Annual Report
Synopsis
2018/2019

National Human Rights Commission of Nepal
Harihar Bhawan, Lalitpur, Nepal
Commission Office-Bearers
Chairperson
Hon. Anup Raj Sharma

Members
Hon. Prakash Osti
Hon. Sudip Pathak
Hon. Mohna Ansari
Hon. Govinda Sharma Paudyal

Secretary
Bed Prasad Bhattarai

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Remarks

The National Human Rights Commission of Nepal (NHRCN) is a constitutional body established for the protection, promotion and fulfillment of human rights. It has, since its establishment, working actively for the respect, protection and promotion of human rights, and in developing human rights culture. The NHRCN has been performing its activities by acting within the parameters of the fundamental law of the land, the Constitution, relevant Act and regulations, and its strategic plan. Article 249 (1) (3) of the Constitution and the National Human Rights Commission Act, 2068 (2012) outline the function, duties and power of the Commission.

In every country, the State is regarded as patron and guardian of human rights. In this sense, it is the first duty of the State to respect, protect, promote and fulfill human rights. Nepal is also a state party to various international instruments related to human rights. Currently, it is also a member of the Human Right Council. As a result, Nepal has an obligation to respect, promote and fulfill human rights within the country and in the global scenario. The state obligations have also been mentioned in the international instruments and national legislations related to human rights. In this connection when the State fails to fulfill its obligation, it is the duty of every agency of the state to hold it accountable. Constitutionally, this duty falls under the responsibility of the Commission. Accordingly, the NHRCN has been collaborating with the government on human rights related issues, and also working as a watchdog over its activities.

Article 294 (1) of the Constitution of Nepal obliges the constitutional bodies to submit an annual report of their yearlong activities to the President of Nepal. The report basically comprises the complaints registered before the Commission, the investigation carried out over it, details of the investigation and recommendations made to the government, among others. In addition to this, there is also a provision to include details related to the reforms that needs to be made in the future for protection and promotion of human rights. Accordingly, the annual report of this fiscal year also makes an effort to include the activities carried out and works executed by the NHRCN with a focus on the human rights situation of the country.

Like in the previous years, the NHRCN carried out its function in the field of protection and promotion of human rights this fiscal year as well. Especially, receiving complaints, monitoring the situation of human rights, and investigation on the complaints have been carried out. In addition to this.
promotional activities like training, workshop, interaction and discussion also continued. Emphasis has been laid on the formulation of human rights friendly laws, review or amendment of the human rights laws and regulations. Various thematic reports, booklets and journals have been published while concerns have been expressed on various issues of human rights through press note and press statements. Similarly, activities like making the Commission's view public through the media, publishing and disseminating message providing materials on human rights of public concern got continuity.

Based on the need and rationale, the NHRCN also worked in collaboration and coordination with stakeholders at the national and international level for the respect, protection and development of human rights culture. Specially, the collaboration with the Government of Nepal, constitutional bodies, political parties, civil society, and NGOs working at the national and international level, and national human rights institutions and donor agencies continuous unabated. Currently, the country is running as per the federal structure of governance. The Constitution is being implemented with the formation of three tiers of governments. Though partial, some office-bearers have been appointed on thematic commissions related to human rights. The government is developing the 5th human rights national action plan based on discussion with the stakeholders. Considering all these aforementioned aspects, there is ground for satisfaction.

Despite these positive efforts many challenges have been seen in the field of protection of human rights. The questions concerning the jurisdiction between other constitutionally formed commissions and the NHRCN remains unanswered, while the government's commitment to conclude the peace process (transitional justice) is yet to take any concrete form. It is unfortunate that the victims have not been able to get justice even after such a long time. Even though the laws related to fundamental rights have been formulated, the implementation does not look easy with the regulations yet to be formed. The laws concerning the constitutionally guaranteed concurrent jurisdiction between the three levels of government are yet to be formulated.

The organizational structure finalized by the NHRCN as per the federal structures remain shelved at the Office of the Prime Minister Council of Ministers for 18 months. Bill introduced to amend the National Human Rights Commission Act, 2068 (2012) is likely to limit the NHRCN to the centre, give the Attorney General the power to prosecute a case based on his/her conscience and includes
The implementation of overall human rights situation including civil and political rights, economic, social and cultural rights has not looked satisfactory. The continuity of racial discrimination in the society and lack of universal access to health services show that the atmosphere conducive for enjoyment of constitutionally guaranteed rights is yet to be developed. Daily life continues to face adversities due to labour exploitation of those going for foreign employment and increasing rate of domestic violence. The state has not been able to give special attention towards protecting the rights of the marginalized community, indigenous people, and persons with disabilities, the Dalit, women, minorities and elderly citizens. As a result, the rights of these communities have not been secured.

During this fiscal year, the Commission has gained various achievements through human rights protection and promotional activities. A total of 232 complaints of alleged human rights violation were registered. Investigation concluded on 600 complaints including the previously registered and new ones. Likewise, 56 collaboration and coordination tasks were completed in the 277 monitoring of situation and other areas of human rights. Another 219 events were carried out including 56 of collaboration and coordination with a special priority on human rights promotion based on the slogan "Human rights for all at every household: foundation of peace and development." Similarly, the NHRCN was involved in 276 programmes organized by other human rights organisations. It was presented in 41 programmes as resource person and subject matter expert. Likewise, the NHRCN continues to work on the development of various reference materials on human rights, including production of documentary and bringing out different publications. Internally, the NHRCN organized 48 trainings, seminars, interactions etc.

During the period, the NHRCN brought out 26 publications, 30 press statements and 23 press notes. In addition to this, to help the government and stakeholders with the drafting of the law, the NHRCN review laws from the perspective of human rights and sent to the concerned agency for implementation. Employees' management work has also gained speed in the Commission.

Despite the aforementioned achievements, challenges continue to exit. The recommendations made by the NHRCN have not been fully implemented while support as much as expected has not been received from the
government. The organizational structure finalized by the Commission remains stuck at the Office of the Prime Minister and Council of Ministers. Failure to reconstruct the central office building of the Commission damaged in the earthquake has led to a compulsion of offices operating from rented office space, thereby creating difficulties in their functioning. The NHRCN has been drawing the attention of the government and stakeholders in addressing these challenges. Amidst these achievements and challenges, the NHRCN has been moving ahead with a focus on the Constitution, Act and strategic plan and learning from the past to carry out its activities as per the need of time.

Finally, I would like to express gratitude to the Office of the President, the Parliament, the government of Nepal, political parties, civil society, the human rights community, media, professionals and businesses for their support and good will to the NHRCN. Likewise, I would thank the international organisations, diplomatic mission and the donor agencies. I am also indebted to my fellow commissioners, the NHRCN secretary, directors, officers and all the staffs. I also look forward to with confidence in receiving continued support from all sides in the days to come.

Thank You!

8 December 2019

Anup Raj Sharma
Chairperson
**Abbreviation**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>CPA</td>
<td>Comprehensive Peace Accord</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Kinds of Discrimination against Women</td>
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<tr>
<td>CZOP</td>
<td>Children as Zone of Peace</td>
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<td>GANHRI</td>
<td>Global Alliance of National Human Rights Institutions</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ILO</td>
<td>International Labour Convention</td>
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<tr>
<td>NGO</td>
<td>Non-government Organisation</td>
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<tr>
<td>NHRIs</td>
<td>National Human Rights Institutions</td>
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<tr>
<td>NHRCN</td>
<td>National Human Rights Commission of Nepal</td>
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<tr>
<td>NIDS</td>
<td>National Institute for Development Studies</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UN</td>
<td>United Nations</td>
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<td>WOREC</td>
<td>Women's Rehabilitation Centre</td>
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# NHRCN's Annual Function: An Overview

<table>
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<tr>
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<th>Nature of Function</th>
<th>Number</th>
<th>Theme</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>1.</td>
<td><strong>Protection of Human Rights</strong></td>
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<td></td>
</tr>
</tbody>
</table>
| 1.1    | Complaint Monitoring | 232    | • Civil and Political rights  
• Economic, Social and Cultural Rights  
• Right against Torture  
• Women’s Rights  
• Child Rights  
• Right against racial discrimination  
• Right against the act of disappearance  
• Rights of migrant workers and their families  
• Others: Rights of the senior citizens, rights of refugees, right against human trafficking, environmental rights, etc. | | |
| 1.2    |                       | 277    | • Civil and political rights: Overall human rights situation, human rights, rights of prisoners, administration of justice etc.  
• Economic, social and culture rights, right to health, human rights of the people living in the bordering region, consumer rights, rights of internally displaced persons by natural disaster (floods/landslides).  
• Rights of senior citizens, women, children, indigenous nationalities, minorities/marginalized communities, persons with disabilities, rights of migrant workers, situation of human trafficking etc. | Of the total 277 monitoring, 65 were held in collaboration and coordination |
| 1.3    | Investigation        | 600    | • Civil and political rights,  
• Torture, disappearance, rape etc.  
• Economic, social and cultural rights  
• Rehabilitation of the internally displaced persons, compensation for the looted property etc.  
• Women’s rights, child rights etc. | |
| 1.4    | Decision/ recommendation | 825    | Civil and political rights, judicial administration of justice kidnapping, internal displacement, economic, social and cultural rights, torture, racial discrimination, women’s rights etc. | Of the total 825 decisions taken, 134 were recommendations including 14 policy-based and 120 complaint-based. |
## 2. Human Rights Promotion

| 2.1 | Training, interaction, discussion, seminar, workshop, sensitization, morning procession, exhibition, etc. | 219 | Law and order, rights of the enforced disappeared persons, transitional justice, right to food, dispute resolution at the local level, civil and political rights, economic, social and cultural rights, child rights, women's right, rights of persons with disabilities, right to health, rights of minorities, consumer's rights, rights of migrant workers, collective rights, report writing etc. |
| 2.2 | Promotional programmes based on coordination and collaboration | 56 | Legal action, women's rights, child rights, right to education, right to food, mental health, transitional justice, right against human trafficking, right against racial discrimination, human rights, development and good governance, human rights and social justice, rights of migrant workers, role of local level in dispute resolution, school as zone of peace, UPR implementation status, rights of senior citizens and consumer rights, right to water etc. | Total of 56 programmes held in collaboration and coordination |
| 2.3 | Expert service (resource person) provided | 41 | Programme organized by the government and other organisations working in the field of human rights |
| 2.4 | Participation as guest/in other programmes | 276 | Programme organized by government and organisations working in the human rights sector |
| 2.5 | Internal programme of the NHRCN | 48 | Training, seminar, discussion, assessment |

## 3. Publication

<p>| 3.1 | Regular report | 1 | Annual report |
| | | | Detailed and summary (Nepali/English) |</p>
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Quantity</th>
<th>Details</th>
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<tr>
<td>2.1</td>
<td>Thematic report</td>
<td>11</td>
<td>State of Chhaupadi, right of farmers, human rights defenders, state of persons with disabilities, implementation of recommendations, and situation of the victims/survivors.</td>
</tr>
<tr>
<td>3.3</td>
<td>Booklet</td>
<td>5</td>
<td>Related with various subjects of human rights.</td>
</tr>
<tr>
<td>3.4</td>
<td>Journal/bulletin</td>
<td>1/1</td>
<td>Human Rights Sambahak/human rights Bulletin Three Issue each</td>
</tr>
<tr>
<td>3.5</td>
<td>Brochures</td>
<td>3</td>
<td>Various matters related to human rights</td>
</tr>
<tr>
<td>3.6</td>
<td>Press statement and press note</td>
<td>30 and 23</td>
<td>Various issues of human rights</td>
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<tr>
<td>3.7</td>
<td>Press meet</td>
<td>26</td>
<td>Comprehensive Peace Accord and situation of human rights, and international conference on human rights</td>
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</table>

4. **Human Resource**

4.2 | Staff | 208 | Working in all offices of the Commission |

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NHRCN's Annual Function: An Overview

[Diagram showing NHRCN's annual function with various categories such as staff, publication, human rights promotion, and protection of human rights.]
Chapter-One
Commission, Organisational Structure, Power and Functions

Background of the Commission

Even though the development of modern human rights took place following the Second World War, its development at the national and regional level is regarded to have taken place before that. In Nepal, human rights issues were first addressed in the Nepal Government Authorized Law 2004 B.S. The Constitution of the Kingdom of Nepal, 2015 B.S. and the Constitution of Nepal, 2019 B.S. included some basic but restricted provision of human rights. The mechanism related to the implementation for direct protection and promotion of human rights had not been developed. The first popular elected government was dissolved in 2017 B.S. and monarchy-based Panchayati governance was enforced. The freedom of political party was prohibited in this governance that ran for thirty years. Even during this adverse period, the judiciary made some special decisions that protected and promoted human rights. But the movements continued for political freedom.

The term human rights was first used in the preamble of the Constitution of the Kingdom of Nepal, 2047 (1990) promulgated after the end of the Panchayati system. Following this, the Interim Constitution of Nepal, 2063 (2007) and the present Constitution have given continuity to the use of the term. The part of fundamental rights of the Constitution of Nepal has included with priority economic and social rights, in addition to the rights mentioned in other Constitutions. In case of obstacle in the enjoyment of human rights, the Constitution provides clear provisions of judicial remedy through extraordinary jurisdiction.

The second international conference on human rights was held in Vienna in 1993. Nepal was also part of the conference that concluded with a declaration and Action Plan, while appealing to the UN member states to establish independent and autonomous national human rights institutions. However, national human rights institution could not be established in Nepal for a long time. As result, demanding the establishment of such institution, human rights defenders, legal practitioners, media, civil society, intellectual community and professional organisations started organizing pressure-exerting programmes.
The private Bill introduced by the then House of Representatives (HoR) members took the form of an Act and led to the introduction of the Human Rights Act, 1997. The institution could not be established even around four years after the Act was commenced. Peaceful movement, concern by the international community and supervision by the media continued. Demanding establishment of a commission, a writ was filed at the respected Supreme Court, the hearing of which led to a mandamus order in the name of the defendants. Finally, after a long wait, the National Human Rights Commission of Nepal was established on 25 May 2000.

The Commission established by the Act was upgraded as a constitutional body by the Interim Constitution, 2063 (2007). That status has been given continuity in the present Constitution. Article 248 and 249 of the Constitution outline the mandate of the National Human Rights Commission of Nepal. As per the mandate and based on Article 249, the Commission is required to submit an annual report of its year-long activities. This report prepared based on the aforementioned provision is divided into seven chapters and 10 annexes. The report is basically a compilation of the situation of the human rights, complaints received at the commission, investigation over the complaints, monitoring, study, promotional functions and the decisions taken by the Commission.

It also discusses about the achievements, challenges and the future course of action.

