

ANNUAL REPORT

(SUMMARY)

(FY 2021-22)



National Human Rights Commission of Nepal
Pulchowk, Lalitpur, Nepal



Annual Report

(Summary)

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Pulchowk, Lalitpur, Nepal

Office-bearers of the NHRCN

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Remarks

It is the constitutional mandate of the National Human Rights Commission of Nepal (NHRCN) to protect, promote and ensure effective fulfillment of human rights in accordance with Article 249 of the Constitution of Nepal. Article 294 (1) of the Constitution provides for constitutional bodies to submit an annual report of their respective activities to the President. Following the provision, the NHRCN has been submitting its report every year. The annual report for Fiscal Year (FY) 2021/022 covers topics specially related to the complaints registered, investigation on the complaints, details of the investigation and monitoring carried out throughout the year and recommendations made to the Government of Nepal etc. Efforts have been made in this report to highlight on the human rights situation of the Federal and province-level and other tasks accomplished by the NHRCN. The achievements, challenges and future steps to be taken by the NHRCN for protection and promotion of human rights have also been included in this report.

During the reporting period, a total of 101 complaints on violation of human rights have been registered at the NHRCN. Monitoring on matters related to human rights has been carried out for 221 times. The NHRCN has completed the investigation on a total of 503 complaints including the recent and pending ones. Decision has been taken on a total of 412 cases after completion of the NHRCN's investigation, which includes six policy recommendations. Efforts have been made to adopt modern techniques for the management of the complaints through the provisions of a Complaint Management and Reporting System (CMRS). This has helped the complainants and the victims to acquire information about the action taken on complaints about the human rights violations registered at the NHRCN in an easy and efficient manner, and enhance the effectiveness of the complaint mechanism and organizing the task of documentation.

The NHRCN has carried out monitoring of the local level elections, 2022 in all the 77 districts of the country. The team monitored the elections in all the three phases i.e., pre-election, during and post-election from the human rights perspective.

With the slogan Right to Life, Dignity, Equality and Freedom: Foundation for Sustainable Peace and Prosperity, a total of 175 events have been organized for the promotion of human rights with special priority to human rights promotion, and thereby realize the call for lasting peace and as foundation of prosperity. For the implementation of the recommendations from Universal Periodic Review (UPR) to the Government of Nepal, workshops have been organized by the central as well as the provincial offices. During this period, 24 Press Statements and six Press Notes have been issued by the NHRCN on contemporary issues of human rights. The press statements issued accordingly focused on civil and political rights, economic, social and cultural rights. Likewise, press statements have also been issued on matters concerning women, children, caste-based discrimination, rights of migrant workers, transitional justice, etc.

The NHRCN has been working in collaboration and coordination with all three tiers of governments, including the federal, provincial and local governments. Co-ordination and collaboration with constitutional commissions related to human rights, government and non-government organisations, civil society, professional associations and international community remains continuous. The NHRCN has also recently formulated and implemented its sixth strategic plan to protect, promote and fulfill human rights in accordance with the Constitution, Act, law and procedures.

Considering the vision of developing a human rights culture the NHRCN has been continuously coordinating and collaborating with the concerned bodies at the national and international level for the protection and promotion of human rights. At the national level, it has been holding continuous collaboration, coordination and discussion with the Office of the President, constitutional commissions, Law, Justice and Human Rights Committee, national and international non-governmental organisations, civil society, and human rights related national organizations and development partners.

Despite the aforementioned achievements some challenges have been faced in the initiatives taken for protection and promotion of human rights. All the organs of the state need to be mobilized to build an egalitarian society based on the principle of proportionality and inclusiveness as envisaged by the Constitution of Nepal and to make concrete progress in ensuring human rights of the marginalized sections to thereby achieve progress in accordance with the norms and values of the Constitution. The implementation status of the recommendations made by the NHRCN to the Government of Nepal is not encouraging. The National Human Rights Commission Act, 2012 has not been amended in pursuant to the Constitution of Nepal. The financial autonomy of the NHRCN is yet to be ensured in accordance with the Paris Principles. Despite these challenges, the NHRCN is fully committed to fulfilling its constitutional duties.

On behalf of the NHRCN, I would like to express my gratitude to the Office of the President, the Office of the Prime Minister and the Council of Ministers, the Federal Parliament, the government, political parties, the human rights community, civil society, professionals, and the media sector for their good wishes, cooperation and support received to the NHRCN. I would also like to thank the NHRCN commissioners, secretaries, joint secretaries, under-secretaries and all the employees who worked to prepare this annual report. I also expect and believe that the support would continue from all the sides in the coming days as well.

Finally, I would like to extend special thanks to Human Rights Officer Kailash Kumar Siwakoti and Assistant First Pawan Bhandari for their involvement in the coordination, writing and design of this report.

Thank you!

