibit all forms of violence against children; (iii) avail free and fair justice for children in child friendly, safe and supportive settings; (iv) Ensure protection from cybercrimes and pornography and clarity on child rights protection mechanism.*
- *Nepal government should ratify the 3rd Optional Protocol to the CRC on a communications procedure without any further delay to provide the Nepali children with an opportunity to access international complaints mechanism should they fail to get redress to rights violation at the domestic level.*
- *Establish an independent, appropriately resourced Child Rights Commissioner within the National Human Rights Commission to ensure respect, protection and fulfilment of children's rights*
- *Appoint and finance one Child Rights Officer in each district to effectively coordinate children's issues and at least one professional social worker in each Village Development Committee and each ward of municipalities to support children in difficult situation*

¹³ NHRC has mandate to initiate a case prosecution on human rights violation under Clause (c) of Sub-Article (2) of Article 132 of the Interim Constitution of Nepal (2007).

- *Set targets for budget allocation to children for each fiscal year in MoWCSW and other directly related ministries to comply with its national and international commitments towards children and develop a system to track budget allocated to and spent on children*
- *Adopt a social protection policy that provides cash transfer to orphans and children at most risk.*
- *Use the General Measures of Implementation given by the Committee on the Rights of the Child in General Comment No 5 as the basis for the development of child rights infrastructure in Nepal.*

Right to Education

- 3.10 The right to education is one of the key issues that Nepal has not been able to fully implement. Nepal government has agreed to expand its investment on education to reduce gender disparities, ensuring all children have access to friendly and quality basic education with improved learning achievements, reducing dropouts and improved participation of parents and communities.
- 3.11 Nepal received 8 recommendations on the right to education and human rights education during the first UPR, one of which relating to free and compulsory basic education (106.33) was rejected. The remaining seven recommendations called for ensuring free and compulsory primary education, inclusion of dalit, girls, indigenous and disabled children, expanding school feeding program, promoting value of education among parents and increasing their participation and including human rights education in school¹⁴.
- 3.12 The human rights education has been included in school and university curricula, yet teachers are not trained and skilled enough to deliver the human rights concept and practice to children.
- 3.13 The School Feeding program has been implemented in only a few districts, covering less than 10% of schools¹⁵ and with the support from development partners.
- 3.14 The legislative provisions on education have mandatory inclusion of parents in school management and parents teachers association. The representation of parents in school management committee and

¹⁴ Recommendation no. 106.12, 106.50, 106.52, 106.53, 106.54, 108.33, 108.34, 108.35

¹⁵ State of School Feeding Worldwide 2013, World Food Program, Rome, Italy, 2013.

parents teachers association is ineffective and often guided by the principals; parents have little say in planning and decision making processes in schools.

- 3.15 Nepal government has developed and just began implementing guidelines for free and compulsory basic education (2014) which is implemented in less than 10% of schools with a focus on disadvantaged groups. The scholarship available for girls, dalit and marginalised population is very low ranging from 2.5 US\$ to 4.75 US\$ per year. The scholarship is distributed with blanket approach and reported misused, weaknesses in school governance have been reported in more than 1000 news by national dailies in 2014¹⁶. The practice does not recognize the universal right to education, and is badly affected due to weak mechanisms, family and community environment and poor quality of education in schools.
- 3.16 The accessibility of children with disabilities is significantly low. Enrolment of children with disabilities still remains less than 2% of the total disabled population. Schools are still not inclusive and disabled friendly. The gross enrolment ratio is vastly different for girls, dalit and in mountain and the southern plain region. Access to education for child laborers has remained a dream for the 43% of working children who remain out of school¹⁷. Current educational plans and policies do not address the needs of working children, nor enable them to come out from labor. Instead, due to the current education cycle, the absence of continuous school enrolment provision and provision of credit transfer facility, working children cannot leave the work place despite their interest to go to school.
- 3.17 The allocation for the education budget has dropped down from a higher level of 17.1% in FY 2010/11 to the lowest level of 13.92% in FY 2014/15. It is a positive sign with 96.2% net enrolment rate of children in primary school. But, the drop out rate increases with the grades indicated by net enrolment rate of 72% in basic education and 54% at secondary level. Absence of disability and girls friendly infrastructures, toilet facilities, discriminatory behaviours of teachers and other students and corporal punishment are causing the high drop outs.