1.2 Organisational Structure

The National Human Rights Commission of Nepal is an independent and autonomous institution established as per the Principles relating to the Status of National Human Rights Institutions (The Paris Principles 1993) and Article 248 of the Constitution of Nepal. Article 283 of the Constitution notes that the principle of inclusion shall be followed while making appointments in the constitutional bodies and institutions. Article 248 of the Constitution provides for five office-bearers including one chairperson and four members in the NHRCN. The Commission functions through nine offices including the central office, five regional and three sub-regional offices, and now it is being transformed into the provincial structure.¹ The new organizational structure developed as per the federal structure will come into force after it is endorsed by the Government of Nepal. The Commission has position for a total of 309 staffs in all its offices, and currently the

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¹ The meeting of the NHRC on June 22, 2018 changed the organizational structure of the Commission into a federal structure and sent it to the Office of the Prime Minister and Council of Ministers for approval. The organogram that also includes the provincial office and province branch offices is not yet endorsed by the Government of Nepal.
1.3 Function and Power of the NHRCN

Article 249 of the Constitution of Nepal states, 'it shall be the duty of the National Human Rights Commission of Nepal to respect, protect and promote human rights, and ensure its effective fulfillment'. Protection and promotion of human rights is regarded as the primary duty of the State. In case the State does not fulfill this duty in a satisfactory manner, the NHRCN has been making an effort to alert the State and hold it accountable. The NHRCN has been carrying out its activities as per its mandate in the Constitution and the Act. Under human rights protection, the Commission has been receiving complaints, investigating the complaints, and making recommendations for action and prosecution against those found guilty of human rights violation. In regards of promotion of human rights, the Commission has been working to raise awareness, organize training and workshop, seminar and conferences, advocacy programme and coordination and collaboration with the civil society. There has been continuous discussion about the enforcement of the constitutional provision that allows the NHRCN to make the name public of the office-bearers or individuals that do not implement the recommendations of the Commission. In addition to this, the Commission has also been making recommendations to the government to formulate and amend laws related to human rights, and to ratify international conventions and treaties.
Chapter-Two
The Human Rights Situation

International Obligation of the State
Human rights and State obligation complement one another. Nepal is a state party to various conventions and optional protocols. Nepal has so far become a state party to 59 international and regional conventions and treaties directly concerned with human rights and humanitarian law. This include 22 related to human rights (17 conventions including 7 of the 9 major conventions and 5 optional protocols), seven related to humanitarian law, 14 concerning environment, 12 related to labour and four at the regional level (SAARC) concerning children, human trafficking and transportation, food and environment.

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<tbody>
<tr>
<td>2.</td>
<td>Human Rights Committee</td>
<td>One year</td>
<td>Four years (As per need of the Committee, Article 41)</td>
<td>1994 and 2013</td>
</tr>
<tr>
<td>3.</td>
<td>Committee on the Elimination of Discrimination Against Women</td>
<td>One year</td>
<td>Four years</td>
<td>1999 (first), 2004 (second and third), 2011 (fourth and fifth), 2018 (sixth)</td>
</tr>
<tr>
<td>4.</td>
<td>Committee against Torture</td>
<td>One year</td>
<td>Four years</td>
<td>1994 and 2005</td>
</tr>
<tr>
<td>7.</td>
<td>Committee on Rights of Persons with disabilities</td>
<td>Two year</td>
<td>Four years</td>
<td>2017</td>
</tr>
<tr>
<td>8.</td>
<td>Optional Protocol</td>
<td>-</td>
<td>Five years</td>
<td>Two optional protocol related to children (a) Prostitution 2012 (b) Armed Conflict 2016 Related to death penalty: Not available</td>
</tr>
</tbody>
</table>
As a member-state of the United Nations, state party to convention and treaties and now an elected member of the UN Human Rights Council, the obligation of fulfilling these duties fall on the government. In accordance with the international human rights law, the state should fulfill its duties to respect, promotion and fulfillment of human rights.

Nepal has been implementing domestic legislation, policies and action plans for the implementation of the provisions in the conventions/optional protocols. Though Nepal is ahead in terms of formulation of human rights-friendly law, the implementation aspect is not satisfactory. The reports to be submitted after ratification of the conventions to the concerned committees are not regularly submitted. The NHRCN has been drawing the attention of the government towards this end. In addition to this, the tendency of submitting a pile of reports has not improved.

**The Government's National Obligation**

The state is regarded as the guardian of human rights. It is the duty of the state to respect, protect, promote and fulfill human rights. Undemocratic and human rights unfriendly activities are not expected from a democratic government. During the fiscal year, the government seems to have failed its own commitment for the protection and promotion of human rights. Some bills introduced on behalf of the government have raised questions over the intent of the government. During the year, the Bill designed to amend and integrate laws relating to the Media Council, the National Human Rights Commission bill and the Guthi Bill (withdrawn) have drawn popular attention. These bills introduced without discussion with the stakeholders may be endorsed following the due process of the parliament, but why has the government introduced such bills in relation to the media sector and the human rights commission? Is the government trying to be unfriendly towards these institutions? Suspicions over it are obvious.

Press freedom, human rights and rule of law are integral to the democracy. The preamble of the Constitution of Nepal, 2015 guarantees the complete press freedom. Article 19 of the Universal Declaration of Human Rights and Article 17 (2a) have guaranteed every citizen the right to opinion and freedom of expression. Independent, accountable and dignified journalism has an important contribution to the protection and promotion of human rights. Democracy can be strengthened through effective protection and promotion of human rights. Regulation is not inappropriate but control in the name of regulation cannot be favourable to the norms and values of human rights.
Only if the council proposed to monitor and regulate press freedom is independent and capable, the dignity of democracy can be maintained, and the human rights culture will be strengthened. The NHRCN believes that making changes to the effective provisions of the existing Press Council Act, 1992 for no reason to try to impose restrictions on its autonomy will be against the fundamental norms of human rights and the freedom of expression.  

Nepal has contested and won membership of the UN Human Rights Council. On the occasion, addressing on behalf of Nepal, the Hon. Foreign minister had informed the international community that National Human Rights Commission of Nepal has been accredited with 'A' status since its establishment. He also shared that constitutional commissions have been formed for the promotion of the interest of women, dalit, indigenous nationalities, muslim and tharu communities. He said that the cases of victims were being addressed through transitional justice, in consultation with the victims while preparation is being for amending the related Act as per the directive of the Supreme Court.

Going against the government's commitment, the effort made to limit the NHRCN in the centre, restrict financial autonomy and including provisions that would make the NHRCN recommendation to prosecute a case dependent on the conscience of the Attorney General in the National Human Rights Commission Bill have boosted the aforementioned suspicions. This kind of step of the government has been widely criticized at the national and international level. Instead of the government avoiding it by saying that it falls under the jurisdiction of the parliament, it should rather withdraw the Bill and introduce a new one following extensive debate and discussion among the stakeholders. Similarly, the organizational structure prepared by the NHRCN based on the federal structure has been withheld at the Office of the Prime Minister and Council of Ministers. As a result, it has created difficulties for the Commission to carry on with its activities in a regular, organized and effective manner.

Until and unless the government responds positively through practice, but it is natural for questions to be raised for the government's commitment to human rights. The obligations of the state in relation to human rights are also mentioned below.

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2. Part of the press statement released by the NHRC on 2019 May 15 with the title 'Respect Freedom of Ideology and Expression. Commission’s attention towards Media Council Bill'.

3. The statement by honourable Minister for Foreign Affairs Pradeep Kumar Gyawali, the statements issued by the various sectors expressing disagreement, and calling for correction in the bill introduced by the government to amend the National Human Rights Commission Act, 2068 (2012).
Status of Implementation of Constitution

The Constitution of Nepal, 2015 outlines with special importance on the issue of human rights. The preamble of the Constitution provides, 'Recognizing the multi-ethnic, multi-lingual, multi-religious, multi-cultural and diverse regional characteristics, resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of caste-based untouchability.' Likewise, it states of 'being committed to socialism based on democratic norms and values including the people's competitive multiparty democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press, and independent, impartial and competent judiciary and concept of the rule of law, and build a prosperous nation.' It also mentions that the aspirations for sustainable peace, good governance, development and prosperity would be realized through the federal, democratic, republican system of governance.

Constitutionally the country has now entered into a federal structure. Parliaments and governments are functioning following election at all three levels (federal, provincial and local). Activities are now taking place under the new structure. The Constitution is being implemented despite various shortcomings and obstacles. Fundamentals rights have been recognized from Article 16 to 46 of the Constitution, while enforcement of the fundamental rights and duties of the citizens are mentioned in Article 47 and 48 respectively. A step ahead from the previous Constitutions, the present Constitution includes economic and social rights as fundamental rights. It is stated in the Constitution that the laws for enforcement of fundamental rights would be formulated within three years. Though the laws related to fundamental rights (besides some exception) have been formulated within the specified period, they are not complete.

Article 35 (4) of the Constitution states that every citizen shall have the right to clean drinking water and access to sanitation and hygiene. Though the time specified by the Constitution has ended the law relating to clean drinking water and sanitation has not been formulated.

Even the Acts that have been formulated include terms like "...may carry...may specify...may be asked to...shall be as specified," which shows that the implementation will not be easy and efficient.

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4. Preamble of the Constitution
5. Ibid.
Though fundamental rights should have come into force since the date of promulgation of the Constitution, a situation has been created whereby legislations have to be formulated and implement for enforcement of the rights. Fundamental rights have not been implemented as regulations related to protection of crime victims, persons with disabilities, consumers rights, right to housing have not been formulated. In regard to right to clean drinking water, as the contractor Italian company CMC failed to return to work due to some dispute, the future of the Melamchi drinking water project that had reached the final phase, has become uncertain. As a direct impact of this, the residents of Kathmandu have been deprived of their right to drinking water. The Employment Act, 2018 provides that a minimum of hundred days of employment shall be guaranteed in a fiscal year. Even though this programme is positive, it has not been able to give the expected outcome. Currently, a large number of Nepalis are forced to look for employment outside and inside the country.

Fundamental right is normally a right that is applicable to the citizen of the concerned country. The bill designed to amend the Citizenship Act 2007 is yet to take the shape of an Act. The bill that was tabled on 7 August 2018 is still under deliberations at the State Affairs and Good Governance Committee. As a result, the citizens who have been deprived of citizenship certificate are not is a stay to enjoy many fundamental rights.

The Constitution has stabilized provisions for various thematic Commissions including the thematic human rights Commissions from Article 252 to 264. Acts have also been formulated for the operation of those commissions. There is a provision to have Chairperson and four other Members in the Commissions for a six-year term. However, the National Women's Commission and the National Dalit Commission, upgraded to constitutional Commission from legal Commission, are functioning without any office-bearers. The National Women Commission remains vacant since the day the NWC Act, 2017 was introduced on 15 October, 2017. Likewise, the National Dalit Commission remains without any office-bearers since the past three years. Even though the Inclusive Commission, Muslim Commission and the Madhesi Commission were formed, they have not yet got full shape (of office-bearers). Only the Madhesi Commission and the Muslim Commission have got Chairpersons.

The Chairperson and members of the Inclusion Commission had been appointed, but the Chairperson has resigned. The office of the Indigenous Nationalities Commission has been established but office-bearers have not been appointed.
The Language Commission provided under Article 287 of the Constitution has a Chairperson and only one member so far. As a result, the goals set by the Constitution for the rights and well-being of the concerned communities have not been fulfilled. And even though the aforementioned human rights-related Commissions have been provided in the Constitution and the Act, the jurisdiction is not clearly outlined. A dispute is likely in the jurisdiction of these Commissions to be expanded up to the provincial level and the National Human Rights Commission of Nepal. Attention seems to have not been paid towards this end.

Under schedule 7 of the Constitution (related with Article 57 (3), Article 109, Article 162 (4), Article 197), the concurrent list of powers of the Federation and the Province have been outlined. This includes 25 areas including criminal and civil procedures, and evidence and oaths (legal recognition, public acts and records, and judicial proceedings). Utilization of forests, mountains, forest conservation areas and waters stretching in inter-State form. Likewise, Schedule 9 (Relating to Article 57 (5), Article 109, clause (4) of Article 162, Article 197, Article 214 (2), clause (2) of Article 221 (2), and Article 226 (1)) include the list of Concurrent Powers of Federation, State and Local Level. This includes 15 areas including among others Cooperatives, Education, health, Agriculture, electricity, water supply, irrigation and natural resources. One cannot rule out the possibility of dispute over the jurisdiction over these matters. So far, legislation has not been formed on concurrent issues. The Province and local level units have not been able to function due to the lack of necessary laws. Considering the overall situation, it is clear that complexities will arise in the formulation and implementation of laws as per the Constitution.
Situation of Civil and Political Rights

Right to Life
Among the various human rights, the right to life is regarded as special and the most important one. Respectful and dignified life is the inherent right of every individual. This right has also been mentioned with priority in international instruments related to human rights and the national law of the land. Article 3 of the Universal Declaration of Human Rights, 1948 and Article 6 of Covenant on Civil and Political Rights, 1966 mention about the right to life. These instruments guarantee every individual the right to life and prohibit arbitrary deprivation of the right to life. The second optional protocol, 1989 of the Convention includes a provision for abolition of death penalty. Article 16 of the present Constitution of Nepal, 2015 secures the right to life with dignity. The right to life has been established as fundamental rights, by prohibiting the provision of death penalty.

Though the right to life has been fully secured in principle, the situation in practice is different. According to the Disaster Management Division under the Home Ministry, during this fiscal year 185 people (47 women and 111 men) died of floods, heavy rainfall and snowfall. Likewise, 39 people (19 women and 20 men) died in the cyclone that hit Bara and Parsa districts. According to Nepal Police data in the fiscal year 2074/75, a total of 5,317 people had committed suicide, which increased to 5,754 in the fiscal year 2075/76.

<table>
<thead>
<tr>
<th>Situation of Suicide</th>
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<tr>
<td>- below 18 years 9 per cent</td>
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<tr>
<td>- 19-35 years 40 per cent</td>
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<tr>
<td>- 36-50 years 30 per cent</td>
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<tr>
<td>- 51-69 years 16 per cent</td>
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<tr>
<td>- 70 years and above 5 per cent</td>
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<tr>
<td>- The rate of suicide across Nepal are 19 people (per 100,000)</td>
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<td>- Daily suicide rate average 16 people</td>
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Among those committing suicide, the lowest are the senior citizens while the highest are between the age of 19-35 years. During this fiscal year, a total of 5,913 people suffered minor injuries and 317 suffered serious injuries while 254 died in road accidents.  

Monitoring/investigation carried out by the Commission showed that the right to life of individuals has been violated. Eight-year-old Prayash Kunwar was kidnapped in the evening of 27 November 2018 from Gongobu of Kathmandu and murdered. Ram Manohar Yadav died during medical treatment while he was in police custody. Bomb explosion, arson and vandalism that took place in various parts of the country including the capital on 26 and 27 May, 2019. Four people died in the explosions that took place in Kathmandu, while eight others were injured in arson and bomb explosions that took place in various parts of the country. These incidents in a bomb explosion that took place in the NCELL office premises created a sense of fear and terror among the ordinary people. One person died in an exchange fire between police and the banned NCP (Biplav group) in Bhojpur while two people died in Sunsari after being shot dead by an unidentified group. The rape and murder of 13-year-old Nirmala Pant of Kanchanpur remained a matter of hot debate. People faced death due to lack of medical treatment and lack of access to health inside the country. As of Baisakh of this fiscal year, 625 people died during foreign employment.

On 7 May, superstitious belief to enhance power, Satrughan Shah, 55, murdered two-and-a-half-year-old Aryan Shah of Mithila municipality-6 in Dhanusa by slitting his throat. Four students lost their lives when the slab of a septic tank of the toilet of Ganesh Binayak secondary school in Naugada municipality-4 of Darchula. People were found to have died due to the lack of medical treatment and drugs on time and falling into water-filled pits on the road. The aforementioned data shows that people's right to life has been affected. And hence, the state and the stakeholder agencies need to be further sensitive about it.

**Right Against Torture**

The right against torture has been mentioned as undeniable human rights. Article 5 of the Universal Declaration of Human Rights, 1948 and Article 7 of the International Covenant on Civil and Political Rights, 1966 have also prohibited torture. The Convention against Torture, Cruel, Inhumane and Degrading treatment, 1984 also emphasizes that torture should not be practiced, and regards torture as a criminal offense. As a party to this Convention, Nepal has included the provisions of this convention, including the right against torture as fundamental right in the Constitution of Nepal, 2015. The Act relating to compensation against torture, 1996 mentions that no individual in custody should be subjected to torture during investigation, interrogation or during judicial custody in remand or in any other way. The law introduced by the Legislature-Parliament on 16 October, 2017 and enforced since 17 August, 2019 outlines the provisions of penalty against the act of torture.
Torture, cruel, inhumane or degrading treatment against anyone will increase the severity of the crime, and torture or cruel murder will invite lifetime imprisonment. The act also states that the authority with power to investigate, prosecute a crime as per prevalent law, implement the law or take under control, custody or detention as per the law should not carry out or cause to carry out physical or mental torture or cruel, inhuman or degrading treatment against any individual. In case of commission of such an act, a penalty of at least five years imprisonment or fine of fifty thousand rupees or both will be imposed considering the severity of the crime, and just compensation will be sought from the offender to the victim for the damage or pain inflicted.