Top Bahadur Magar
Chairperson

Abbreviation

FY—Fiscal year
DPO-District Police Office
HC—High Court
SMC- Sub-metropolitan City
HSS – Higher Secondary School
KMC – Kathmandu Metropolitan City
KM-Kilometers
CO—Central Office
FACO—Finance and Accounts Comptroller's Office
RM – Rural Municipality
NGO—Non-Governmental Organisation
RN—Registration Number
DEO—District Education Officer
DEO—District Education Office
DCC—District Coordinating Committee
TDC - Town Development Committee
CPN-Nepal Communist Party
NC—Nepali Congress
NBA—Nepal Bar Association
No.- Number
PO – Province Office
CDO—Chief District Officer
PBO—Province Branch Office
LN—Letter No
SI- Sub-Inspector of Police
Ex— Former
MC - Metropolitan City
OWC- Office of Women and Children
HRO—Human Rights Officer
RPP- Rastriya Prajatantra Party
Rs.—Rupees
WPO-Ward Police Office
UN-United Nations
SC-Supreme Court

An Overview of annual functions

S.No.	Nature of Work	Number	Subject
1. Human Rights Protection			
1.1	Complaints	101	<ul style="list-style-type: none"> - Civil and Political Rights - Economic, social and cultural rights - Right against torture - Women's rights - Child rights - Rights against caste-based discrimination - Rights of persons with disabilities - Right against the act of enforced disappearance of persons - Rights of migrant workers and their families
1.2	Monitoring	214 times	<ul style="list-style-type: none"> - Civil and Political rights: overall human rights situation, rights of prisoners, administration of justice, etc. - Economic, social and cultural rights: the right to health, the right to the environment, the right of consumers, the right of those displaced by natural disasters (floods and landslides), etc. - Rights of the Senior citizens, women, children, caste-based discrimination, rights of marginalized communities, rights of persons with disabilities, rights of migrant workers, situation of human trafficking, etc.
1.3	Investigation	503	<p>Civil and Political Rights: Right to Life - Torture, Disappearance, Rape</p> <p>Economic, social and cultural rights: displaced, rehabilitation, looting of property, compensation, women's rights, children's rights, rights against caste-based discrimination etc.</p>
1.4	Decisions and Recommendations made	414	<p>Political and civil rights, administration of justice, kidnapping, economic, social and cultural rights, torture, caste-based discrimination, women's rights, etc.</p>

2. Promotion of Human Rights			
2.1	Training, interaction, discussion, seminar, awareness, morning procession, exhibition etc.	171	Human rights situation, peace and security, rights of the enforced disappeared persons, transitional justice, right to food, dispute settlement at local level, civil and political rights, economic, social and cultural rights, children's rights, women's rights, rights of persons with disabilities, COVID-19 and health rights, senior citizens' rights, rights of minorities, consumer rights, migrant workers' rights, collective rights, universal periodic review, implementation of NHRCN recommendations, amendments to laws, etc.
3. Publications			
3.1	9	Book, Report, Brochure,	Annual Report, Human Rights Situation in the Second Wave of COVID-19, Human Trafficking, Sixth Strategic Plan 2021-2026, GANHRI-SCA Accreditation of NHRCN Nepal and the Recommendations, Things to Know about Human Rights, Journal, Sambhak Edition 19, 20
3.2	Press statements	24	Various topics of human rights
3.3	Press Note	6	
3.4	Press conference, Press meet	4 times	Local election, transitional justice and human rights issues
4. Human resources			
4.1	Chairperson/ members	1/4	
4.2	Employees	221	

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Chapter-One

NHRCN, its Organizational Structure, Power, Functions and Duties

1.1 Background of the NHRCN

Although it is believed that the development of human rights worldwide took place after the Second World War various concerns related to the humans are found to have been indirectly discussed with the beginning of human civilization. Though the term human rights is not included ancient texts such as the Vedas and Upanishads have also mentioned about rights and duties of the human beings. If we look at human history, we find that people are striving to protect their existence. At different times, there have been fighting between rulers and the ruled, owners and workers, and wars/world wars. The world has reached to the current state by moving forward based on treaties/agreements for the peaceful resolution of disputes/wars. Especially after the World War II, the United Nations (UN) was established in 1945 and after the Universal Declaration of Human Rights (UDHR) was issued in 1948, the issue of human rights became global. This was followed up with rapid development of mechanisms, human rights declarations, conventions, optional protocols, resolutions, etc. from the UN. The member states of the United Nations also gradually became parties to the convention, which continues as of date.

In the context of Nepal, the matters of rights and duties have been raised in one form or another since ancient times and are still being raised. Constitutionally, the issue of human rights can be considered to have been addressed by the Government of Nepal Statutory Law 1947 (not enforced). The Interim Constitution of Nepal, 1951, Constitution of Kingdom of Nepal, 1959 gave space to some issues directly/indirectly related with human rights, while the Constitution of Nepal, (2015) has established it as fundamental rights. Human rights issues were overshadowed after the political change in 1961. Although provisions regarding fundamental rights were included in the Constitution introduced in 1963, it could not be implemented in practice, as political parties were banned. In spite of this, some special judgments have been made by the judicial agencies for the protection and promotion of human rights. This helped the protection and promotion of human rights to a certain extent. During this period, several movements for democracy and human rights were waged by the political parties, their sister organizations, and professional and business associations.