¹⁶ *Education News in Nepalese National Dailies, Media Monitoring Report 2015, Loo Niva Child Concern Group, 2015.*

¹⁷ *National Child Labor Report, 2012, Central Bureau of Statistics, Government of Nepal.*

Children who dropped out from school are neither tracked nor responded to. Furthermore, in 2012, only 66% of children received free textbooks from the government on time¹⁸. The decreasing state investment in education with increasing profit-making private sector-operated schools have made education significantly costly and inaccessible for low income and poor children in the country¹⁹.

- 3.18 Only 63.6% of all teachers in basic education are trained and those who are trained are also not properly delivering the knowledge and skills in classrooms. With respect to access to quality education, children are not learning what they are supposed to learn. 37% of Grade III children cannot read a single word (RTI, 2014), the average of learning achievements in Grade III and V is just around 50.
- 3.19 The pre school program (ECCD) has not been mainstreamed into the regular school education system yet, though they are integrated with schools for operation. The facilitators are poorly paid and the ECCD centers have poor facilities.
- 3.20 The religious schools mainstreamed in the regular school education system are not well monitored and facilitated by government authorities, despite their financing from government source. Children studying in these schools are not performing better and competent with other regular school children.

Recommendations:

- *Nepal government should come up with the Right to Education Act and new National Education Policy in consultation with civil society that ensures completely free, inclusive and quality education for all primary school aged children; decentralisation, accountability and good governance in education governance. The new Act should include the ECCD and regulate religious schools within regular school framework and standards.*
- *Nepal government needs to increase the budget allocation for education in line with the ideal status as per the commitment made i.e. 20% of national budget.*

¹⁸ Flash Report 2012, Department of Education, Government of Nepal.

¹⁹ The Flash report 2012, mentioned some 15 % at primary, 16 % at lower secondary and almost 19 % at secondary school students are in institutional (privately owned) schools.

- *Nepal government should adopt special focused measures for including children with disability, working children and other hard to reach and unreached group in mainstream schools.*
- *Nepal government should promote effective delivery of sexual and reproductive health education in school classes in child friendly, non-harassing ways.*
- *Nepal government should ensure full and effective implementation of National Framework for Child Friendly School ensuring girls friendly toilets and other facilities.*
- *The government should adopt measures to reform the existing examination system, emphasizing a skills-based curriculum rather than continuing the existing subject based curriculum and the government should improve the accountability of the education system to ensure that the children learn what they are supposed to learn.*

Right to Protection

- 3.21 Nepal received 7 recommendations concerning child protection and 3 recommendations on children affected by conflict during the first UPR. The recommendations have mainly asked to take action for ending child abuse and sexual exploitation, trafficking of children, strengthening mechanisms to end child labor and effective implementation of the Child Labor Prohibition and Regulation Act, improve justice and investigate cases of violence against women and children²⁰. Recommendations related to post conflict and transition process include sustaining the reintegration of ex-combatants and minors from the then Maoists, intensifying support for rehabilitation and integration of conflict victims, rehabilitation programmes for women, dalit and children, and ensuring that children are not exposed to violent activities by political parties²¹.
- 3.22 Child protection interventions in Nepal are too fragmented and are issue-based, failing to establish an effective child protection system from the local to the national level. Programs are mostly focused on response rather than prevention. There are no professional social workers at the community level that can look at children's issues. Low

²⁰ Recommendations 106.30, 106.31, 106.32, 107.19, 107.20, 107.22

²¹ Recommendations 106.13, 106.27 and 107.18

birth registration, separation of children from families and unnecessary institutionalisation, physical and humiliating punishment of children, trafficking of children, sexual abuse and exploitation, hazardous child labor, child marriage and *chhaupad*²² are some of the most prevailing child protection concerns in Nepal. Some of these issues such as child marriage and child trafficking require a robust implementation of existing policies, while others need to be addressed both by improving policy and policy implementation.

- 3.23 Nepal government, together with development partners has responded to the situation of child and minor victims associated with combating forces during the conflict. According to the Central Child Welfare Board, the Ministry of Peace and Reconstruction (MoPR) has provided scholarship to 620 children. With boarding facilities managed by Shahid Pratisthan²³, 1468 children are being benefitted.
- 3.24 Nepal government has recently formed the Truth and Reconciliation Commission (TRC) and the Commission on Disappeared Persons. However, the guidelines and mandates provided to these Commissions are very limited, and the provision of amnesty without the victim's consent and the current members appointed in TRC and Commission on Disappeared Persons have been heavily criticised by human rights activists and civil society of Nepal. The amnesty provision has been declared void by the Supreme Court Decision of 26 February 2015. The TRC Act's section 17 (6) mentioned that the Commission can develop a separate system for confession and dealing with complaints from children, women and elderly citizens. Such procedures and system have not been developed yet.
- 3.25 During the election of the Second Constituent Assembly in November 2013, the government body Central Child Welfare Board recorded 441 cases of use and exposure of children in political parties' activities where 12,429 children were exposed and engaged²⁴ resulting in injuries and even death of few children as well as protection risks for them. Political parties, who are competing to capture the management