The act of torture is a punishable crime as per the Convention against Torture and constitutional and legal provisions. According to Article 2 and Article 4 of the Convention, torture is regarded as a criminal offense, with a legal provision of providing compensation against the torture to the victim. In this connection, the NHRCN has made repeated recommendations while the Supreme Court has also issued a directive. This issue has also been raised in the universal periodic review of human rights, and in the recommendations of the treaty bodies. Since becoming a state party to the Convention against Torture, Nepal had to submit its preliminary report on 12 June 1992. However, it submitted its report to the UN Committee against Torture only on 6 October 1993. This should have been followed by a periodic report in every four years, however it has not been regularly presented. The report was submitted twice so far, including in 1994 and 2005. Though the proportion of torture has declined in compared to the past, the NHRCN continues to receive complaints of torture by the police. The NHRCN had to issue a directive against the action of police at the Provincial Unit Office in Nepalgunj. In regards to Dan Bahadur Fadera and his family who was released on a general date on 21 April, 2019 by the Banke District Court on a case regarding explosive materials, the NHRCN has said: the NHRCN hereby decides to direct the Inspector General of Police to alert all his subordinate police offices not to carry out mental or any other kind of torture against said Dan Bahadur Fadera and member of his family, and to ensure that such incidents are not repeated in the future. In this connection, the NHRCN also communicated to the Office of the Prime Minister and Council of Ministers, Home Ministry, Nepal Police, Banke Chief District Officer and Police office.\(^8\)

Though investigation over complaints of torture is being carried out by the Court and the NHRCN, the government has not established a separate

\(^8\)Press statement issued on 2019 April 22 titled “Urge to respect human rights, rule of law and judicial decision”.
independent body as recommended by the Convention and the Committee. Essential steps for the security of witness and victims have also not been taken. The provision of carrying out proper health examination of all detainees during arrest and release is not fully implemented. The detention centres have not seen progress as much as expected. A large number of people were subjected to torture during armed conflict but there is no official data about them. The incidents of torture that took place during the conflict have not been addressed yet.

The respect and protection of the right against torture depends on the guarantee of implementation. Essential legal, administrative and/or other measures should be adopted, and the NHRCN recommendations and court verdicts need to be enforced in order to ensure the enjoyment of the right against torture at the national level. Reports should be presented periodically at the Committee against Torture, and the issues pointed out by the Committee needs to be addressed.

**Transitional Justice**

The armed conflict that began on 13 February, 1996 formally came to an end following an agreement between the government and the then CPN (Maoist) on 21 November 2006. The comprehensive peace accord mentioned that the incidents of human rights violation and crimes against humanity committed during the armed conflict will be addressed with special attention. A provision also included stating that the people in one another’s custody would be made public and released within 15 days\(^9\) and both sides agree to make public the real name, surname and address of the people disappeared from both sides and those killed during the conflict within 60 days.\(^{10}\) In order to address the incidents, the point no. 5.2.5 of the CPA and Article 33 (d) of the Interim Constitution of Nepal, 2007 noted that a high level Truth and Reconciliation Commission would be formed.\(^{11}\) In order to enforce this provision of the Constitution, the Act relating to Commission on Investigation of the Disappeared persons, Truth and Reconciliation, 2014 was introduced on 4 May, 2014. Based on the Act, two commissions with a chair and five members each were constituted on 10 February 2015. Clause 38 of the Act pointed out that the term of the Commission would be of two years from the date of formation, and that the term could be extended by one year in special circumstances when the task is not completed.

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9. Comprehensive Peace Agreement, 2063 (2006), point no. 5.2.2
10. CPA, point no. 5. 2.3
11. To constitute high-level Truth and Reconciliation Commission to explore the truth about those involved in serious human rights violation and crime against humanity during the armed conflict, and building an atmosphere of reconciliation in the society.
However, the task could not be completed even in the term extended as per this provision. Ultimately, the Ministry of Law, Justice and Parliamentary Affairs registered a bill at the National Assembly Secretariat for the continuity of both Commissions but without office-bearers. Though the bill endorsed with the suspension of the rule of 72 hours for amendment took the form of an Act, it has not been made to work as expected. The National Human Rights Commission of Nepal had deputed Hon. member Prakash Osti as representative in the committee formed to recommend office-bearers to the Transitional Justice Mechanisms on 4 April, 2019. This committee formed with former Chief Justice Om Prakash Mishra as its coordinator held nine meetings as of 12 July 2019 and took various decisions. The decisions comprised endorsement of the recommendation procedure, seeking applications of the interested and eligible candidates, and the standard for candidates to be added by the committee. The recommendation committee has so far not recommended the names of the office-bearers of the two commissions.

During the 12 years of the CPA, the act of neutralizing the landmines was held and the internally displaced persons have been rehabilitated and majority of the house and land seized during the armed conflict has been returned. Reconstruction of the government structures damaged during the armed conflict has also moved ahead significantly. Majority of the conflict survivors have received the interim relief and the one million relief amount committed by the government for the families of the dead. An assessment of the state of enforcement of this historical agreement shows that except the achievement of complete justice for the conflict survivors, other tasks can be regarded to have been completed. \(^{(12)}\) Foreign Minister Pradip Kumar Gyawali has addressed the issue of transitional justice in his address in Geneva on 27 February 2019. He stated that the victims' cases are being addressed through transitional justice mechanisms in consultation with the victims and as per the directive of the Supreme Court. In addition to these positive steps, the process is yet to be concluded. The demands of the people who were murdered, dismembered, forcefully disappeared, kidnapped, torture and physically assaulted, subjected to sexual violence and seizing and damaging of property and forceful displacement have not yet been addressed.

Specially, the right to know the truth, action against those involved in serious crime and ensuring non-repetition of such incidents have not been guaranteed. Questions were raised at the national and international level over some of the provisions of the Act relating to Commission on Investigation of the Disappeared

persons, Truth and Reconciliation, 2014. The Supreme Court too had issued an order to amend the Acts to address the international standards. Still the matter of amendment to the Act is confined to discussion only. Questions have been raised over the confidentiality of the complaints filed at the Commission. The reparation and socio-economic rehabilitation of the victims has not yet gained momentum. The concerns of the disqualified child soldiers have also not been addressed.

**Recommendations and Suggestions made to the Government of Nepal**

a. Effective enforcement of the socio-economic and cultural rights in order to promote peace and address overall human rights situation.

b. Amend the Act relating to Commission on Investigation of the Disappeared persons, Truth and Reconciliation, 2014 to meet international standards as per the recommendations of the NHRCN, the Supreme Court’s order, suggestions of the UNOHCHR, and through comprehensive deliberations and necessary consultation with the victims and stakeholders.

c. Develop and enforce essential justice, reparation and rehabilitation programmes for the right to justice of the victims of sexual violence that took place during the armed conflict and all kinds of gender-based violence. And also adopt immediate corrective measures as the shortcomings seen in the investigation and prosecution of criminal incidents that took place during the conflict and thereafter are being repeated.

d. Amend the laws related to transitional justice structures to bring to justice the use of children in the previous armed conflict, for effective enforcement of the provisions of the international conventions that Nepal is party to and that prohibit forceful recruitment of children in security force or armed groups, and involvement in war.

e. Develop immediate and long-term plan for education, employment and rehabilitation of the disqualified child soldiers.

f. Develop and enforce special programmes for rehabilitation and reparation of the people who suffered physical and mental disability due to the armed conflict.

g. Take legal action based on individual accountability against the individuals involved in heinous crimes and serious violation of human rights that took place during the armed conflict and various movements after it, so as to end the state of existing impunity.

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13. Ibid.
h. Fully implement the recommendations of the National Human Rights Commission and the order and verdicts of the courts.

It is clear from the aforementioned data and undergoing activities that: the possibility of the victims getting justice is very limited. Many provisions in the Act do not guarantee providing justice to the victims. It is the responsibility of the government to implement the recommendations of the NHRCN as per the Constitution and the National Human Rights Commission Act, and verdict of the respected Supreme Court. Taking action against those responsible of serious violation of human rights is also an important aspect of transitional justice.

**State of Implementation of Reparation/Relief to the Disappeared**

The NHRCN received a total of 3,197 complaints of the acts of disappearance committed during the armed conflict. Of the complaints, detail investigation is taking place over 2,008 complaints from 64 districts, and a study of the forms filled up for reparation in the complaints by 1,753 victims shows that 999 of the victims received interim relief between 20,000 to one million rupees. Of them, 754 did not receive any interim relief. None had demanded the physical reparation. Of the reparation forms studied, only around half of the victims got relief of one million rupees each.

**Truth and Reconciliation Commission**

This Commission was established on 10 February 2015. The objectives of the Commission formed to resolve the problems of the conflict survivors were as mentioned below:

- Seek the truth and investigate to bring forth the public the fact about the incidents of serious violation of human rights that took place during the armed conflict, and about the people involved in such incidents.

- Build an atmosphere for lasting peace and reconciliation through reconciliation between the armed conflict perpetrator and the victim, and enhancement of the spirit of mutual goodwill and tolerance.

According to a press-statement issued by the Truth and Reconciliation Commission, Nepal on 9 February 2018, the Commission received 58,052 complaints in the first phase between 17 April 2016 and 10 August 2016. Another 1,263 complaints were added during the collection of complaints that were left out from 8 June 2017 to 8 August.

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Hence, a total of 61,615 complaints were registered in the two phases.

- Recommend to the Government of Nepal for reparation to the victims of the incidents that took place during armed conflict.

- Recommend to the Government of Nepal for legal action against the individuals involved in serious crimes on incidents related to the armed conflict.

Following its establishment, the Commission worked on office management, and held various rounds of discussion and interaction with the stakeholders.

To address this problem, the Commission has been organizing various programmes including discussion/interaction also at the province and central level. The NHRCN hosted a discussion on the situation of transitional justice on 1 February 2019. The programme was attended by the Law Minister, the Attorney General, the Office of the Prime Minister and Council of Ministers, Secretaries of the Commission on Enforced Disappearance and Truth and Reconciliation Commission, human rights defenders, conflict survivors and media persons. Likewise, discussion on 'state of transitional justice and challenges' was held between the office-bearers of the transitional commissions, office-bearers of the conflict victims' common platform. Interaction was also held on 'situation of victim and challenges to justice' jointly organized by the NHRCN, INSEC, Advocacy Forum, Conflict Victims' Common Platform.

Considering the various aforementioned aspects, both the Transitional (TRC and CIEDP) mechanisms have received complaints. Some of the victims have got financial support from the government. Discussions and interactions are being held but they are not oriented towards a conclusion. Instead, questions have been raised over the confidentiality of the complaints registered by the victims at the transitional commissions.

As a result, as per the spirit of transitional justice, the right to know the truth, reconciliation, punishment in case of serious crimes, action against those guilty and ensuring non-repetition of such incidents needs to be guaranteed. For this, the Act should be amended as per the recommendation of the NHRCN and court verdict, especially consensus should be sought from among the conflicting parties, the government and the victims. The need of the day is also to address this issue immediately, resolve it at the national level to seek lasting peace.
Right Against Racial Discrimination

The negation, exclusion and discriminatory acts carried out on the basis of a particular race/caste is racial/caste-based discrimination. As people are born free and equal, discrimination on the basis of race, ethnicity, origin, religion, colour, gender, profession-business, nationality or any other basis is not acceptable. Any kind of such act committed on whatsoever basis is regarded to be morally, socially and legal unforgivable and serious crime.

Article 1 of the Universal Declaration of Human Rights states that every person is born free and equal in rights and dignity. It also states that there cannot be any kind of discrimination on the basis of ethnicity, race, gender, language, religion, political or other faith, nationality or social origin, property, birth or any other status. Article 2 of the Covenant on Civil and Political rights, Article 2 of the Covenant of Economic, Social and Cultural Rights have also guaranteed the same rights. Likewise, the Convention on Elimination of All Kinds of Racial Discrimination, 1965 and Article 2 of the Convention on Elimination of All kinds of Discrimination Against Women, 1979 also carry the principle of equality and non-discrimination.

Likewise, Article 18 (1) under fundamental rights in the Constitution of Nepal, 2015 states that all citizens shall be equal before the law and nobody shall be deprived of equal protection of the law. Likewise, Article 18 (2) states that the State shall not discriminate among the citizens on the basis of caste/ethnicity. Article 24 on Right against untouchability and discrimination states that no person shall be subjected to any form of untouchability or discrimination on grounds of his or her origin, caste, tribe, community, profession, occupation or physical condition, any act of untouchability and discrimination in any form shall be punishable by law, and the victim of such act shall have the right to obtain compensation in accordance with law. No person shall be deprived on the basis of his/her caste/ethnicity from the use of public services or public space or from entering public religious site or from carrying out religious activity. Article 40 of the Constitution outlines the rights of the Dalit. The National Dalit Commission which had a legal status was upgraded to a constitutional commission by the Constitution (Article 255). The Act has also been formulated as per the Constitution. The Civil and Criminal Codes, 2017 (enforced from 17 August 2018) and the Racial Discrimination and Untouchability (crime and punishment) Act, 2018 (first amendment) have established racial discrimination as a punishable offence, and also specified punishment for the same. The state institutions are found to have recognized different data in regard to the population of Dalit in Nepal.
The Public Service Commission has listed 22 Dalit caste groups while the National Dalit Commission enlists 23 caste in the Dalit Caste Schedule. According to National Census of 2011, the total population of Dalit in Nepal is 4.12 million. Of them, 1.97 are men and 2.14 are women, which is 13.8 per cent of the total population of the country. In the context of Nepalese increased life expectancy, increased health facilities and decreased birthrate, population experts estimate that the population of 2011 may be increased by 4 to 3.5 per cent. On this basis, the population of Dalits in Nepal is estimated to be 42,68,380.

The aforementioned provisions show that effective constitutional, legal and policy measures have been established against caste-based untouchability. Various mechanisms are also in effect for implementation of those provisions. The country was declared a caste-based untouchability free nation on 4 June 2006. However, untouchability still exists in practice. The society is still divided in so-called high caste and low caste. Untouchability is also practiced among the people of the so-called low caste. Mostly, the dalits are landless and homeless. The situation of education, awareness and economic condition is poor. Due to poor financial condition, children are not able to attend school regularly and even if they go to school they drop out in the middle. The problem of child marriage also exists. Furthermore, filing of complaints against incidents of caste-based discrimination at the police office and rural municipality office is not easy.

They are not able to sell dairy products including milk. Some people follow superstition that says that if the Dalits sell milk then the cows and buffaloes will start climbing trees. Dalits also face various hurdles in purchasing such products. Sporadically, there are instances where a different kettle is used to serve them tea or it is washed after serving the tea and sometimes deny them milk tea.

The practice of not inviting them to Non-dalit’s home for pooja, marriage, sacred thread ceremony, and if invited making a separate arrangement for eating is not fully abolished. There is also a practice where people do not go to attend a funeral or cremation in the Dalit community and use separate location for cremation. Problems like stopping from the using well water and entering into a temple continues unabated. Inter-caste marriage is not recognized, they find it difficult to get a room for rent and if they get then face a lot of hassles. The Balighare custom continues to exist in Karnali and Sudurpaschim States, and some other hilly districts. Besides this and similar problems, the society seems to have moved ahead in compared to the past.

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17. Ibid, p. 8
The older generation elderly are still not taking the change very easily.

Various efforts have been made for the upliftment of the Dalit community. Considering the low presence of the Dalit community in the education sector, the government has provided free education up to Grade 10, scholarship in higher secondary education and reservation in employment.