The country entered into a liberal world after the fall of the panchayat system by the popular movement of 1989. The preamble of the Constitution of the Kingdom of Nepal, 1990 issued

on 9 November, 1990 included the term human rights for the first time. It was continued in the Interim Constitution of Nepal, 2007 and the present constitution. Under the fundamental rights part of the Constitution of Nepal, the political rights as mentioned in the previous constitutions as well as the economic, social and cultural rights have been included with priority. In case of any obstruction in the enjoyment of fundamental rights, a clear provision for judicial remedy through the extraordinary jurisdiction of the court has been made in the constitution itself. In addition to this, the duties of citizens have also been enshrined in the constitution. Since 1990, the need for national human rights institutions at various levels and stages was discussed at the United Nations Economic and Social Council. Finally, after a long effort, at the call of the United Nations in 1991, the General Assembly embodied this issue for the establishment of national institutions related to human rights with jurisdiction and competence through the international conference held in Paris. Through the conference, the member states were specially urged to establish human rights institutions at the national level. The features of such institutions were supposed to be independent, autonomous, competent, based on plurality and other provisions, which is also known as the Paris Principles.

After the restoration of the multi-party system in 1990, although discussions were held about human rights the matter of establishing a national institution at the state level did not receive priority. In particular, rights activists, legal professionals, media, civil society, intellectual community and professional organizations became active to establish the Human Rights Commission. Debates, discussions, interactions as well as pressure-exerting programs were also organized with a focus on the matter. Finally, the Human Rights Commission Act, 2053 was introduced after the private bill submitted by the honorable members of the then House of Representatives came into the form of an Act. However, due to government indifference, the Commission could not be formed even four years after the promulgation of the Act. Peaceful movements, media attention, interest of international community, pressure from the stakeholders continued. As the Commission could not be established despite various efforts, public interest litigation was registered at the respected Supreme Court demanding the formation of the Commission and a mandamus order¹ was

¹ In fact, human rights are a sensitive matter, to which no one can deny. Therefore, if the NHRCN is left inactive for a long time without giving importance to such a sensitive matter, it will definitely go against the intention of the legislature. Until the NHRCN is formed, there is no provision in the law so that other agencies can perform the tasks that the NHRCN is supposed to perform. It cannot be called natural that the Act, which was issued more than two years ago, has not been implemented till date. Protection and promotion of human rights is a matter of public interest. We cannot agree with the submission of the learned Deputy Attorney General that this is not a matter of public interest. (Q. No. 12)

Due to the aforementioned reasons and ground, an important Act like human rights has been implemented since two years ago, and it is not appropriate to keep the law inactive forever for no reason, and hence as per section 3 of the Human Rights Commission Act, 1997, whatever action should be taken in relation to the establishment of the National Human Rights Commission should be taken and a mandamus order is hereby issued in the name of the defendants as per request of the petitioner asking that the National Human Rights Commission be established (Q. No. 13) Decision no. 6745, N.K.P. 2056 issue 6

issued for the formation of the NHRCN. Finally, on 26 May, 2000, the National Human Rights Commission was established. The NHRCN established by the Human Rights Commission Act, 1997 was upgraded as a constitutional body by the Interim Constitution of Nepal, 2007. The present Constitution of Nepal has continued this provision. Article 248 and 249 of the Constitution provides the appointments of the NHRCN office-bearers and its mandate. This report has been prepared in accordance with Article 294², that obliges the NHRCN to submit an annual report including the activities carried out throughout the year to the Honorable President.

The report basically includes the details of the actions related to the human rights situation, complaints filed with the NHRCN, investigation, monitoring, promotion, decisions of the NHRCN, recommendations, etc. In addition to this, the report also discusses about the NHRCN's relationship with stakeholders, its achievements, challenges and future steps.

1.2. Organizational structure

According to Article 248 of the Constitution of Nepal, there is provision for five office-bearers in the NHRCN, consisting of one chairperson and four members. Before the country adopted a federal form of governance, there were nine offices under the NHRCN including one central office, five regional offices and three sub-regional offices. After the country entered into the federal system, the NHRCN also develop an organizational structure accordingly and sent it to the government of Nepal for approval, but it has not yet been approved³, and hence not been implemented yet. At present, the NHRCN has provincial offices in Biratnagar, Janakpur, Hetaunda, Pokhara, Butwal, Surkhet and Dhangadhi along with the central office in Lalitpur. Apart from this, provincial branch offices are operating in Khotang, Nepalgunj and Jumla. There were five office bearers including the chairperson and the position for 309 employees in the NHRCN. In this financial year, the number of employees working in the NHRCN is 221. Details of office-bearers and employees are mentioned in Annex 1.