²² *Chhaupadi is a traditional harmful practice in which girls and women are kept in cowsheds and discriminated against, denied of nutritious food and some girls do not go to school during their menstruation cycle*

²³ *A non-governmental organization facilitating ex combatants children and verified minors and late recruits for accessing education.*

²⁴ *Constituent Assembly Election 2013 Child Rights Monitoring Report, Central Child Welfare Board, 2013.*

control of community schools, heavily influence parents and community participation in school managements. The political interferences in schools is turning schools into political battlefields, resulting in physical and psychological harm to children, increasing corruption, and hampering the development of schools.²⁵

- 3.26 Only 58.1% of children under 5 years of age have birth registration which is about the child's right to name and identity. Children born to foreign fathers, abandoned children, orphans, children born to single mothers who may not be able to identify or unable to produce father (rape-victims, abandoned girls) before the VDC/municipalities secretary are unable to register child's birth in the local authority. The legal provisions do not make it compulsory to register the birth of a baby. *Birth, Death and Other Personal Events Registration Act, 1976* does not prescribe responsibility to the officer or responsible person of VDC, Municipality, District Development Committee, or Chief District Officer (CDO) to initiate the registration of a birth of a baby whose father and mother is not identified.
- 3.27 Child labor is significantly high in Nepal with 20.6% of 5-17 year old being economically active, and 8% of the total population of children involved in hazardous forms of child labor. The Child Labor Prohibition and Regulation Act (2000) has not been fully implemented in that there has been a lack of efforts to strengthen and mobilize Labor Offices for inspection, monitoring, investigation and prosecution. There are only 10 Labor Offices all over Nepal with a provision of just 90 employees with no provision of a labor inspector but just 11 staff as factory inspectors to perform the assigned duty. They have no proper guidelines and adequate resource to take actions. The draft master plan to eliminate child labor by 2020 has not been endorsed by Nepal government yet.
- 3.28 About 5000 children living and working in the streets of different towns of Nepal, with majority (67%) of 13-16 years, and mostly (82%) are school dropped out.²⁶ They are facing numerous risks such as exposure to violence (mental and physical), sexual abuse, drug

²⁵ Almost 60 % of parents and students from 15 districts of Nepal mentioned their local schools have been adversely affected by political competition. (*Politics in Schools, A study Report by Loo Niva Child Concern Group, 2013.*)

²⁶ CWIN and Save the Children (2010): *A Study on the Sexual Abuse of Street Boys in Kathmandu*

addiction, and threats from gangs, social exclusion, health problems, delinquency, exposure to crime, alcoholism, starvation, etc. The new challenges in working with street children are the rampant use of drugs, including intra-venous drugs used by some of the children. Street children are also under the threat of contracting HIV due to common sharing of needles and unsafe sexual behaviours. Street youths are gradually being exposed to the world of crime as well.²⁷

3.29 Children in Nepal continue to suffer abuse and violence. Early marriage, corporal punishment and violence are rampant in the country. There still is legal defence for corporal punishment by teachers and carers. No teachers to date have been legally prosecuted for committing severe corporal punishment against students, yet a numbers of cases have been reported in the media. Nepal Police Women and Children Service Directorate recorded 8796 crimes against women and children in FY 2013/14 that include 912 cases of rape, 414 cases of attempt to rape, 185 cases of trafficking and 17 cases of child marriage.

3.30 Regarding the trafficking of women and children the issue of cross border trafficking of women and children for various purposes including labor exploitation and into the entertainment industries inside Nepal, is a major issue of concern. Based on the program enforcement data (GOs, NGOs and Nepal Police), nearly 29,000 persons were trafficked or attempted to traffic. On the other hand, the Global Slavery Index 2014 estimated that 228700 Nepalese were enslaved with 40% of them enslaved out of the country. The NGOs report revealed that around 25,000 women and girls working in the entertainment business in Nepal are forced to serve clients with sexual overtones and almost 20 thousand of them are minors²⁸. It is estimated that 16-33% of female sex workers are children under 18 years²⁹. Child pornography has also been found as another aspect of sexual exploitation of children in Nepal. An NGO research (2007) indicates that 85% street children are sexually exploited³⁰. Similarly ILO research (2001) among street children show that 67% abuser are foreigners which indicate that

²⁷ Fact about street children in Nepal, 2014 CWIN

²⁸ *Trafficking in Person Especially Women and Children in Nepal National Report (2012-13); National Human Rights Commission, Office of Special Rapporteur on Trafficking in Women and Children, Nepal.*

²⁹ *ECPAT International facts sheet (2013) on sexual exploitation of children*

³⁰ *Voice of Children and Child Protection and Child Service Center Study.*

Nepal is one of the major destinations for child sex tourism, no further improvement has been reported in this area.