The new generation is rising above the mentality of discrimination. One can feel that the society is gradually changing. The issue of racial discrimination has gradually become a national issue. The ability of the Dalit community is increasing. Untouchability, sprinkling of gold water, touching fire and the Balighare customs are almost abolished. These issues are getting priority in the media. Laws and mechanism have been developed at the national level. The country has been declared untouchability-free. Reservation has been made in politics and government service. Various mechanisms have been established at the national level of enforcement of the provisions against racial discrimination and for the upliftment and advancement of the Dalit community. Article 255 of the Constitution provides for the National Dalit Commission. Likewise, the oppressed, underprivileged and Dalit community upliftment and development committee, Badi community upliftment and development committee, and other mechanisms for promotion of the rights of the Dalit are working effectively.

During this fiscal year, the Commission has been carrying out various campaigns nationwide for ending caste-based untouchability and racial discrimination. Discussion and interaction on this matter has been held with religious leaders and artists. In coordination with the National Dalit Commission and Dalit NGO Federation, the NHRCN organized provincial conference on the right against racial discrimination and untouchability in Surkhet and Janakpur. Likewise, field study was held on the situation of Dalit in Khotang, Okhaldhunga, Solukhumbu, Parbat, Myagdi, Mustang and other districts.

The aforementioned issues can be addressed only through collaboration and coordination. The collective role of all the three tiers government, Commissions (NHRCN, National Dalit Commission, National Women Commission, National Inclusion Commission, National Madhesi Commission), political parties, civil society, human rights workers and the media is important. There is a need to end this harmful practice, which remains as a black spot of human civilization. Effective enforcement of the law and upgrading of economic status and sensitization programmes should also been implemented together.
Women and Child Rights

Rights of Women

The rights concerning the individual development of women are regarded as women's rights. The rights of women have been established in various instruments. Article 1 of the Universal Declaration of Human Rights, 1948 states at all people are born free and equal in dignity and rights. Article 2 of the UDHR states that all rights shall be enjoyed equally and without gender-based discrimination. The International Covenant on Civil and Political Rights, 1966 and the International Covenant on Economic, Social and Cultural Rights, 1966, article 2 and 3 direct the state parties to respect and guarantee the rights established in the Covenants without any discrimination. The Convention on Elimination of All kinds of Discrimination against women, 1978 obliges the state parties to protection rights of women in the national legislations, dissolve the discriminatory provisions in the national legislations, formulate new legislation for the protection of the rights of women, and develop national mechanism for effective protection of women's rights so as to end discrimination against women. Article 2 of the Convention on the Political Rights of Women, 1953 guarantees the women's right to vote, to be elected, to assume public position and other rights, while providing political rights in par with the men.

The Constitution of Nepal, under rights of women, states that women cannot be discriminated just for being a woman, and the right to reproductive health and reproduction are the fundamental rights of women. It also states that women shall not be subjected to any kind of physical and mental violence, and such acts shall be punishable by the law, and sons and daughters shall have equal right to parental property. Likewise, in regard to right to social justice, women have the right to participate in the state structure on the basis of the principle of proportional inclusion. The Domestic Violence (crime and punishment) Act, 2009, Human Trafficking and Transportation (control) Act, 2007, and its regulations 2008 have also included provisions related to women's rights directly and indirectly. Along with the government mechanism for the implementation of the provisions related to women's rights, the National Human Rights Commission, National Women's Commission, National Dalit Commission and other structures have also been established. The Constitution of Nepal establishes the National Women's Commission as a constitutional body.
Recently the political, economic, social and cultural rights of women have seen some progress. After a policy of inclusion was enforced constitutionally and legally, women's participation in the state bodies have been increasing gradually. After country adopted federalism and held the three tiers' election, women's participation and representation in politics has increased. At the local level, a total of 14,352 women have been elected including mayor, deputy mayor, chair and vice-chair, ward chair and members. In the state assembly, 17 women were elected while six were elected in the House of Representatives. In proportional representation, the number is 172 and 84 respectively. Likewise, 21 women are represented in the National Assembly. The prestigious post of the President is presently assumed by a woman. For the first time in the history of Nepal, 60 per cent women's leadership (six chairs out of 10 committees) has been established. The constitutionally envisaged 33 per cent standard however has not been enforced in the Council of Ministers and the party leadership. Likewise, in the Committee under the Convention on Elimination of All Kinds of Discrimination against Women, Nepal has been represented by a woman.

The National Human Rights Commission of Nepal has been monitoring the news related to violation of human rights including violence against women published and disseminated by the media, and the complaints filed at the police offices. In the year 2074/75, Nepal Police received 1,480 complaints of rape, 308 of trafficking, 62 of child marriage, 48 of witchcraft accusation, 18 of abortion. Of them, the largest percentage of girls falling victims to rape were between the age of 5 to 16 years. The NHRCN monitoring also found that in some incidents, security persons were involved in mediation against the law. Majority of the reported cases of rape were found to have been committed by family members or close relatives while the tendency of gang rape, rape by others and murdering the victim after rape is found to be increasing. Failure of Nepal Police to carry out immediate and effective investigation of such incidents and bringing the perpetrators to justice, the life of the victim is pushed towards more risk and impunity is encouraged. Reports received by the NHRCN also show that the rape survivors are being deprived of legal aid, medical treatment and protection.

Source: Press Statement Issued by the Commission on 5 September 2018,

Though participation of women in increasing in political and public positions, the situation is not satisfactory in the socio-economic sector. The trend of not recognizing household work as labour has not improved. Financial dependence on men continues. Women have suffered more as a result of harmful social practices, discrimination, exploitation, injustice and exclusion in practice.
The practice of dowry, child marriage and eloping continue to exist. Physical assault on witchcraft accusation, and beating, setting ablaze and killing of wife or daughter-in-law by the family members are also prevalent in one form or the other. Incidents of domestic violence and rape are being reported every day. Harmful practices like Jhuma, Deuki and Chhaupadi have not been completely ended. Women, specially the poor, helpless, single women in the remote areas are politically, economically and socially victimized. Lack of legal knowledge of awareness, financial scarcity, pressure and influence etc. have obstructed the victim's access to justice.

**Child Rights**

The Child Rights Convention, 1989 recognizes people below 18 years as children. However, in regard to their age, there is no uniformity in the national legislation. The international and national instruments have mentioned about child rights. The CRC and other instruments categorize right to child protection, child development and child participation. Article 39 of the Constitution of Nepal, 2015 provides for the rights of every child. It gives special emphasis to rights to identity and name, right to upbringing, basic health and social security, and against physical, mental or any other kind of exploitation. Likewise, it provides that the state shall provide special facility to the helpless, orphan, mentally retarded, conflict victim and displaced, and vulnerable and street children. It also prohibits employment of children in factories, mine and similar hazardous work or in army, police or conflict. The Act Relating to children 2018 also establishes various rights for children.

According to national census 2011, the total population of the country is 26,494,504 (12,849,041 men i.e. 48.5 per cent and 13,645,463 i.e. 51.5 per cent). Of them the number of children below 18 is 11,084,311, which is 41.83 per cent of the total population. Likewise, children below 16 are 37.37 per cent and those below 14 years are 32.35 per cent. The current population growth rate is 1.35 per cent.

It is clear from the aforementioned data that: plenty of legislations have been formulated at the national and international level for the protection and promotion of rights of women and children. Various programmes and projects have been completed at the government and non-government level.

For the Ministry of Education, Science and Technology, a budget of Rs. 1.5 billion has been allocated, which is 10.23 per cent of the total budget. This budget is also allocated for education. Even though the campaign to wipe out illiteracy from the country began in 2065 b.s., it has not been completely successful as of yet. Though the government was supposed to announce the country fully literate last Magh, it could not materialize.
This shows that a section of children will continue to remain out of school.

I was 13 years old when I had menstruation for the first time. I was a Grade 6 student. Now I am 16 years old, and in Grade 9. I was also kept in the menstruation hut. There were not lights there, my studies god affected, and I failed in exams. That shed was not secure either. I was not allowed to stay in the house. If I stay in the house, then my family members would fall sick, is what they used to tell me. I was never allowed to eat dairy products including milk. Not even milk tea. They used to tell me that if I drank milk then the buffalo would fall sick. But then I lobbied with my family and said I would no longer live in the menstruation hut. My father supported me and now I live in a separate room but inside the house. The room has lights, bed and warm clothes. I am staying in this room from today, because my periods started today. Let’s see what will happen if I stay here. I request you all to keep your daughters and daughters-in-law in a safe and secured place.


Some positive developments have been held in the women and children sector. However, still more needs to be done. According to UNICEF, Nepal has made notable progress in women and children's health in the past two decades. The declaration of polio-free country, commitment to improve and progress made in maternal health and minimization of child mortality has been successful. The child mortality rate is 21 in every 1,000 live birth. The neonatal mortality (death within 28 days of birth) is every high in Nepal. In addition to this, the mortality rate of children below five years is 39 in every 1,000 children. The neonatal mortality rate in the poor communities is almost double in compared with the rich groups, while the rate is high among underage mothers. Children and women are still falling victims to rape. This is also verified by the data of Nepal Police.

<table>
<thead>
<tr>
<th>Age of Victim</th>
<th>Percent</th>
<th>Age of Perpetrator</th>
<th>Percent</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 10 years</td>
<td>13</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>11-16</td>
<td>40</td>
<td>11-16</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>17-18</td>
<td>10</td>
<td>17-18</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>19-25</td>
<td>17</td>
<td>19-25</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>26-35</td>
<td>12</td>
<td>26-35</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>36-45</td>
<td>4</td>
<td>36-45</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>46+</td>
<td>4</td>
<td>46+</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

Source: CID, a magazine of Nepal Police, Annual Publication, 2076
Despite various initiatives, especially the girl child is still badly suffering from Chhaupadi practice. They have not been able to free themselves from the compulsion of living in the sheds during their menstruation.

The NHRCN has also been carrying out monitoring, investigation and promotional activities in order to improve the situation of children and fulfill the goals of the government. All the children are still not enrolled in the schools and the tendency of drop out also continues. Children have been deprived of their right to education due to the impact of strikes and shut down on classes, and due to reasons of poverty and geographical remoteness. This problem is found to be more in the remote areas, financially poor, minorities and Dalit communities. The corporal punishment in schools and in homes and families also remains a challenge to protection of child rights. The stakeholders need to be more sensitive on issues of child rights with a focus on these problems.

**Rights of the Senior Citizens**

Senior citizens mean the elderly or the people who have crossed the average age. Generally, this age is physically and mentally less active or inactive condition. The senior citizens are full of experience and knowledge. They are the guide to the family, society and nation. The rights of the senior citizens have been established in various international and national instruments of human rights. The Universal Declaration of Human Rights states that all people are entitled to rights without any discrimination. Article 25 (1) of the Declaration guarantees the right to social security for livelihood in the old age. Article 10 of the International Covenant on Economic, Social and Cultural Rights, 1966 states that the State should recognize the right of every individual to social security.

Article 6 of the International Covenant on Civil and Political Rights, 1966 establishes that every individual has inherent right to life and the right to live. Nobody shall be arbitrarily deprived of life and the right to live shall be protected by the law. Article 11 (1) (e) of the Convention on Elimination of All kinds of Discrimination against Women provides that senior women citizens shall not be discriminated in the right to social security. The Convention on the Rights of Persons with Disabilities, 2006, Article 25 (b) states that health services should be provided to the senior citizens in order to minimize or prevent additional disability. Article 28 (b) of the same Convention talks about ensuring senior citizens with disabilities' access to social security programmes and poverty alleviation initiatives. Likewise, the Vienna International Plan of Action on Ageing, 1982, and the UN principles on the Ageing passed by the UNGA on 16 December 1991, the Macau Action Plan for Ageing for the Asia Pacific region mentions various aspects of the rights of the senior citizens.
The Constitution of Nepal (2015) under Right to Equality Article 18 (3) proviso statement states that special provisions could be made for the protection, empowerment or development of the citizens including children, senior citizens, gender and sexual minorities, persons with disabilities, incapacitated or helpless. Women, workers, elderly and incapacitated and helpless citizens shall have the right to social security as provided in the law, while under directive principles, the State shall adopt a policy of making special provisions of social security for the helpless, elderly etc. Article 41 of the Constitution states that the senior citizens shall have the right to special protection and social security from the state. Senior Citizens Act, 2006 provides for the formation of the Central Senior Citizens Welfare Committee and Senior Citizens Welfare Trust for the care and social security of the senior citizens. Likewise, the Civil Code, 2017 provides for positive discrimination in Clause 19, duty of children towards parents in Clause 122 and provision of social security allowance in the Social Security Act, 2017.

According to the 2011 census, the total population of Nepal was 26,494,504 and of them 2154003 (8.13%) including 1,089,511 women and 1,064,939 men were senior citizens. The number is found to be increasing by 3 to 3.5 per cent due to basic nutrition, food, hygiene and health services. It would be relevant to estimate that due to increased life expectancy in 2075, increased medical facilities and decreased birth rate, the number could have increased by 3 to 3.5 per cent in every district. As per this estimation the population of senior citizens must be around 2.5 to 2.8 million.\(^\text{18}\)

The number of old age homes in 45 districts of the country is 87 while 22 old age homes are under-construction. Old age homes are operating in 11 districts in province no. 1, five districts in province no. 2, seven districts in province no. 3, eight districts in Gandaki province, eight districts in province no. 5, two in Karnali and four in Sudur Paschim province. There more than one old age homes in some districts.\(^\text{19}\) The number of day service centres in the country is 119. There are a total of 1,577 including 965 women and 612 men living in old age homes across the country.\(^\text{20}\)

\(^\text{18}\) Sambahak\%2010_SeniorCitizen_Issue_Mangshir_2075.pdf, p.38


\(^\text{20}\) Ibid.
<table>
<thead>
<tr>
<th>Province-Wise Number of Senior Citizens</th>
<th>Women</th>
<th>Men</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Province no. 1</td>
<td>196,513</td>
<td>196,518</td>
<td>393,031</td>
</tr>
<tr>
<td>Province no. 2</td>
<td>194,515</td>
<td>211,183</td>
<td>405,698</td>
</tr>
<tr>
<td>Province no. 3</td>
<td>235,920</td>
<td>220,067</td>
<td>455,987</td>
</tr>
<tr>
<td>Province no. 4</td>
<td>147,042</td>
<td>135,939</td>
<td>282,981</td>
</tr>
<tr>
<td>Province no. 4</td>
<td>147,042</td>
<td>135,939</td>
<td>282,981</td>
</tr>
<tr>
<td>Province no. 5</td>
<td>166,677</td>
<td>169,674</td>
<td>336,351</td>
</tr>
<tr>
<td>Province no. 6</td>
<td>44,369</td>
<td>43,267</td>
<td>87,636</td>
</tr>
<tr>
<td>Province no. 7</td>
<td>104,475</td>
<td>192,766</td>
<td>292,241</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2,154,003</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

According to the concept of social security, the government has been providing as social security allowance three thousand rupees a month to citizens of 70 years and above. The government has taken up a policy to encourage service providers to provide special concession to the senior citizens in the entertainment and other specified sectors. Likewise, the respect Supreme Court has issued a mandamus order in the name of the government to provide 50 per cent discount in public and other services as per the Act. The government has adopted a policy of providing 50 per cent discount in public transportation, including reservation of seats for the senior citizens.

Despite these special provisions, the situation of senior citizens is not satisfactory. The implementation aspect is very poor. The NHRCN carry out monitoring and organized interaction about the situation of senior citizens in Khotang, Okhaldhunga, Solukhumbu, Parbat, Myagdi, Mustang and other districts. Based on the facts collected by the NHRCN, the government decision of providing concession in public transport and health sector has not been implemented. The recommendations made by the NHRCN to make timely changes to the Senior Citizens Act, and criminalizing the act of abandoning the senior citizens, among others have not been implemented.
Increase in the number of old age home and care centres means the senior citizens are abandoned and neglected by their families. They are still suffering from socio-economic, health and family problems. The investment of the government has not reached the target group (senior citizens). There are no effective and concrete policies and programmes towards this end. The grant provided by the government is not transparent, as a result of which the investment made in day care centres has not been utilized. Senior citizens are forced to take refuge in old age home due to lack of love and care, and respect from their family.