2 The Constitution of Nepal, Article 294 provides that Annual reports of Constitutional Bodies: (1) Every Constitutional Body under this Constitution shall submit an annual report of its functioning to the President, and the President shall cause that report to be laid through the Prime Minister before the Federal Parliament.

(2) According to sub-section 1, the matters to be set out in the annual report under clause (1) shall be as provided for in the Federal law.

(3) Notwithstanding anything contained in clause (1), a Constitutional Body may prepare a separate report in relation to the functioning of each Province and submit it to the Chief of Province.

3 The meeting of the NHRCN held on 22 June, 2018 changed the organizational structure of the NHRCN to a federal structure and sent it to the office of the Prime Minister and Council of Ministers for approval. The organizational structure of the provincial office and provincial branch office has not yet been approved by the Nepal government.

1.3. Power, Functions and Duties NHRCN

It is mentioned in the Constitution that it shall be the duty of the National Human Rights Commission to ensure the respect, protection and promotion of human rights and their effective fulfillment.⁴ Promoting and protecting human rights is considered the primary responsibility of the state. When the state does not fulfill this responsibility satisfactorily, the NHRCN has been working to alert the State and hold it to account with a focus on human rights protection/promotion, human rights-friendly laws, etc. under the scope of the Constitution and the Act. Under protection, there are functions such as receiving complaints, monitoring, investigating complaints, and recommending prosecution and action against those guilty of human rights violations. In relation to the promotion of human rights, programs are organized by the NHRCN unilaterally and in collaboration with other organizations. Under collaboration, programs have also been carried out based on the need and seriousness of the matter at the national, regional and international level. The methodology adopted include awareness raising, discussions, meetings, training, seminars and conferences, visits/experience sharing, publication/broadcasting, press release, among others. The NHRCN also has a role in formulation of human rights-friendly laws. The NHRCN has the responsibility of making recommendations to the government including for the drafting and review of laws related to human rights and reasons why Nepal should become a party to international treaties and conventions.

⁴ The Constitution of Nepal, Article 249

Chapter-Two

Human rights Situation

2.1. Obligation of the State

Human rights are universal in nature. The most important basis for measuring the situation of human rights is the state's commitment to human rights and its implementation. The state parties have national, regional and international responsibilities in relation to the respect, protection and fulfillment of human rights. Nepal is an active member of the United Nations as well as of the Human Rights Council. As Nepal is also a party to various human rights conventions, it has national and international obligations.

The government is the guardian of all citizens and the guardian of human rights, as well as the service provider. Therefore, it is the responsibility of a democratic government to respect, protect, promote and fulfill human rights. The formulation of human rights-friendly constitution, laws, policies, regulations and their effective implementation in accordance with the provisions contained in human rights instruments are inherent issues. Human rights are a matter of principle as well as enjoyment and feelings. It is not fair to conclude that the situation of human rights is strong only on the basis of the endorsement of regional and international human rights treaties/conventions and a strong constitutional or legal order. The implementation aspect of it is equally important.

The situation of human rights in Nepal looks strong considering its constitution, laws, and commitment to the regional and international human rights conventions. It is a positive aspect that human rights have been mentioned in the preamble of the Constitution itself. In addition to this, emphasis has been laid on social and cultural solidarity with the adoption of multi-ethnic, multi-lingual, multi-religious, geographically diverse features, and by putting an end to all kinds of discrimination and oppression. The principle of proportional inclusion has been adopted to address economic equality, prosperity and social justice. It also carries the principles of democratic governance based on competition, fundamental rights, human rights, adult franchise, complete freedom of the press, fair, impartial and competent judiciary.⁵ Human rights issues related to political, economic, social and cultural matters are included under fundamental rights as well as elsewhere in the national statute. In this report, an attempt has been made to depict the situation of various issues within human rights by focusing on these issues.

⁵ The preamble of the Constitution of Nepal, (2015) has internalized this matter.

2.2. The right to life

The right to life is the fundamental right of human beings. Being able to live in a dignified and respected manner is considered as an inherent right of every individual. The exercise or enjoyment of the remaining rights is possible only after the protection of this right. Hence, this right is mentioned with priority in international human rights instruments and the national laws. Article 3 of the Universal Declaration of Human Rights, 1948 and Article 6 of the International Covenant on Civil and Political Rights, 1966, provide for the right to life. Guaranteeing the right to life of every person, emphasis has been laid on the fact that no one's life can be taken arbitrarily. The Second Optional Protocol to the International Covenant on Civil and Political Rights, 1989 prohibits the death penalty. Article 16 of the Constitution of Nepal recognizes the right to life with dignity as a fundamental right and completely prohibits the death penalty.