- 3.31 Terms and Conditions for Adopting Child by Aliens and Civil Code Bill (tabled in Parliament in 2014) have serious provision of the possibility of parent(s) relinquishing a child on the justification of poverty, which contradicts with the provision of UN Guidelines for the Alternative Care of Children (2009). As a result, falsified orphans and poor children are significantly high in childcare homes and adopting child with false and manipulated consent of parents is prevalent. The child adoption process and practice in Nepal have been criticised as child trafficking and a major concern in Nepal.³¹
- 3.32 Nepal police has a special unit for dealing with children, which is the Women and Children Service Center. This center operates in 75 districts with 100 units and 1344 police officials deployed. But very few of these units have officials at the level of officer with a strong mandate and authority. The police personnel deployed in these centers are not adequately skilled to deal with children, and most of them are junior officials with limited authority. Medico legal facilities have remained expensive due to the medication, travel and associated expenses for child victims. The investigation modalities have not been improved to be child sensitive and child friendly.
- 3.33 Justice for children is often delayed and denied for children both in conflict with law and in contact with law³². With the absence of victims/witness protection and appropriate facilities for their rehabilitation, along with physical and psychological support, the tendency of hostilities is high. The Supreme Court recently provided direction to Nepal government to ensure that victims and witnesses of crimes against children are well protected. The Juvenile Justice Procedural Rules, 2006 has not been revised to fit the context. There are only three correction centers for juveniles which are overburdened.

³¹ According to Central Child Welfare Board (2014) there are 16617 children in 594 childcare homes, of which 85 % have at least one parent alive, thus unnecessarily separated from family.

³² The Annual Report of Attorney General Office (FY2013/14) has reported that the office prosecuted 2234 cases of rape and attempt to rape that include 847 outstanding cases from previous years. Among these 763 were convicted, 467 acquitted, where 48 cases were withdrawn. The same report of the Attorney General mentioned 2723 cases of first court decisions defended by the Attorney General's office in FY 2013/14 and 579 were acquitted.

Recommendations:

- *Nepal government should start amending the existing Child Labour (Prohibition and Regulation) Act, 2000 to include child labour in the informal sector within the purview of the law, ensuring adequate provisions for monitoring, inspection and investigation of cases.*
- *Nepal government should endorse without any further delay the Alternative Care Rules making them congruent with UN Guidelines for the Alternative Care of Children*
- *Nepal government should further strengthen awareness raising and law enforcement to proactively prevent and respond to cases of child marriage.*
- *Nepal government should make legal provisions for mandatory reporting by teachers, health workers and other personnel in direct contact with children of actual and suspected cases of violence against children.*
- *Nepal government should ensure speedy justice through adopting continuous hearing process in case of serious crimes against children with adequate victim witness protection and open date provision for filing complaint in case of rape and sexual abuse.*
- *Nepal government should increase the facilities of correction centers targeted for juveniles so that children in conflict with law receive appropriate care and support.*
- *Nepal government should mainstream in the government program anti-chhaupadi campaign and interventions to prevent discrimination of women and girls during their menstruation period, particularly in the mid and far western regions of Nepal*
- *Nepal government should strengthen the implementation of the Human Trafficking and Transportation Control Act to prevent and respond to trafficking of children.*
- *Nepal government should prohibit relinquishing of a child on the sole basis of poverty.*
- *Nepal government should ratify the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption.*
- *Nepal should make birth registration compulsory and simplify the process so that all children's birth can be easily registered.*

- *Nepal government should establish a system for collecting regular disaggregated data on child protection and make it publicly available.*
- *Nepal government should develop child protection system from the national to the local level including in schools and institutions to ensure detection, prevention and response to child protection cases.*
- *Nepal government should implement the School as Zone of Peace Guideline to protect school and children from party political use.*

Nutrition, Health and Development

3.34 Children have limited access to health and nutrition facilities. Neonatal mortality has not changed in the last two Demographic Health Surveys: 2006 and 2011 both have 33 per thousand births, which therefore has had little effect on the Infant mortality: 48 per thousand births in 2006 and 46 per thousand births in 2011. Maternal mortality did change over the years, 281 per 100,000 (NDHS 2006) to 190 per 100,000 live births, according to latest estimates in WHO report³³. Although Nepal may have achieved the MDG goal on maternal mortality (Reduce MMR by three-quarters from 1990 estimates), the number still show the grim state of the mothers' health in the country³⁴. The access to skilled health service provider for pregnant women is ensured only in 13 out of 75 districts, which has hindered government target to meet 60% mothers accessing skilled health services by 2015³⁵.