After becoming financially, physically and mentally weak, the trend of family taking them as a burden and putting them in old age homes is increasing. Due to increased influence of modernization and western culture, the dismantling of ancient tradition and culture is giving way to anomalies. In addition to this, the generation gap is increasing. As the Nepali society moves from joint family to nuclear family, the impact has been on the senior citizens. They are forced to spend a segregated life, insulated for lack of property, abuse and finally expelled from own home. The disintegration of the family is increasing rapidly due to increased influence of western culture, migration and foreign employment, among others. Senior citizens are the most affected by this. With poor mental and physical condition due to old age, serious problems are seen in their care. As a result, it has already been late to draw the attention of the stakeholders to address the human rights of the senior citizens.

During this fiscal year, the NHRCN held various programmes in relation to the rights of the senior citizens. Considering the health of the senior citizens, the NHRCN constituted a team of geriatric doctors under the convenorship of Dr Gauri Shanker Lal Das. The team carried out health checkup of senior citizens in the old age home in Mahendranagar. Similar initiative has been planned to be held in old age homes in Dhankuta, Syangja and other districts in the coming fiscal year. Likewise, a discussion was held with geriatric experts to include medical treatment and care procedures in the curriculum of MBBS and Nursing under medical education. During the discussion, the experts emphasized on monitoring by the NHRCN including experts the situation of the geriatric wards of the hospital and ways to improve them. They also suggested making monitoring standards for the senior citizens care centres and national and international education and training for the expert health workers. They emphasized on implementation of the NHRCN recommendation to run a geriatric ward well-equipped with resources and personnel in at least one hospital in every province.
Among the senior citizens, the NHRCN has been carrying out study and monitoring with a focus on the rights of those living in old age home and day care centres. The monitoring showed that senior citizens are being left at old age homes due to family dispute and disintegration, decline in moral education in the society, lack of awareness, lack of sense of responsibility, inter-generation conflict, seeking solitude and religious sites, and voluntary choice. Majority of the senior citizens in the old age homes are suffering from one or other family, psychological and social problem, and physical disease. Other problems facing the senior citizens in the old age homes are ageing-related weakness, lack of proper food, health related problems, lack of family and human behavior, absence of love, some deprived of citizenship certificate, and compulsion to leave a solitude life without a society. The reasons to live in an old age home are absence of a family and lack of family love and respect even for those with a family. Another reason is no member of the family has time to spend with the senior citizens.

Some positive initiatives are being taken for the rights of the senior citizens at one hand, while on the other there many challenges as well. For this, the state should give special emphasis to timely amendments in the related legislation, and implementation of the existing regulations. Also, if the stakeholders perform their respective role the problems seen can be addressed gradually.

**Rights of the Persons with Disabilities**

Disability is caused by birth, due to accidents, natural disaster, disease etc. Persons with disabilities are those people who face obstruction to full and effective participation in par with a normal person in the society due to interaction with various obstructions created as a result of physical, mental, intellectual and cognitive long-term incapacity.\(^\text{21}\) The Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966 and its two optional protocols, Convention against Torture and other Cruel, Inhumane and Degrading behavior, 1984 have given special emphasis on the fact that nobody should be discriminated against on the basis of physical condition. Likewise, the Convention on Elimination of All Kinds of Discrimination Against Women, 1979, Child Rights Convention, 1989, Geneva Conventions, 1949 (applicable only during war or armed conflict) and other instruments have fully prohibited discrimination on the basis of physical condition, and also established special rights/reservation for them. These instruments emphasize that all are equal before the law, and the right against discrimination. The International Convention on the Rights of Persons with disabilities,

\(^{21}\) Convention on the Rights of People with Disabilities, 2006, Article 1
2006 and optional protocol 2006 guarantee the rights of persons with disabilities, and have also introduced some general principles relating to such rights.


The aforementioned constitution, act and regulations emphasize on the right against discrimination, right of community life, right of protection, right of political participation, right of participation in policy making etc. Likewise, the right to open organisation, right to participate in cultural life, right to access to service, facility and justice, right to social security, right to information, right to movement etc. have also been mentioned. In addition to this, additional and special rights have been mentioned for persons with disabilities, women and children.

According to the 2011 census by the Central Bureau of Statistics, the population of persons with disabilities in Nepal is 513,321 (1.94 per cent). This includes 233,235 women and 280,086 men. Hence, the population as per the currently available official data is 513,321 (1.94 per cent). However, the study by theWorld Health Organisation and other institutions show that the population of persons with disabilities is usually around 10 per cent. Hence, in Nepal too, the population of persons with disabilities could be more than that shown by the CBS. A difference in the data of 2011 and present is very obvious. Due to the socio-cultural reason, there is a tendency in our society to not bring persons with disabilities in the public.
The National Disabled Federation and other stakeholders claim that the population of persons with disabilities in Nepal should be more than 1.94 per cent due to this reason. The rights of persons with disabilities have been well-known in international human rights instruments, Constitution and the law. Various mechanisms have been developed for their implementation, while programmes are being implemented. Free education including special education and scholarship have been managed for the hearing impairment, vision related disability and persons with mental disabilities. According to the Civil Service Act, five percent seats are reserved for persons with disabilities, while skills-oriented training, radio and TV programmes on disability, and concession in customs duty on essential support materials have been provided. People who suffer disability during service in Nepal Police are entitled to disability allowance, children allowance, educational allowance and financial support. Persons with disabilities working in television are entitled to scholarship, employment for PWD in Nepal Telecom and Education Service, and five percent reservation in appointment of community school teachers and staffs and in permanent service of Radio Nepal.

Through its budget statement, the government has announced the schools as disability and child friendly. It states that development and research of Nepali sign language, interpreters training and professional development would be encouraged. Emphasis has been laid on operation of residential schools with special education in the provinces so as to increase the access of children with disabilities to education. The Supreme Court has also made some significant decisions for the protection and promotion of the rights of persons with disabilities. Some of which are access of persons with disabilities to public physical structures, prohibiting the detention of people with mental disabilities, free education for persons with disabilities and minimum subsistence allowance for highly incapacitated PWDs (three to five thousand per month) etc.

Though the aforementioned legal aspect is positive, in practice the overall situation of the persons with disabilities is not satisfactory. The notion to look at them with sympathy has not been fully wiped out. An analysis of the data and information collected through the monitoring and promotional activities by the NHRCN shows that the issue of PWDs is still being looked at from the welfare approach rather than rights-based approach.

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As a result, their rights have not fallen in the priority of the state or the stakeholders. The practice of not treating them as humans due to social harmful practice, superstition, illiteracy, negligence and abuse continues to exist. The Constitution, law and policies are not fully implemented. Barring some exceptions, the public physical structures are not disability-friendly. The persons with disabilities cannot use the public transportation, the drivers do not stop for them, and take it as a hassle to put them in the vehicle. The Government offices, schools, private offices, roads etc. are not developed in a disability-friendly manner. Monitoring and interaction by NHRCN showed that the roads and footpath in almost all the cities including the capital are not friendly for pedestrians and persons with disabilities. It is the duty of the state to protect the rights of persons with disabilities. In this regard, recalling the repeated recommendations and communication made to the Government of Nepal, the NHRCN would like to urge the government again to make the physical structures accessible for persons with disabilities, and protect and promote their rights by making the hospital, sports ground, road, public and government offices, public transport, toilets, bus park and other structures disability-friendly.

As a result, persons with disabilities have yet to get access to basic needs like employment, health and education. Problems like schools being far away due to geographical remoteness and lack of teachers who understand their psychology based on the classification of disability continues. As far as possible students with disabilities are not enrolled in schools, and if the parents enroll them under special education they are still ignored. Continuity of education is affected after primary education as opportunity for higher education is not available in the locality and there is no situation or environment to move elsewhere for the students with disabilities. Severe violence against women and children shatter them mentally, and hence the tendency of long-term mental disability is on the rise.

The participation of persons with disabilities in political level, the mainstream of the state, is almost nil. As a result, an environment to understand their psychology, participation in policy making and formulating programmes accordingly has not developed. As a result, there is a need to develop a feeling that the persons with disabilities are also humans, nobody becomes disabled by choice and that anybody can become a disabled at any point of time, they also have abilities and can function in a different way.

23 Press statement issued on 2019 March 29 on the title ‘Be sensitive on construction of disability-friendly physical structures’
24 Ibid
Rights of Indigenous Nationalities

According to the National Foundation for Upliftment of Indigenous Nationalities Act, 2002, indigenous nationalities are understood as the ethnic groups or communities who have their own mother tongue and traditional custom, separate cultural identity, distinct social structure and written or unwritten history. The ILO Convention 169 on indigenous people includes issues like land rights, access to natural resources, education, health and employment. This Convention emphasizes on the right to participation in decision making and protection and promotion of indigenous people's rights. Their right to socio-economic and cultural development, and right to participation in the formulation, and implementation and evaluation of development projects and programmes that affect them.

Under fundamental rights, the Constitution of Nepal guarantees the right to education and culture for every community to receive basic education in their mother tongue, and to protect and promote their language, script, culture, cultural civilization and heritage. Under right to social justice, the women, Dalit, indigenous nationalities, madhesi, underprivileged, poor farmers and workers who are behind in terms of socio-economic and educational status have the right to participate in the state structure on the basis of the principle of proportional inclusion. Under directives of the State, a provision has been made for reservation for a certain period of time in education, health, housing, food sovereignty and employment as part of the state obligation. This also includes a policy to uplift the socio-economically backward indigenous nationalities and making special provisions on the basis of positive discrimination. Reservation has been made for a specific period of time in education, health, food sovereignty and employment. It states that the State shall adopt a policy of uplifting the socio-economically backward indigenous nationalities, madhesi, dalit, and the marginalized communities and farmers below the poverty line. Likewise, it is mentioned that the State shall adopt the policy to make special provision on the basis of positive discrimination for the women, dalit, indigenous nationalities, madhesi, muslim and the minorities, landless, former bonded labourers, persons with disabilities, the backward region and communities, and for the conflict survivors.

According to 2011 census, the population of the indigenous nationalities of Nepal is 9,267,870 i.e. 34.97 per cent. The National Foundation for Development of Indigenous Nationalities Act, 2002, Schedule 1 has listed 50 indigenous nationalities.
According to the 2011 census, the population of indigenous nationalities in Nepal is 9,267,870 i.e. 34.9 per cent. Schedule 1 of the National Foundation for Development of Indigenous Nationalities Act, 2002 listed 59 ethnic groups as indigenous nationalities. The groups as been categorized into near-extinct group, highly marginalized group, marginalized group, disadvantaged group, developed group and others.

**Categorization of scheduled indigenous nationalities based on the data of 2011 national census**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Scheduled IP Group</th>
<th>Caste/ Ethnicity</th>
<th>Percentage</th>
<th>Mother Tongue</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Nearly-extinct group</td>
<td>21,284</td>
<td>0.1</td>
<td>19,175</td>
<td>0.1</td>
</tr>
<tr>
<td>2.</td>
<td>Highly marginalized group</td>
<td>594,030</td>
<td>2.2</td>
<td>235,108</td>
<td>0.9</td>
</tr>
<tr>
<td>3.</td>
<td>Marginalized group</td>
<td>3,829,297</td>
<td>14.5</td>
<td>3,142,114</td>
<td>11.9</td>
</tr>
<tr>
<td>4.</td>
<td>Disadvantaged group</td>
<td>3,587,191</td>
<td>13.5</td>
<td>1,771,025</td>
<td>6.7</td>
</tr>
<tr>
<td>5.</td>
<td>Developed group</td>
<td>1,335,148</td>
<td>5.0</td>
<td>851,799</td>
<td>3.2</td>
</tr>
<tr>
<td>6.</td>
<td>Other IN groups</td>
<td>1,228</td>
<td>0.0</td>
<td>-</td>
<td>0.0</td>
</tr>
<tr>
<td></td>
<td>Total population</td>
<td>26,494,504</td>
<td>100 per cent</td>
<td>26,494,504</td>
<td>100 per cent</td>
</tr>
</tbody>
</table>

*Source: http://www.nfdin.gov.np/uploads/ck/58f74a709bdeb1.pdf*

The Constitution has envisaged an Indigenous Nationalities Commission for the protection, respect and fulfillment of the human rights of the indigenous nationalities. The provision of reservation in public service is gradually increasing the access of the indigenous nationalities to government service. The National Foundation for the Development of the Indigenous Nationalities founded as an autonomous government body in 2002 has been working with the objective of uplifting and empowering the indigenous nationalities. As Nepal is a multi-ethnic, multi-lingual, multi-religious and multi-cultural country, the concept of respect towards mutual identity and diversity is gradually developing in the country. The indigenous communities are rich in distinct knowledge, skills and technology, which are the basis of their livelihood, and have been included under the right to profession and employment by the Convention. The indigenous nationalities continue to observe customary practices and customary law. And explorative study has not been held on ways to bring adjustment between such practices and the prevalent law.
The Ghampa of Thakali community, Badghar, Mahatanwa, Bhalanasa of Tharus, and Palikem in Hayus are some customary judicial systems in practice. Hence, a study and analysis are necessary between the existing legal system and the customary practices. Attention should also be paid towards advancing these practices according to the need of the time.

Despite these various positive systems, the situation of indigenous nationalities has not seen progress as much as expected. The identity of any ethnic group is their language, culture and institutions. Likewise, the identity of the indigenous nationalities is founded in their own language, costume, script, customs, traditions, culture, livelihood-oriented profession, and social institutions established to run social practices.25 Various efforts are being made to define the indigenous nationalities and still ongoing. But so far, any universal definition has not been established. Emphasizing on the need to respect the rights and aspiration of the indigenous nationalities to define themselves, they are protesting against the efforts being made to define them in a formal manner. In this regard, the former chair of the working group on indigenous nationalities Erica Dais has said that ‘the indigenous people are victims of a definition imposed by others.’26 Hence, there seems to be a problem of a common definition of indigenous nationalities and various other issues.

Within this community also, the situation of the disappearing communities like Raute, Surel, Kusunda and Chepang is very disappointing. Their participation in the public sector is almost nil. The Surels who are found only in the Suri village of Dolakha donot have any political representation even at the local level. Though language interpreter is provided in some instances, the problem of language exists in majority of the courts in the country. Due to lack of interpreters in the court, the accused persons are not able to put their version in the right way, cannot clearly understand the questions asked by the court staff in Nepali language, and hence cannot respond to them. This has direct impact on the delivery of justice. The Constitution has adopted a multi-ethnic, multi-lingual and multi-cultural policy. This needs to be implemented effectively. The state and the stakeholders need to pay their attention towards this end. The details of the recommendations made by the NHRCN are given in annex eight.

special one. Likewise, the ILO Convention 1960 (no. 29) on compulsory or forced labour, Convention on Migration for Labour (amended), 1949 (no.97), Convention

25 Status report on the implementation of ILO Convention 169 published by the NHRC, 2019, p.15
26 Ibid
on decent work for domestic workers, 2011 (no. 189) are also in effect. The Convention on protection of the freedom of Association and to be associated, 1948 (no. 87), Convention on migrant workers (additional provision), 1975 (no. 143), Convention on Private Employment Agency, 1997 (no. 141) also mention about the rights of workers.