Although the right to life is regarded as a fundamental right in the Constitution, the status of implementation is still not satisfactory. A large number of people are losing their lives prematurely as the role of the state towards the citizens has not effective or strong directly/indirectly and the state agencies are not as sensitive as expected. This year also the right to life with dignity has been affected. Especially poverty, suicide, foreign employment, fire, floods, road accidents, and lack of effective basic health care services are forcing people to die prematurely.

Death due to road accidents				
S.No.	Fiscal Year	Number of Accidents	Deaths	Seriously Injured
1.	2078/79	245,38	2883	7282
<i>Source: Kathmandu Valley Traffic Police Office</i>				

The data of Nepal Police shows that 2,883 people died in road accidents in this fiscal year. The reasons for which seem to be due to the use of old vehicles, carrying passengers more than the capacity of the vehicle, etc. According to the report, accidents are increasing due to poor quality of roads, road construction without meeting the standards, negligence of drivers and lack of public awareness. A large number of people are forced to lose their lives due to floods, landslides, rains, storms and fire incidents.

Cause	Death	Missing	Injured	Affected households
Floods	39	6	12	168
Landslides	168	27	115	558
Rainfall	19	1	42	368

Windstorm	11	0	40	436
Fire	100	0	372	2876
<i>Source: Nepal Disaster Risk Reduction Portal</i>				

Even though natural disasters cannot be controlled the incidents of death are recurring due to the failure to take precautionary measures as much as expected. However, since the early warning system is organized and effective compared to the past days there has been a decrease in the number of deaths. This year, 39 people lost their lives in floods, 168 in landslides, 11 due to rain, 11 in storms and 100 in incidents of fire. Similarly, 6 people have gone missing in floods, 27 in landslide and one due to rain. Monitoring by the NHRCN shows that action such as early-warning, preparedness, rescue and rehabilitation (to the original state) should be made more effective.

The unemployment problem in the country is getting worse by the day. Its direct effect is that the trend of going abroad for employment has become regular. Although training, health check-up and others are said to be mandatory the NHRCN monitoring shows that they are mostly limited to fulfilling documentation procedures or obtaining certificates. Due to this, many Nepali workers remain vulnerable as they are not aware about the atmosphere, climate, lifestyle, language, customs, legal aspects etc. of the respective countries.

Cause of death during foreign employment								
Death	Suicide	Heart attack	Road accident	Workplace accident	Cancer	Kidney disease	Corona virus (Covid-19)	Other causes
466	105	94	135	52	17	5	213	72
<i>Source: Foreign Employment Board, Nepal</i>								

The reasons behind sickness, suicide, road accident, workplace accident, cancer, kidney disease, corona virus, heart attack are found to have increased. During this FY, 1,479 people lost their lives. More Nepalese die in Malaysia and the Gulf countries. The death rate in these countries is around 75 per cent. Although there is no data on how many Nepalese who go to work in India have died, the NHRCN has started a study and research on the issue of Nepali citizens who are employed in India. In this F/Y, 2,484 people have lost their lives due to the corona virus. Most of them are senior citizens above 60 years of age and the youngest are of 10-19 age group. The number is 1452 and 8 respectively.

Corona Virus (COVID-19)							
Total Tests		Total Positive Cases		Recovered	Deaths	Number of Vaccinated	
PCR	Antigen	PCR	Antigen			First Dose	Second Dose
2403151	1065835	329282	100025	348366	2484	19083443	19913126
Details of deaths due to Corona Virus (COVID-19) according to age group							
0—9	10—19	20—29	30—39	40—49	50-59	Above 60	unknown
10	8	102	178	294	433	1452	7

Similarly, 10 people below nine years, 102 people aged 20-29 years and 178 people aged 30-39 years have died. The NHRCN monitoring has also showed that 49 people aged 40-49 and 433 people aged 50-59 died due to Corona Virus. The number of those who lost their lives, which were not included in the official records, has not yet been fully ascertained. According to the NHRCN monitoring, the number of people who died in prisons and in custody this FY is 8.

There is not much discussion about the death of laborers working in construction sector. Government agencies and stakeholders do not have any statistics about the number of workers working in the informal sector and the number of injuries and deaths due to accidents in the course of work. A study conducted by COUN Nepal, KUPEK Nepal and All Nepal Workers Union in 30 districts in 2018 found that about two million labourers are working in the construction sector in Nepal. Media reports say that every year 20,000 people are injured and 250 people die. Section 69 of the Labor Act, 2017 states that The duties of the employer towards the labour in respect of occupational safety and health to make safe environment for work by making appropriate safety and health arrangements at the workplace and provide personal safety means to the labour, as required. Section 85 provides special provisions relating to construction labours. The obligations of the employers towards the construction labours is to make appropriate safety arrangement in the construction workplace. Despite these provisions, the implementation side seems to be very weak. It was found through NHRCN monitoring that there has not been enough monitoring even from the regulatory agencies.

An analysis of the statistics shows that there are multifaceted reasons responsible for impacting the people's right to live in this FY. In this regard, especially the state and its agencies as well as stakeholders need to be more sensitive.