3.35 There are still considerable variations within the population in terms of access to health care services. Health indicators vary according to geography, community and wealth quintile. Maternal mortality rates are different in different communities³⁶. Similarly the prevalence of stunting varies between urban and rural areas. Out of a total of 41% of the population stunted, 27% live in urban areas and 42% live in rural areas, including mountain area having the highest incidence (53%).

³³ *Trends in Maternal Mortality: 1990 to 2013, Estimates by WHO, UNICEF, UNFPA, The World Bank and the United Nations Population Division.*

³⁴ *Mortality rates are high in Nepal because of underlying causes such as high home deliveries, low ante natal and post natal care, early marriage and adolescent pregnancy, inadequate spacing, malnutrition and lack of knowledge among the community. On the supply side low quality of service, which is caused by multiple factors (weak systems, HR) affects the uptake of services.*

³⁵ *The State of Children in Nepal 2014, Central Child Welfare Board.*

³⁶ *Newar – 105, Dalits – 273, Terai/Madhesi – 307, B/C – 182, Janajati – 207, Muslim – 318 as suggested by National Demographic Health Survey, 2011.*

Such differentials are caused by lack of knowledge and access to the services they seek.

Recommendations:

- *Nepal government should adopt comprehensive interventions both in the supply as well as demand side, particularly those to scale up existing government programs, strengthening health facilities and improving community mobilization for the uptake of health services.*

Right to Participation

3.36 Children's right to participation has been increasingly recognised in practices of local government and non-government sector. Children's right to form associations, express their views and ideas on decision-making process are facilitated by child rights organizations in Nepal³⁷. Child clubs are networked at village, district and national level collectively taking child led initiatives for defending and promoting child rights. Nepal government has applied a policy of having at least two child representatives in local level planning meetings at community level, and at the board of child friendly local governance and school. Some non-governmental organizations are also practising a children's advisory board.

3.37 However, not all child clubs are functional. Their capacities are very limited and participation of the most marginalised and children with disabilities are very limited. Most child clubs do not have their own room to organise meetings, keep their goods and tools. There is absence of child clubs operation guidelines from Nepal government, as a result children's organizations have mostly been operating as a means of NGOs' project implementation strategy.

3.38 Children's right to information, freedom of religion, right to privacy and freedom of thought and conscience as well as right to express views on legal proceedings are not provisioned in legislation nor practised.

3.39 The institutions both at government and private sectors are lacking skilled and trained human resources for consulting children in safer and enabling environment with proper child friendly skills.

³⁷ According to Central Child Welfare Data there are some 19454 children's clubs listed in District Child Welfare Board having 433891 children as members. Child Rights NGOs and Their coalitions have organized various child consultations and children's conference on the issues and policy formulation process.

3.40 The government at national and district level lacks permanent children's representative assembly to influence local and national level plans, policies, programs and budget.

Recommendations:

- *Nepal government should develop and implement a national procedural guideline for effective implementation of child participation in family, community, public and private institutions with a recognized permanent system of children's consultation at local, district and national level.*

Other Rights of Children

3.41 The first cycle of the UPR provided 6 recommendations on overall protection of human rights, non-discrimination and others related to children's issues, where Nepal rejected two recommendations. The accepted recommendations are about enhancing measures, redoubling the efforts and ensuring non-discriminatory practices against women, dalit and children³⁸.

3.42 The Nepali legislative provisions countering discrimination have not been properly implemented: girl children, dalit, children from poor families, third gender children and HIV infected/affected children and children of single mothers are continuously facing discrimination in schools and communities.

3.43 With growing urbanization and rising income inequality, population of urban poor and slum dwellers are increasing. The children of urban slums are neither counted by urban governments nor recognized by local governments in their origin. The invisibility of children in urban poor communities are unreached and denied of basic rights.

Recommendations

- *Nepal government should address the vulnerability and design comprehensive plans to ensure the urban poor and slum dwellers particularly children are appropriately responded to and their rights are respected and protected by town development policies and local legislations.*

Note: Supporting documents are attached in annexes.

³⁸ Recommendation 106.14, 106.46, 107.1 and 108.14