**People Going for Foreign Employment with Labour Permit**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Country</th>
<th>Women</th>
<th>Men</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Qatar</td>
<td>19,254</td>
<td>1,248,491</td>
<td>1,267,745</td>
</tr>
<tr>
<td>2.</td>
<td>Malaysia</td>
<td>30,065</td>
<td>1,290,924</td>
<td>1,320,989</td>
</tr>
<tr>
<td>3.</td>
<td>Saudi Arabia</td>
<td>8,321</td>
<td>913,938</td>
<td>922,259</td>
</tr>
<tr>
<td>4.</td>
<td>United Arab Emirates</td>
<td>59,126</td>
<td>569,795</td>
<td>628,921</td>
</tr>
<tr>
<td>5.</td>
<td>Kuwait</td>
<td>42,677</td>
<td>1,13,585</td>
<td>156,262</td>
</tr>
<tr>
<td>6.</td>
<td>Bahrain</td>
<td>4,445</td>
<td>51,666</td>
<td>56,111</td>
</tr>
<tr>
<td>7.</td>
<td>Oman</td>
<td>5,717</td>
<td>31,989</td>
<td>37,706</td>
</tr>
<tr>
<td>8.</td>
<td>South Korea</td>
<td>2,711</td>
<td>58,593</td>
<td>62,304</td>
</tr>
<tr>
<td>9.</td>
<td>Lebanon</td>
<td>11,542</td>
<td>1,231</td>
<td>12,773</td>
</tr>
<tr>
<td>10.</td>
<td>Israel</td>
<td>4,492</td>
<td>2,323</td>
<td>6,815</td>
</tr>
<tr>
<td>11.</td>
<td>Afghanistan</td>
<td>52</td>
<td>13,586</td>
<td>13,638</td>
</tr>
<tr>
<td>12.</td>
<td>Japan</td>
<td>1,006</td>
<td>18,272</td>
<td>19,278</td>
</tr>
<tr>
<td>13.</td>
<td>Others</td>
<td>27,865</td>
<td>66,901</td>
<td>94,766</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>2,18,273</strong></td>
<td><strong>4,381,294</strong></td>
<td><strong>4,599,567</strong></td>
</tr>
</tbody>
</table>

In the context of Nepal, the Foreign Employment Act, 2007 and foreign employment policy are implemented. There is also a provision of foreign employment tribunal and labour attaché. In addition to this, the government has been making special provisions through bilateral agreement with the destination countries in order to send workers for foreign employment. Officially, the government of Nepal has granted labour permitted to 110 countries.

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27 Research-report on the situation of rights of migrant workers, recruitment practices and access to justice, 2019, NHRC, p.3
The practice of going for foreign employment is both institutional and individual in the country. The trend of going to the third country on the basis of institutional labour permit is very high. Based on a demand letter from the employment in a foreign country, the foreign employment agency sends workers to the third country through institutional labour permit. Under individual labour permit, the practice is the individual going for foreign employment acquires individual labour permit on his/her own or by finding work through relatives. There is also a significant population going for foreign employment in India by using the porous border and without labour permit (regarded official). People are also taken to the third country informally (without labour permit or official channel). special one. Likewise, the ILO Convention 1960 (no. 29) on compulsory or forced labour, Convention on Migration for Labour (amended), 1949 (no.97), Convention on decent work for domestic workers, 2011 (no. 189) are also in effect. The Convention on protection of the freedom of Association and to be associated, 1948 (no. 87), Convention on migrant workers (additional provision), 1975 (no. 143), Convention on Private Employment Agency, 1997 (no. 141) also mention about the rights of workers.

In the context of Nepal, the Foreign Employment Act, 2007 and foreign employment policy are implemented. There is also a provision of foreign employment tribunal and labour attaché. In addition to this, the government has been making special provisions through bilateral agreement with the destination countries in order to send workers for foreign employment. Officially, the government of Nepal has granted labour permitted to 110 countries.

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The aforementioned data is of those going for foreign employment with labour permit from fiscal year 2050/51 to 2076 Jetha end. This does not include the people who have gone for employment in India. According to available data, the number of women going for foreign employment with labour permit is 218,276 while the men are 4,381,294. Even though the number of people taking the informal channel
to go for foreign employment is not certain, it is estimated that the number is 750,000 annually, except of India. Even though the migrant workers have a great contribution to the economic development of the country, this sector is not fully organized. Due to poverty and failure to create sufficient employment opportunities in the country, the problems existing since the past remain as it is. On the other hand, even though workers are promised attractive work, attractive salary and overtime work, the situation is just opposite in the labour destination countries. As basically unskilled and semi-skilled workers are sent, they do not acquire and are not provided with the right information about the destination country, and as the employer turns out to be different, the incidents of workers suffering health complications to death have increased. And when workers go through illegal channel after being enticed by the brokers, they face legal and practical complexities. The monitoring by the NHRCN showed that the free VISA and free ticket has not been fully implemented, migrant workers lack skills and efficiency, and those going for foreign employment are not familiar with the local language and the laws of the destination country.

The problems of those going for work in neighbouring India usually falls under the shadow. Incidents of workers being looted at the Indian border and mistreated by security personnel are being reported. Many women and children are trafficked after getting tricked into by the brokers. These problems could not have taken such severe form only if employment was generated inside the country and attention was paid to sending skilled workers, health condition and language skills. In addition to this, special attention should be given to the rescue of the workers who are vulnerable, bringing the dead bodies back, action against the perpetrators and compensation to the victims. The stakeholders need to be more sensitive towards this end.

**Right to Development and Environment**

The right to development and clean environment is a matter of direct interest and concern with human life. The Universal Declaration of Human Rights, 1948, Covenant on Economic, Social and Culture Rights, 1966, Convention on Elimination of All Kinds of Discrimination against Women, 1979, Child Rights Convention 1989, ILO Convention 169 also recognized development and environment as an integral part of human rights. The UN Declaration on right to Development, 1986 has noted development as human rights. The UN Environment Conference held in 1973 in Nairobi, Kenya, the 1990 earth conference, 1990 Vienna conference and 1992 earth conference held in Rio de Janeiro, Brazil have prioritized the right to environment. The Constitution of Nepal, (2015) gives special importance to right to clean environment in Article 30, and also includes it as a fundamental right, which provides (1) Every citizen shall have the right to live in a clean and healthy environment.
(2) The victim shall have the right to obtain compensation, in accordance with law, for any injury caused from environmental pollution or degradation. (3) This Article shall not be deemed to prevent the making of necessary legal provisions for a proper balance between the environment and development, in development works of the nation. The Environment Protection Act, 1997 and its regulations 1998 give special emphasis to protection of environment. The Fourth National Human Rights Action Plan includes the citizen's right to live in a clean environment.

Development and environment are inter-related. Currently various national and international campaigns are being organized for development and protection of environment. The NHRCN has also been working in this sector with priority. The conclusion from the NHRCN monitoring, study, discussion and interaction shows a very poor situation of development and environment. The federal, provincial and local governments have not been able to come with any concrete plan and effective programmes for solid waste management and environment protection. There is lack of coordination among the government agencies. Life is the capital and adjoining regions has been badly affected by the dust from the houses brought to ground in the road expansion drive and the ongoing work of the Melamchi drinking water project in the main roads. The trend of showing urgency is dismantling works but no hurry in rebuilding is leading to a very poor situation of development and environment. People are found to have faced health problems due to lack of clean environment in Kathmandu valley and various other parts of Kathmandu valley. Common cold and cough, skin allergy, itching of the eye and psychological problems like irritation are becoming common. The police personnel mobilized in traffic management have suffered the most from air pollution. The smoke emanating from around 350 brick kilns inside the valley constitutes a big percentage of the pollution. There has been no assessment over the pollution and its impact.

Even the environment of Lumbini area enlisted in the world heritage list and of touristic, religious and archaeological importance has been marred by pollution. As Nepal neighbours India, it has been suffering from the pollution across the border. The tendency of digging roads in the name of development, and leaving it stranded for years has not come to an end. Failure of following the legal standards on environment in the development construction work has forced the local people, tourists and buildings, statues and monasteries of archaeological importance to suffer from the heavy smoke and dust coming out from factories and industries including the cement factories. Human health is facing negative impact while there is a fear of the assets of archeological importance bearing the brunt.
Looking at the government activities gives a sense that development means dismantling and leaving it stranded. In practice, the contractors influence the concerned authority to win contracts and do not work on it for years, and leave it stranded. Compensation for land has come across as another problem. Development construction works have also delayed due to cases filed against them in the court, causing problem even in the pollution prevention and control initiatives. There is lack of mutual coordination among the agencies responsible for development and construction. The tendency of not taking up but staying away from responsibilities is on the rise. The present generation is deprived of the right to environment and development, which is directly related to humans.

### Major Sources of Pollution

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Sources of Pollution</th>
<th>Pollution Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Factories</td>
<td>One</td>
</tr>
<tr>
<td>2.</td>
<td>Burning of waste</td>
<td>One</td>
</tr>
<tr>
<td>3.</td>
<td>Smoke inside the house</td>
<td>Five</td>
</tr>
<tr>
<td>4.</td>
<td>Brick kiln</td>
<td>Nine</td>
</tr>
<tr>
<td>5.</td>
<td>Vehicle</td>
<td>30</td>
</tr>
<tr>
<td>6.</td>
<td>Infrastructure building</td>
<td>53</td>
</tr>
</tbody>
</table>


External as well as domestic reasons are contributing to environmental pollution. The external reasons are beyond the reach of the government, for which the big industrial states are responsible. As a result, small and poor countries are facing the brunt of it. In this regard, the government should act diplomatically. At the domestic level, it’s not only one side that is responsible.

The smoke from factories, smoke from burning of waste, smoke from the vehicles, and infrastructure development works are the major reasons internally. Studies have shown that the vehicles contribute 30 per cent while the infrastructure development contributes 53 per cent of the air pollution. As a result, regular maintenance of vehicles, use of big and electric transport would help bring down the level of pollution to some extent. The government and the stakeholders need to sensitive towards this. In regards to the way forward for the agenda of development and environment protection, the NHRCN has been making various recommendations to the concerned agencies based on study, monitoring, research and interaction.
Chapter – Three
Protection Related Activities

The NHRCN has been carrying out protection related works such as receiving complaints, monitoring, investigating and making recommendations.

Working with Complaints

For the protection and promotion of human rights, the NHRCN has been receiving voluntary complaints and through other medium about incidents of human rights violation as prescribed in the constitution, laws and rules. Such complaints are received from the victims, their families, organizations, individuals or on the basis of news published in the media. After monitoring, investigation and study of such complaints, the NHRCN has been making recommendations to the government or concerned stakeholder agency for compensations and necessary actions. This year, a total of 232 complaints were registered at NHRCN, including at its central, provincial and provincial branches.

The complaints received by the NHRCN are related to political and civil rights, economic, social and cultural rights, and torture. The nature of complaints received is related to justice-administration, right to life, right to peaceful gathering, etc. Similarly, they are related to right to health, education and employment, housing, environment. There are complaints that are concerning right against torture, women’s rights, child rights, rights of persons with disability, rights against racial or caste related discrimination, right of elderly people as well.

Province-wise Complaints

In this fiscal year, a total of 232 complaints were filed, out of which the highest number of complaints were received in Province No. 3 office at Sanepa, which was 96. Similarly, Province No. 2 office in Janakpur received 34 complaints and Gandaki Province office in Pokhara received 27 complaints.
The lowest number of complaints was received in the central office in Lalitpur and in Karnali Province branch office in Jumla, with each receiving 4 complaints. The Far Western Province office in Dhangadi received 23 complaints and Province No. 1 office in Biratnagar received 19, Province No. 1 branch office in Khotang received 11, Province No. 5 office in Butwal received 8, Province No. 5 branch office in Nepalgunj received 6 complaints.

Complaints Related to Nine Conventions

Analysing the nature of complaints filed at the NHRCN in current fiscal year, there are 114 complaints related to violation of civil and political rights, 35 complaints related to economic, social and cultural rights, 24 complaints related to violation of women's rights and 23 complaints related to right against torture.

There are 10 complaints registered on right against forceful disappearance, 9 each in right against discrimination and child rights, 3 each in violation of rights of migrant workers and their families and rights of senior citizens. Along with the remaining two (violation of rights of person with disabilities), the total number of complaints registered are 232.

Theme-wise Complaints

This year, the highest number of complaints registered were as follows: 48 concerning administration of justice, 15 concerning right against torture, 13 concerning threats and 12 concerning violation of right to life. Similarly, other complaints filed were, 11 concerning killing, 10 concerning disappearance, 9
each in child rights, right to property and right against caste based discrimination, 8 each in right to compensation and right to employment, and 7 each in police harassment and domestic violence, 6 each in violence against women, unlawful detention and physical assault, 5 in right to clean environment and 4 each in women’s rights, right to movement and accusation of rape. There are 3 complaints filed each in rights of migrant workers, rights of senior citizens, economic, social and cultural rights, right to health and right to housing. There were 2 complaints filed each concerning disability, accusation of practicing witchcraft and rights of internally displaced persons. Likewise, there were 1 complaint filed each in rights of detainees and prisoners, unknown status, right to privacy, right to culture, right to information, right to education, right to food, consumer right, defamation and rights of third gender.

In the incidences of human rights violations, NHRCN has been providing counselling to the concerned individuals or the representing individual, group or organization on behalf of the concerned party or individuals. The complaints beyond the mandate of NHRCN are referred to the concerned agencies. The complaints within the mandate of NHRCN are forwarded to the concerned bodies/agencies for necessary actions. In the meantime, the complaints are being provided with counselling and advice. In this fiscal year, NHRCN provided counselling service 1227 times.

Human Rights Monitoring

For the protection of human rights, NHRCN has been conducting monitoring by itself or in coordination and collaboration of other stakeholders. The International Treaty Monitoring Division of NHRCN monitors the direct and relevant incidents of human rights. Apart from this, the thematic divisions, sections and units also conduct monitoring by themselves or in coordination and collaboration with others. These monitoring are carried out considering the implementation of international conventions and treaties related to human rights, rights provided by national legal frameworks, policies and directives of the state, national plan of action on human rights, etc. Regular and ad-hoc monitoring is done as per necessity, situation, and gravity of the issue. NHRCN has established a Rapid Response Team for speedy monitoring and investigation of grave violations of human rights in the country and to make the truths and facts public. The team is led by the Director of Law, Investigation and Monitoring Division and it monitors the issues concerning grave violation of human rights all over the country and submits the report to NHRCN immediately. Since the rights are inter-related, they can be divided as civil and political or as economic, social and cultural rights.
In this fiscal year, NHRCN monitored cases related to civil and political rights, economic, social and cultural rights, women and children’s rights. Similarly, right against torture, rights of migrant workers and their families, disappearance of persons, elimination of all kinds of racial discrimination, rights of the persons with disabilities and senior citizens were also monitored. The monitoring on civil and political rights is related to overall status of human rights, administration of justice and right to life. Unknown status, rights of detainees and prisoners, condition of jails and prisons, unlawful detention, physical assault, right to information, right to confidentiality and right to movement were also included in the monitoring.

There are topics related to economic, social and cultural rights, right to housing, property rights, condition of hospitals and health, consumer rights, right of internally displaced persons from natural disaster (flood, landslide/earthquake). Similarly, monitoring was conducted on topics related to senior citizens, women, children, rights of migrant workers, human trafficking. Apart from these, NHRCN has continued the monitoring of human rights of inhabitants in border area with special priority. Team including experts have also been conducting monitoring as per the need and seriousness of the issue.
This fiscal year, NHRCN conducted monitoring 277 (251+26) times in different human rights related issues. Out of these monitoring, 46 were carried out by Province No. 3 office in Sanepa, 33 each by Province No.1 office in Biratnagar and Province No. 2 office in Janakpur, 29 by Province No. 5 branch office in Nepalgunj (including 4 jointly with central office and 3 jointly with Jumla office), 23 by Karnali Province branch office in Jumla and 23 by Far Western office in Dhangadi (including 4 jointly with central office). Similarly, 27 monitoring were conducted by Gandaki Province office in Pokhara, 19 by Province No. 5 office in Butwal. Province No. 1 branch office in Khotang has conducted monitoring 18 times. Additionally, different Divisions of central office have conducted monitoring 26 times, out of which Investigation Division conducted 10 times, 5 times by Conventions Monitoring Division, 3 times each by Gender and Social Inclusion Division, and Human Trafficking and Planning Divisions and twice by Collective Rights Division.