2.3. Rights of prisoners and detainees

Crime is an illegal act for which someone can be punished by law. On the one hand, the punishment prescribed for the crime as per the law should be faced while on the other hand the rights as a prisoner should be respected. Treating them arbitrarily on the basis that they are prisoners, detainees, in custody or accused is against the norms of human rights. This is stated in the United Nations General Assembly's Basic Principles of Treatment of Detainees, 1990. In particular, every detainee, prisoner, inmate should be treated with respect according to human norms and dignity. They should not be discriminated on the basis of gender, caste, language, religion, political or other opinion, national or social origin, property, birth or any other status. It has been emphasized that the religious beliefs or cultural practices of their communities should be respected. The Universal Declaration of Human Rights, 1948 establishes the right against torture. It is mentioned that no person shall be subjected to physical torture, cruel, inhuman and degrading behavior or punishment, and no one shall be arbitrarily arrested, imprisoned or deported.

The Constitution of Nepal has guaranteed freedom, equality, right to justice and right against torture under fundamental rights. It is mentioned that no person shall be deprived of personal freedom except according to law (Article 17). No person shall be detained without giving notice of the reason for his/her arrest. The arrested person must be brought before the officer who hears the case within 24 hours from the time and place of arrest, excluding the travel time, and the arrested person shall not be detained unless ordered by such officer. Also, Section 9 of the Criminal Procedure Code, 2017 states that no one can be detained without the prior permission of the judicial officer hearing the case. Arrested persons have the right to seek advice from a legal practitioner of their choice from the time of arrest. It is stipulated in Article 20 and Article 22 of the Constitution that no physical or mental torture shall be given to the arrested or detained person and no cruel, humiliating or inhumane treatment shall be done to him/her. Similarly, the Police Act, 1955, the Torture Compensation Act, 1996, the Criminal Code, 2017 and other laws provide for their rights and the minimum humane treatment to be done towards them. Similarly, various orders, directives and judgments have been issued by the Supreme Court at various points of time, which emphasizes implementation of the aforementioned provisions.

Out of the 77 districts of Nepal, there are 74 prisons in 72 districts except in the five districts namely Dhanusha, Bara, Bhaktapur, Nawalparasi East and Rukum East. There are two places hosting prisons in Dang district namely Ghorahi and Tulsipur and two places in Kathmandu district namely Jagannathdewal (Sundhara) and Dillibazar (Charkhaal).⁶To manage the prisons the Prisons Act was formulated in 1963 and the Prison Regulations in 1964 and are being

⁶ Ibid

implemented with revisions from time to time. As of late, there is a growing belief that prisons should be developed as correctional facilities and not as punishment centres.⁷

According to the Prisons Act, 1963, women and men should be kept in separate prisons as much as possible, and if that is not possible, they should be kept in different parts of the prison so that they cannot meet or talk with each other. As there is a provision to keep detainees and prisoners in the same prison, detainees and prisoners under 21 years of age and over 21 years of age should be kept separately as much as possible. Similarly, there is a provision that prisoners of civil and criminal cases, sick prisoners or detainees, prisoners or detainees with mental health issues should be kept in separate rooms and prisoners who have been sentenced in criminal cases should be kept in separate rooms as required.

Section 30(2) (c) of the Voters Roll Act, 2017 provides prisoners the right to vote but since the Election Commission did not pay heed to it, an interim order was issued in response to a public interest litigation petition filed at the Supreme Court and the right to vote in the proportional representation (PR) system of the House of Representatives election has been established.

Description of prisoners in mid June 2022									
Provinces	Prisoners			Detainees			Over 65 years of age	Dependent	Prisoner Capacity
	Male	Female	Total	Male	Female	Total			
Koshi	3070	152	3222	2200	102	2302	56	9	056
Madhes	1165	64	1229	1904	56	1960	43	6	1705
Bagmati	4888	223	5011	3706	337	4043	188	25	3206
Gandaki	969	61	1052	730	30	760	43	4	561
Lumbini	2333	120	2453	1474	92	1566	60	9	1190
Karnali	613	75	688	297	28	325	10	14	230
Sudur Paschim	903	47	950	538	20	558	15	5	485
Total	13941	742	14683	10849	665	11514	415	72	10433
total sum	24807	1433	26,240	10,849	665	11,514	415	72	10,433

Source: Department of Prison Management, Ministry of Home Affairs. The total number of prisoners does not include children in juvenile correctional homes (included in the chapter of child rights). Elderly and foreigners are also included in the number of prisoners and detainees.

⁷ http://www.NHRCNepal.org/NHRCN_new/doc/newsletter/Karagar_Hirasat_Anguman_Report_Kartik_2074_Compressed.pdf

In the budget statement of the FY 2078/079, the government has mentioned that prisons will be developed into correctional facilities and open prisons will be built in Nuwakot and Banke. It is stated that a museum will be established in the central prison premises to reflect the history of the prison and in recognition of the contribution made during the democratic movements from inside the prison.⁸

Despite these positive and prisoner-friendly provisions there is still no significant improvement in the situation of the prisoners and detainees. This is also proved by the facts obtained from the monitoring conducted by the central, provincial and provincial branch offices of the NHRCN. Barring some exception, the physical condition of most of the prisons in the country is poor. The effect of having more prisoners than the capacity of the prison is widespread. Problems such as lack of provision of water, toilets, lights, etc. according to their needs, forced to sleep on the floor and squeezed still exist. There are in an unsafe condition due to the lack of management of prisons in poor state, while the problem of water leakage during the rainy season is common. The security personnel who have to be on duty around the clock have also been affected.

Similarly, due to lack of separate room or its management for the relatives, human rights workers and legal practitioners who come for meeting the prisoners they cannot communicate openly, and the right to privacy has also been violated. In the case of illness, effective medical treatment arrangements are still not available. There is lack of vehicles to transport prisoners to and from the courts for legal proceedings. (For more information, under the heading the situation of human rights in the provisions, it is also mentioned in the sub-heading of the situation of prisoners and detainees.) Incidents of prisoner exchange have also been made public.

Media reports have also said that prisoners are exchanged through the collusion of the prison administration, prisoners, police and middlemen. In order to prevent the recurrence of such incidents, arrangements have been made for identity cards. The committee formed to investigate the suspicious death of Sundar Harijan of Banke in Rolpa Jail on 18 May, 2022 and the arrangement that was made by Vijay Vikram Shah of Surkhet to complete the prison sentence in his name through Harijan also suggested that the prison's internal administration, prisoners, jailers, security personnel etc. should be held responsible.

Though it is said that under the Prison Administration Reform Plan, identity cards have been arranged for the prisoners who are serving their sentences and those who are on remand and those who have been sent to jail because they failed to pay bail amount, the NHRCN monitoring found that it has not been fully implemented. Prisoners shall wear ID cards when visiting hospitals and courts, during prison transfers, internal inspection/monitoring, meetings

8 [https://mof.gov.np/uploads/document/file/Budget%20Speech%20\(Final\)%20Full_20210530100738.pdf](https://mof.gov.np/uploads/document/file/Budget%20Speech%20(Final)%20Full_20210530100738.pdf)

with relatives and prison administration, individual and group briefings, working in industries inside the prison.⁹ During this FY, Hakim Mian, Durgesh Yadav, Vijay Mahara and Shambhu Sada died in police custody. The NHRCN is also monitoring and investigating this matter.

For the overall improvement of the prison, it is necessary to work ahead with an immediate and long term action plan. The cases of those who are in prison on judicial remand should be heard on a priority basis. There is a need to emphasize on timely renovation and maintenance of the weak physical infrastructures, adequate provision of sewage and water supply, regular health check-up, medication, and the provision of health workers according to the positions available, and develop prisons as a correctional facility. Besides, it is necessary to keep the environment of the prison clean, conduct skills training, and maintain records with photographs of prisoners, keep suggestion or complaint box and the code of conduct to be followed by the prisoners in a clearly understood and visible place and fully implement the suggestions and recommendations on prison reforms given by the NHRCN at various times.

2.4. Women's rights

Generally, women's rights are rights related to overall personality development in the status of woman. These rights are enshrined in international, regional and national instruments/laws. In particular, Article 1 of the Universal Declaration of Human Rights, 1948 states that all persons are born free and equal in dignity and rights, and Article 2 states that all rights shall be enjoyed equally by all without gender discrimination. Article 2 of the Convention on the Political Rights of Women, 1953 provides women with the same political rights as men and ensures the right to vote, to be elected, and to hold public office. Articles 2 and 3 of the Covenant on Civil and Political Rights, 1966 and the International Covenant on Economic, Social and Cultural Rights, 1966 direct the states parties to respect and ensure the rights mentioned in the Covenant without gender-based discrimination. The International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 obliges the states for the protection of women's rights in national laws to end gender-based discrimination. It has also determined that it is the responsibility of the state to abolish discriminatory provisions, formulate new laws and develop a national mechanism for the effective protection of women's rights.

Under the rights of women, the Constitution of Nepal states there shall be no discrimination of any kind just on the basis of being a woman while reproductive health and reproductive rights of women are enshrined as fundamental rights. It is mentioned that physical, mental or any other kind of violence against women shall be prohibited and such acts shall be punishable

⁹ <https://ekantipur.com/news/2022/06/28/16563807791219968.html>

by law, sons and daughters shall have equal rights to ancestral property. Similarly, under right to social justice, women have the right to participate in the state structures on the basis of the principle of proportional inclusion. The Supreme Court had on 2 May, 2005 issues directives to the government to declared the Chhaupadi practice a harmful practice within one month and develop and implement guideline within three months. The government declared Chhaupadi practice as a harmful practice in its decision dated 9 May, 2006. Almost a year following it, the Ministry of Women, Children and Social Welfare introduced the "Chhaupadi Practice Abolition Guidelines, 2007'.