In the current fiscal year, NHRCN conducted 65 monitoring in collaboration and coordination with government and non-government organizations working in human rights sector. The government bodies with which NHRCN collaborated for monitoring are District Administration Office, District Police Office, Women and Children’s Office, District Child Welfare Committee, etc. Among the NGOs, they were other including WOREC, KIRDAC Nepal and Save the Children.

**Human Rights Investigation**

In the cases related to human rights violation and abuse, NHRCN has been taking forward the investigations within the framework of constitution, laws and rules with priority. During this period, investigations were carried out on complaints received in the past years, and received in this fiscal year. A total of 600 new and back log cases/complaints were investigated in this fiscal year. The investigations are being carried out by the Investigation Division of the central office and other offices of the NHRCN.

In this fiscal year, 143 cases were concluded in 18 times by Province No. 1 office in Biratnagar, 116 cases in 15 times by Province No. 3 office in Sanepa, 105 cases in 12 times by Province No. 5 branch office in Nepalgunj, 77 cases in 9 times by Far Western Province office in Dhangadi, 43 cases in 12 times by Gandaki Province office in Pokhara and 41 cases in 6 times by Province No. 1 branch office in Khotang. Similarly, 16 cases were concluded in 10 times by Province No. 1 office in Janakpur, 34 cases in 5 times by Province No. 5 office in Butwal and 25 cases in 5 times by Karnali Province branch office in Jumla. These investigated cases were related to complaints filed during armed conflict and after that.
Most of the cases were concerning right to life, torture and disappearance under the civil and political rights. Similarly, the cases were related to internal displacement, rehabilitation, theft of property, compensation, rights of women and children under the economic, social and cultural rights. Out of the investigated cases in this fiscal year, 535 complaint files have been forwarded to central office for decision.

![Human Rights Investigation](image)

**Determination and Referral of Complaints**

In this fiscal year, decision was made on 825 cases that were investigated by NHRCN. A total of 134 cases have been referred including 120 related to complaints and 14 related to policies. Likewise, 649 cases were determined (604 for execution and 45 for dismissal) and 42 were decided for resubmission after forwarding to complaint body.

![Determination and Referral of Complaints](image)
In Gandaki Province office in Pokhara, there were one policy related and 47 complaint related cases, while in province No.1 office in Biratnagar had 7 related to policy and 25 related to complaints, Province No. 3 office in Sanepa had 2 related to policy and 17 related to complaints. In Province No. 2 office in Janakpur, there are 10 complaint related cases, Province No. 5 branch office in Nepalgunj had 1 policy related and 7 complaint related cases and the central office had 2 policy related and 4 complaint related cases. Similarly, Karnali Province branch office in Jumla had 1 each in policy related and complaint related cases, Province No. 5 office in Butwal had 2 complaint related cases, 6 complaint related cases in Far Western Price office in Dhangadi and 1 complaint related case in Province No.1 branch office in Khotang. Among execution, dismissal and resubmission, there are 134 in Biratnagar, 130 in Nepalgunj, 127 in Pokhara, 95 in Butwal, 78 in Khotang, 66 in Sanepa, 60 in Janakpur, 49 in Dhangadi in 22 in Jumla.
Chapter-Four
Promotional Activities

The promotional activities have a special role in enhancing human rights education and awareness, as well as in advocacy of human rights and information dissemination. The NHRCN has been carrying out such activities under its constitutional and legal obligations. In order to make the promotional activities more organized and effective, the NHRCN has also formulated and implemented the Human Rights Collaboration and Coordination Guidelines, 2009. These kinds of activities based on the strategic plan of the NHRCN is supporting the development and expansion of human rights culture.

During the fiscal year, the NHRCN worked with a priority for the realization of its slogan 'human rights for all at every households, foundation for peace and development'. In order to realize the slogan of the NHRCN, the promotion division, thematic division, units under the central office and the provincial offices and branch offices carried out various activities unilaterally and in coordination and collaboration. The activities included interaction, discussion, meetings, seminar and trainings etc.

During the fiscal year, a total of 219 (185+34) promotional activities were held. In numerical terms, the central office promotion division organized 34, Gandaki provincial office, Pokhara organized 29, Sudur Paschim Provincial Office, Dhangadi organized 26, province no. 5 office Butwal organized 24 events. Likewise, province no. 5 branch office in Nepalgunj hosted 23 (including five jointly with the centre and three with Jumla), province no. 1 office, Biratnagar organized 18, Karnali provincial branch office, Jumla and province no. 2 office Janakpur organized 17 each. Similarly, the province no. 3 office, Sanepa organized 16, province no. 1 branch office, Khotang organized 15 activities. Of the programmes held, 56 were held in coordination and collaboration. Participation was also made (41 as resource person/expert and 276 as chief guest/guest and participant) in the human rights related programmes organized by human rights and professional institutions.

During the fiscal year, 48 programmes were held internally including training, seminar, discussion, workshop and meetings. Reports, booklets, brochures etc. have been published to support promotion of human rights. The NHRCN offices have been broadcasting awareness-oriented programmes, interview and jingles in Nepali and local languages through FM radio stations. It has also been disseminating information through press statement, press note, website, twitter and facebook.
The Chairperson and members have been attending many of the programmes organized by the NHRCN. Promotional activities have also been held in collaboration and coordination with the stakeholders. The collaborating and coordinating agencies include the government agencies, local bodies, non-government organisations, and professional organisations. Interaction and discussion have been held on judicial action with various municipalities and rural municipalities of all the seven provinces, including with Kathmandu and Lalitpur Metropolis. The Central Office collaborated with former Judges Society, NGO Federation, National Disabled Federation, Consumers’ Forum Nepal, Ageing Nepal, CZOP Nepal, Lahurnip Nepal, Human Rights Organisation of Nepal, Forum for Women, Law and Development, Feminist Dalit Organisation. Collaboration with international NGOs included United Nations Food and Agriculture Organisation, Lutheran World Service and Save the Children.

Likewise, at the regional level, coordination and collaboration was reached on thematic issues with the Red Cross, women and children office and women’s day main celebration committee. The NGOs that the Commission collaborated included human rights defender’s council, National Campaign as Children as Zone of Peace, Dalit Social Development, Tarai Human Rights Defenders, Advocacy Forum, Blue Diamond Society, WOREC Nepal, Conflict Victims Common Platform, Kallali district food rights network, NIDS etc. Similarly, the child clubs’ network, 16-day campaign against violence against women, chamber of commerce and industry and hotel entrepreneur’s association also collaboration with the NHRCN in this fiscal year.
Chapter Five
Coordination between NHRCN and Other Stakeholders

NHRCN and Office of the President

Constitutionally, the NHRCN is required to submit its annual report of its activities of every fiscal year to the President. The President in turn presents the report, through the Prime Minister, for discussion at the federal parliament. A team led by the Hon. Chairperson and including members, secretary and staffs submitted the NHRCN's annual report to the President on 9 December, 2019. On the occasion, the NHRCN Hon. Chairperson shed light in brief the activities carried out by the Commission, the challenges it faced and various other aspects of human rights. The President thanked the NHRCN for successfully carrying out its role despite various challenges. She emphasized that the NHRCN should move ahead with more vigor, along with the commitment to take the initiative from its side for development of a culture of human rights.

NHRCN and the Government of Nepal

The respect, protection, promotion and fulfillment of human rights are basically the duty of the government. Even though the NHRCN is a constitutional, independent and autonomous body it is directly concerned with the government in terms of its activities. The duty of implementing the recommendations of the NHRCN to bearing the financial burden lies with the government. The NHRCN has been holding meetings, discussion, deliberations and consultation with the government agencies based on need, seriousness of the matter and rationale. The agenda of discussion and consultation is usually the human rights issues and the financial and administrative issues of the Commission. The NHRCN has been inviting the Government of Nepal Prime Minister, Ministers and high-ranking officials to its programmes. Likewise, it attends the programmes organized by the government agencies. Matters relating to the human rights situation of the country, law and order, burning issues of human rights, the NHRCN recommendations etc. are discussed with the government agencies. Along with providing necessary support to the government for protection and promotion of human rights, the NHRCN has been giving advice as well as necessary directives to the government based on the case at hand.

The NHRCN has been holding meetings, discussion as well as collaboration and coordination with the federal, provincial and local government on thematic issues.
Collaboration as well as supervision is taking place with the government with a focus on issues related to human rights. Under the federation, the Government and the NHRCN has been organizing thematic human rights protection and promotion work in different phases. The discussion between the Prime Minister and the NHRCN Chair on the issue of the amendment of the NHRCN Act, transitional justice, human rights situation and other issues can be regarded as the result of the same. Discussion/dialogue has been held between the NHRCN and the concerned government agencies to address transitional justice. Such programmes held in the presence of the Law Minister have been focused especially on the victim and international community, amendment of transitional justice acts etc.

The NHRCN held a discussion on 7 September, 2018 with Home Minister Ram Bahadur Thapa 'Badal' on contemporary issues of human rights, including law and order. In the discussion, NHRCN Chairperson drew attention of the government towards various issues. The issues raised on the occasion were shortcomings seen in the investigation process of the incident of the rape and murder of Nirmala Pant, and violation of human rights taking place in the country. Home Minister Thapa said efforts were being made to check with priority the incident of rape and violence against women taking place due to drug abuse and misuse of the internet, extortion terror, explosions and smuggling. In collaboration with Nepal Police, the NHRCN also organized a national campaign on 'Role of Nepal Police in Mitigation of Violence against Women and Protection of Human Rights.'

The NHRCN also developed a booklet targeting the local level Judicial Committees. The local level in dispute resolution, human rights booklet was unveiled on 18 October, 2018 by Minister for Federal Affairs and General Administration Lal Bahadur Pandit and the NHRCN Chairperson. Various programmes were also held in coordination and collaboration between the NHRCN and Nepal Police to end the Chhaupadi practice prevalent in Dailkeh and Accham districts.

The Commission has been inviting the Head of the Government, Ministers as the chief guest/guest of its important events, and drawing their attention towards the burning issues of human rights. The NHRCN has also participating as resource persons in the training on various areas of human rights organized by the security agencies for their personnel. In addition to this, the NHRCN has also been attending and expressing its view in the human rights related programmes organized by the government agencies.

After the country adopted a federal structure, the NHRCN has also been focusing its activities accordingly. It has held various programmes related to human
rights with the provincial as well as local governments. It has especially given emphasis to the issues of human rights in the dispute resolution by the local government. Such works have been executed under the promotion division, department and units.

**NHRCN and Political Parties, Civil Society/NGO/Professional Organisations**

It has been mentioned in the Constitution and the Act that the NHRCN can carry out human rights protection and promotion works in collaboration and coordination with the stakeholders. In order to make this task more organized and effective, the NHRCN has been working on the basis of collaboration guidelines. These activities are especially carried out with political parties, civil society, organisations working in the human rights sector, NGOs and professional organisations. In this fiscal year, the NHRCN carried out 65 monitoring events in collaboration with the stakeholders on various issues of human rights. Likewise, 56 promotional events were held in collaboration, which are listed under the heading of monitoring and promotion activities.

**NHRCN and International Community**

The NHRCN has been collaboration and coordination with the international organisations as well. Such institutions include especially the Asian Pacific Forum (APF) and Global Alliance of the National Human Rights Institutions (GANHRI). Likewise, it includes the national human rights institutions of the concerned countries, the UN, international human rights institutions, and the diplomatic mission etc.

During this fiscal year, a workshop on economic, social and cultural rights was held in Kathmandu on 12 - 15 November 2018 under the joint auspices of the NHRCN and the Association of the human rights institution of South Asian countries. Three officers from the NHRCN and representatives of human rights institutions from the Asia Pacific region also attended the workshop. During the fiscal year, the GANHRI accredited the performance of the NHRCN considering its independence and autonomy among other aspects. In the accreditation held from 11- 15 March 2019, the 'A status' of the NHRCN was maintained. The GANHRI made a five-point recommendation to the NHRCN. The Commission has been participating in various survey organized by both these institutions. It has also been submitting reports on various issues to the Human Rights Council. In addition to this, collaboration and coordination based on needs is also taking place at the international level with NHRIs, donor agencies, and foreign embassies.
The NHRCN and these institutions are carrying out study, visit and exchanging mutual cooperation and experience on the situation of human rights. The NHRCN continued these activities in this fiscal year as well.

Projects

The NHRCN has been organizing human rights programmes with support and coordination of projects. The projects include NHRC's Strategic Plan Support Project (SPSP) supported by United Nations Development Programme (UNDP) and the Enhancing the Capacity of National Human Rights Commission Project (ECNHRCP) by the European Commission Delegation to Nepal. These projects have been supporting the NHRCN in training, workshop, orientation and publication works etc.
Chapter-Six
Achievements, Challenges, Possible Solutions and Way Forward

Achievements

Like in the previous year, the NHRCN carried out with priority activities related to protection and promotion of human rights. The NHRCN carried out these activities with a focus on its slogan of 'human rights for all at every household: foundation for peace and development.' Based on the tasks executed, various achievements have been made, which can be outlined as:

NHRCN Continues to Maintain "A" Status

The National Human Rights Commission (NHRCN) of Nepal has been maintaining 'A' status since its inception. This year too, the NHRCN was successful in maintaining the "A" status. The Global Alliance of National Human Rights Institutions (GANHRI) classifies the NHRIs into various categories based on an accreditation. The conference held on March 11-15, 2019 gave NHRCN this status. The basis for categorization is adherence to the Paris principles of autonomy, freedom and effective organizational structure and role played in the protection and promotion of human rights.
NHRCN Receives Land for Building Construction

The NHRCN has begun looking for land for the construction of building to the take its provincial offices to a permanent structure. The beginning of this has made from Dhangadi, where the District Coordination Committee has provided four kattha of land in ward no. 2 of Dhangadi municipality to construct the NHRCN provincial office and the Federation of Nepali Journalists district chapter office. Similar discussion is being held in the remaining six provinces with the provincial government, the DCC and municipalities.

Accepting Complaints, Monitoring and Investigation

During this fiscal year, 232 complaints were registered. Altogether, 277 monitoring events were held on matters related to human rights. The NHRCN offices concluded investigation on the complaints and sent 535 complaint files for approval to the Centre. The NHRCN concluded investigation on 600 old and new complaints.

Based on the seriousness of the matter, the NHRCN has been investigating the concerned case with the formation of an expert committee. In this fiscal year, the NHRCN formed a special committee for the Nirmala Pant case. Based on the investigation and conclusion of the committee, the NHRCN took a decision and communicated to the Government of Nepal, Office of the Prime Minister and Council of Ministers with a four-point recommendation and 24-point directive.

Complaint Response and Recommendation

During the fiscal year, the NRHC finalized 649 complaints following investigation over them. In this 134 including 120 complaint-based and 14 policy-based recommendations were made. Likewise, 604 of the complaints were put under consideration while 45 were dissolved.

Promotion

Various achievements have been made towards promotion of human rights. In this fiscal year, the NHRCN organized 219 promotional programmes. The NHRCN is playing a supportive role in making the local level efficient and effective in judicial dispute resolution. For this, the NHRCN has been organizing trainings. In addition to this, 48 events including training, workshop, discussion, review etc. were held internally.

After the country adopted federalism and the three tier governments were formed, the NHRCN has been working with all the three levels of government. It has held discussion on the situation of human rights in the Province with the Chief Minister, Minister and secretaries of the concerned Province.
On the occasion, ways to move ahead in collaboration and cooperation on protection, promotion and fulfillment of human rights were discussed. Discussion was also held with the Provincial Speaker, Ministers, Provincial Assembly members and the NHRCN (Chairperson and members) on formulation of human rights friendly laws and operation of the government. In addition to this, the NHRCN has given special emphasis to the formulation of human rights friendly laws, with a focus on the local level governments in all the seven provinces. It has also been communicating and organizing orientation on local level and human rights, and local level and formation of human rights-friendly laws. The local government chief and deputy, judicial committee office-bearers, ward chair and members participated in these programmes.

Participation was also made (41 as resource person/expert and 276 as chief guest/guest and participant) in the human rights related programmes organized by human rights and professional institutions. It has also produced radio programmes with a focus on various issues of human rights and broadcasted through various FM radio stations inside and outside Kathmandu valley.

**Publications**

During this period, a total of 26 publications were released including reports, journals and brochures. These included annual as well as thematic reports. The publications covered issues related to the rights of migrant workers, racial discrimination, environment and pollution, human trafficking, important decisions related to human rights etc. The human rights journal, Sambahak (Messanger), has been given priority to human rights issues. During this fiscal year, 22 authors contributed on various issues of human rights in the journal. The articles covered included 'The slow Train to Justice, Constitution of Nepal and Economic, Social and Cultural Rights: Analysis of jurisprudence, Problems and Potentials of Religious Peace building of Nepal, Human Rights Situation of persons With Mental/Psychosocial Disability etc. Likewise, research articles on rights of sexual and gender minorities and situation, role of religious sector in racial untouchability, situation of senior citizens etc. were also featured. The articles also covered the fair hearing provisions in the civil and criminal codes, 2017, transitional provisions of Nepal and human rights, and rights of Dalit and children. Also covered were racial discrimination and untouchability, business and human rights, criminal code from the perspective of human rights, menstrual practice and women's rights. As per the government policy, people holding public position cannot be paid for contributing articles to the journal.
If an alternative is not sought to this, then it is likely that the publication of the human rights journal, sambahak will not continue.

**Press Statement/Press Note**

During this fiscal year, 30 press statements and 23 press notes were released on contemporary issues of human rights. Likewise, the NHRCN hosted a press conference on 12 years of comprehensive peace agreement and situation of human rights. Altogether 26 press conferences were held in order to share about the NHRCN views on various issues of human rights.

**Human Resource Management**

During this fiscal year, the NHRCN continued with the work of human resource management. The NHRCN made a request to the Public Service Commission for holding examinations, and accordingly 19 staffs were recruited in the vacant positions. This included two directors, three deputy directors, 12 human rights officers and one account officer.

**Collaboration and Coordination**

**National Level**

The NHRCN continued working on the basis of collaboration and coordination in this fiscal year as well. Accordingly, 56 programmes were held in collaboration and coordination with government, non-government and professional organisations. The NHRCN also participated (41 as resource person/expert and 276 as chief guest/guest and participant) in the human rights related programmes organized by human rights and professional institutions.

**International Level**

The NHRCN continues its collaboration internationally with UN agencies, GANHRI, Asia Pacific Forum of NHRI, donor agencies and embassies. The Hon. Chairperson, members and employees have made international visits for discussion, exchange of experience and trainings. During this fiscal year, the NHRCN Chairperson's members attended 20 international events while the Secretary/employees attended 42 events. The employees also made foreign visits.

The NHRCN has been moving ahead amidst internal and external challenges since its inception. It is but natural for the challenges to change in its form and number along with the time and circumstance. Some of the challenges remain the same since the past. During the fiscal year too, the NHRCN could not stay away from challenges, which are as follows:
Failure of Enforcement of NHRCN Recommendations

Under human rights protection, the NHRCN has been monitoring the situation of human rights situation and investigating over the complaints of human rights violation/abettment. And based on the facts from such investigation and study, the NHRCN makes recommendation for necessary action to the government or concerned agency. The recommendation, decision or order of the NHRCN is binding. In this regard, the National Human Rights Commission Act, 2012, Clause 17(2)(i) states that the Commission shall to the concerned agency or authority for necessary action if any office-bearer, individual or agency is found guilty. Clause 17 (2) (iii) includes the provision where the Commission can issue an order for medical treatment or compensation to be paid for the victim. Clause 18 of the Act states that the recommendation, order or decision of the Commission has to be enforced. It also states that in case of difficulty or problem in implementation of the recommendation, the Commission should be informed without two months from receiving such recommendation, decision or order along with reasons for the same. However, these provisions have not been enforced effectively. At the initiative of the Office of the Auditor General, a task force had been formed to study the complexities seen in the enforcement of the recommendations made for prosecution on incidents of human rights violation. The task force was represented by the Office of the Prime Minister and Council of Ministers, the Attorney General and the NHRCN office.

However, the task force has remained stranded after the responsibly of the members of the task force was changed. So far, not much progress has been made. In the fiscal year 2075/76, the NHRCN made 14 policy and 120 complaint-based recommendations.

The situation of the recommendations made by the NHRCN to the government for enforcement is very poor. A study of the state of implementation of the recommendations made between 2000 to 2018 shows that it is very minimum. Of the total 810 recommendations, 12.5 were fully enforced, 48.3 partially enforced and 39.2 were put under consideration. The destiny of recommendations following that is also same. The recommendations that are enforced are related only with compensation. The recommendations made for legal action against those involved in human rights violation and to investigate the incident and initiate legal action have not been enforced.
Challenges

Failure to Address Conflict-era Cases

The armed conflict waged by then CPN (Maoist) began on 13 February 1996 and ended formally on 21 November 2006. The government and the Maoist leadership had agreed to address the transitional justice issues related with the armed conflict. Even though the complex issue of army integration was concluded, many other cases have not yet been addressed despite various efforts and initiative. The Truth and Reconciliation Commission and Commission on Investigation of the Disappeared Persons were formed. The term of the commissions and office-bearers were extended twice but no solution has been made as of yet.

Currently, even though the Commissions are in existence, the office-bearers have not been appointed. The committee formed to appoint the office-bearers seems to be confused in itself. This issue has not been addressed due to failure to amend the concerned Act as per the Supreme Court decision and the NHRCN recommendation, lack of skilled and required human resource, lack of other necessary resources, internal dispute, partisan interests etc. The majority of the recommendations by NHRCN are related with the armed conflict. The failure to enforce the NHRCN recommendations on one hand, and failure of the transitional mechanism to act has directly affected the victims. This is also affecting the functioning of the NHRCN.

Lack of Expected Support from The Government

The state/government is regarded as the guardian of human rights. The role of the government is very important in the respect, protection and fulfillment of human rights, and development of human rights culture.
It is the duty of the government to provide necessary support to the national human rights institutions. Though there is support from the government agencies it is not as much as expected. Even though the country has adopted a federal structure through the new Constitution, the NHRCN functioning has not been effective due to non-cooperation of the government. On 22 June 2017, the NHRCN made some timely changes its organizational structure and sent it to the government for its approval. But despite repeated attention drawn by the NHRCN, the government has not showed any interest in it. As a result, the province office to be established in Surkhet is yet to open.

Even in the changed context, the NHRCN is forced to function as per the National Human Rights Commission Act, 2012. The cabinet had taken a decision to table a bill in the parliament to amend this Act. Even though the bill is passed by parliamentary procedure, some of the provisions included in the Bill raise a question over the government’s non-generousness towards the NHRCN. Going against the Supreme Court decision, the bill gives the power to prosecute a case on the Attorney General. It also includes a provision that requires the NHRCN the government’s approval to open provincial branch offices. These and other similar provisions are definite to take away the independence and autonomy of the NHRCN. The government steps show that it is trying to restrict the activities of the NHRCN.

It is the duty of the government to enforce the law. Intervention on the NHRCN by going against its limitation is condemnable. In this fiscal year, police committed an act of threatening the security guard of NHRCN province no. 5 branch office in Nepalgunj at night. When the NHRCN was holding an emergency meeting, the NHRCN (province no. 5 branch office, Nepalgunj) office premises was picketed and pressure was exerted on the office chief. Such acts are against the norms of human rights and rule of law, and also an outright intervention on the independence, autonomy and dignity of the Commission.

Lack of clarity on the jurisdiction between NHRCN and other Commissions In addition to the National Human Rights Commission, the present Constitution provides six other thematic Commissions related to human rights. These include National Inclusion Commission, National Dalit Commission, National Women’s Commission, Indigenous Nationalities Commission, Madhesi Commission, Tharu Commission and Muslim Commission. There is no clarity on the jurisdiction and nature of work among the NHRCN and these Commissions. No discussion or debate is so far held on this matter. Even though the Constitution and the related Act mention about the tasks to be carried out by the Commission, duplication is likely and there could be different reports on the same issue.
In such situation, the implementation will see more complexities and the relations between the Commissions may not be good. And this will have an impact on their functioning.

**Lack of Physical Infrastructure**

In terms of physical resources, the NHRCN has been experiencing an adverse situation since its inception. The situation has not improved much at the present. The NHRCN is still functioning with difficulty for lack of necessary resources including physical infrastructure. Lack of sufficient infrastructure and resources in proportion to the human resource has obstructed the functioning of the NHRCN.

The central office building damaged in the 2015 earthquake is yet to be reconstructed. The NHRCN is currently functioning from a prefab building constructed on the open space in front of the old building. Leakage during rainfall has obstructed function and also damaged physical asset. Leakage in the human resource centre (library) is making protection of books and other goods difficult. The NHRCN provincial office and provincial branch offices are still functioning from rented buildings. This is increasing the financial burden of the Commission, while there is problem of shifting of the offices too.

**Failure to Eliminate Stereotype or Stereotypical Thought**

A large section of the Nepali society is still carrying a stereotypical mentality. No matter how much we talk about rights, freedom and equality, the society has not been able to free itself from racial discrimination and harmful practices like witchcraft accusation, chhaupadi and dowry. Women are suffering more from this. Based on caste, people are still classified as high and low, touchable and untouchable, women are fed with human excreta, forced to chop their hair, beaten up and even killed in the accusation of witchcraft. Women are physically assaulted and burnt alive for bringing less or not bringing dowry in marriage. Women are losing their life after being banish to huts outside their home during their menstruation. Political leadership too is association in such acts in one way or the other. As a result, this is having a direct effect on the protection and promotion of human rights.

**Failure to Achieve Expected Result Due to Lack of Mutual Coordination**

There is lack of coordination and collaboration among the stakeholders in the field of protection and promotion of human rights.
This problem is found more in government to government, government to non-government and among the non-government organisations. This is leading to a situation where the reports are more than the work done, and duplication of the work. The mentality to take credit for the good result, and staying away or putting the blame on other in case of a negative result has not improved. The area where many organisations work has more problems. Improvement has also not been seen in the tendency of delaying the development construction works, and working overnight in the final stage for fear of freezing of the budget. This leads to expenditure of the budget without the expected outcome. From the perspective of human rights, this has had a negative impact on the civil rights.

Lack of Transparency in the Work and Expenditure of National and International Organisations

Questions are still being raised from various quarters over the transparency of national and international organisations working for the protection and promotion of human rights. Due to failure of making their expenses and activities transparent, the ordinary people too don’t have positive image about them. This has affected the organisations who are working as per their objectives and goal. The organisations show that the objectives have been met in their reports but the problem has not changed in practice. The tendency of giving allowance for people to participate in a programme has developed a habit of people not attending programmes without allowance, and of depending on others.

NHRCN Activities Not Organized and Qualitative

The NHRCN has been working as per its constitutional and legal mandates in the protection and promotion of human rights. However, many of the works executed accordingly are found poor in terms of organisation and quality. Specially, attention has not been paid during budget allocation on important matter like information technology. Failure to take publications of the NHRCN through a one-door system is making the quality and managerial aspects poor. Some confidential decisions of the NHRCN are being made public, while some decisions are disseminated by the media even before they are made public. Even though the documentation of the human rights violators is done through annual report, concerned report, press statement, press conference, this should be carried out through special decision of the Commission.

Possible Measures to Resolve the Challenges

The stakeholders need to carry out the following takes in order to address the aforementioned challenges:
The Government of Nepal

a. Build appropriate environment for the implementation of Constitution, act and regulations,
b. Consider the human rights standards in the formulation of Act, regulations,
c. Building a working atmosphere (appointment of office-bearers, amendment of Act, availability of essential resources and skilled human resources) for the transitional mechanism (Commission on the Investigation of the Disappeared Persons and Truth and Reconciliation Commission),
d. Bring those involved in illegal activities or found guilty by court to justice,
e. Respect rule of law and human rights, and make the measures taken against impunity more effective,
f. Effectively enforce the recommendations of the Commission,
g. Provide essential financial and physical resources, including office buildings for the Commission,
h. Build an atmosphere for giving continuity to submission and discussion of the Commission's annual report in the federal parliament,
i. Ensure amendment of the Act to maintain the independence and autonomy of the National Human Rights Commission of Nepal, and pass the Human Rights Service Bill from the parliament immediately,
j. Endorse the organizational structure of the Commission immediately,
k. Formulate and implement the national action plan on human rights as per the federal structure, and
l. Work in coordination and collaboration on issues related to human rights or the Commission.

The Political Parties

a. Take necessary steps to take the Constitution to the implementation level,
b. Not encourage impunity, respect and protect the rule of law and human rights,
c. Provide special support to the government in respect and protection of human rights, and in development construction works, and
d. Establish special unit to oversee human rights related issues and coordinate and collaborate on issues related to human rights, and the Commission through the mechanism.
Others:

All the stakeholders (civil society, organisations working in the field of human rights, professional organisations, citizens etc.) should collaborate, coordinate as well as alert as required the government and the Commission on human rights issues.

Way Forward

As a national human rights institution, the NHRCN has been working for the protection, promotion and fulfillment of human rights and for development of human rights culture. It is working especially according to the Constitution, act, regulations, directives and on the basis of its strategic plan (2015-2020).

The NHRCN needs to move ahead on the basis of further deliberations on the opportunities and challenges, by also reviewing to what extent was it successful in addressing the human rights norms and values enshrined in the constitution and the Act, and what are the areas of improvement. It would also be appropriate to determine the future strategy by discussing whether expected outcome was achieved through the collaboration and coordination between the NHRCN and victims, the NHRCN and NGOs/civil society, professional organisations, stakeholders, the NHRCN and the government and international human rights institutions and donors etc.

The country has adopted a federal structure of governance. Governments have been formed and are functioning at all three levels. A sense of human rights is dependent on especially the activeness of the NHRCN and the government's commitment and implementation. For this, coordination and collaboration should be forged with the local, provincial and federal governments. The collaboration and coordination with the parliament, government, constitutional bodies, political parties, civil society, NGOs and stakeholders (citizens) should be taken to greater heights. In addition to this, there is a need of making the relations with the national, regional and international human rights institutions and donor agencies relevant and stronger.

Considering the aforementioned issues, the NHRCN has both opportunities and challenges before it. For this, the NHRCN needs to take the following measures:

a. Take additional steps for timely reforms in the human rights act and other acts, regulations related to human rights.

b. Provide expert service in the formulation of human rights-friendly laws at the provincial and local level.
c. Take initiative for formation of a mechanism for effective enforcement of the NHRCN recommendations.

d. Support developing an atmosphere where the state obligations to be fulfilled as Nepal being a party to various conventions and treaties are fulfilled.

e. Move ahead with planned activities in order to address the issues determined as priority to addressing challenges to human rights.

f. Move ahead by developing a strategy that the NHRCN needs to adopt in the situation where the transitional mechanism has not been able to function as expected.

g. Develop relations with national, regional and international stakeholders as per the changed context.

It is the duty of the NHRCN to function for realization of the slogan of 'human rights for all at every household, foundation for peace and development'. There should be no limitation in the human rights to be effective for all at all times without any discrimination irrespective of religion, ethnicity, race, colour, financial condition and nationality. Equality, justice and human dignity cannot be imagined without the fundamental or established norms and values of human rights. As a result, in its capacity as the national or custodian institution, the NHRCN should build on its past experience to move ahead with its activities with a focus on the changed context and in accordance with the Constitution, Act and its strategic plan.
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