In the Criminal Code, 2017, it is stipulated that women should not be subjected to confinement or any other kind of discrimination, untouchability or inhumane treatment during menstruation or childbirth. The law provides that a person who commits such an offense may be punished with imprisonment of up to three months or a fine of up to three thousand rupees or both, and if the person who commits the offense is a civil servant, s/he shall be punished with an additional imprisonment of up to three months.

The Domestic Violence (Offence, Punishment) Act, 2009, Human Trafficking and Transportation (Control) Act, 2007 and Regulations, 2008 etc. also have directly/indirect provisions related to women's rights. Various mechanisms have been established at the state and government levels for the implementation of these provisions. In particular, there is a National Women Commission established as a constitutional body. Similarly, there are National Human Rights Commission, National Dalit Commission, Muslim Commission, Tharu Commission, Indigenous Nationalities Commission. The Ministry of Women, Children and Senior Citizens is also working in this sector. Likewise, various mechanisms are functional at the provincial and local levels.

Status of aerial rescue of life-threatening pregnant and post-natal women of remote areas			
S. No.	FY (BS)	Number of rescues	Remarks
1	2076—2077	87	
2	2077—2078	103	
3	2078-2079 (until the mid of May)	160	
Total			350

The heinous crime of human trafficking that remains as social black spot still exists, only the method is changing. According to the Nepal Police, 136 cases of human trafficking have been registered this fiscal year.¹⁰

¹⁰ Nepal Police Annual Factsheet on Gender-based Violence 2078-079 BS

S.No.	FY (BS)	No of cases
1	2076—077	136
2	2077-078	134
3	2078—079	136
Total		406

Statistics on crimes against women and children in FY 2078-079 BS										
S. N.	Type of violence	Koshi	Madhesh	Bagmati	Gandaki	Lumbini	Karnali	Sudur Paschim	Kathmandu valley	Total
1.	Rape	512	289	265	211	389	157	234	323	2380
2.	Attempt to rape	141	93	69	50	130	42	93	37	655
3.	Polygamy	144	121	93	40	157	81	82	91	809
4.	Child marriage	10	10	2	5	9	10	4	2	52
5.	Witchcraft accusation	5	28	4	-	7	2	2	1	49
6.	Illegal abortion	9	16	1	3	6	-	-	2	37
7.	Child sexual abuse	99	17	46	37	37	11	12	55	314
8.	Human trafficking	7	3	-	-	7	-	6	-	23
9.	Kidnap and rape	5	47	3	3	10	1	2	1	72
10.	Rape and murder	2	2	-	1	-	3	1	-	9
11.	Rape after child marriage	1	-	-	-	-	-	-	-	1
12.	Domestic violence	1333	4473	1568	1409	2860	983	1316	3058	17,000
13.	Acid attack	2	1	-	-	-	-	-	1	4
14.	Human trafficking and transportation	14	10	7	16	32	4	5	46	136

The aforementioned statistics shows that women's rights are still not fully protected. Rape, trafficking, polygamy, child marriage, chhaupadi practice continue to exist. Domestic violence is found to have been rising. The nature and form of discrimination and violence is also found

to be changing as per time. Women are suffering from incidents like rape, sexual harassment, acid attack/burning, beatings. The monitoring of the NHRCN and the media reports found that women were subjected to more violence during the COVID-19 period than in normal situation. The women who were in prison were also affected. About 1,200 female prisoners in the Central Jail were deprived of the essential materials they needed to stay safe from Corona Virus. The aforementioned issue is also confirmed by the facts obtained from the NHRCN monitoring. (These various aspects are also discussed in the sub-heading of the provincial situation of women's rights under the title of provincial situation of human rights).

There is still a situation where pregnant women and children in remote areas have to face death due to geographic remoteness, lack of transportation, disorganized air service and hospitals that are not fully equipped. In pregnant women, the health condition of mother and child is in crisis due to lack of vitamins, calcium, sufficient nutritious food and lack of awareness. Looking at the overall situation although the political rights are positive, the life of women in the rural level is still miserable. Although the constitution and laws are women-friendly there are problems because the implementation aspect is not effective. Therefore, the NHRCN's monitoring shows that the state and stakeholders should be more sensitive in the area of effective implementation of laws, public awareness, employment and education.

2.5 Rights against Human Trafficking

Human trafficking is a heinous, criminal, prohibited and punishable act. There is a special provision in the United Nations Protocol to prevent trafficking of women and children, 2000. This protocol has been approved by both Houses of Parliament (National Assembly on 19 January 2020 and House of Representatives on 12 March, 2020). People falling victim to human trafficking, even family members, are deprived of basic human rights. In particular, they have been deprived of the right to information, the right to freedom and security, the right to live, the right to self-respect, the right against slavery and labor exploitation, the right against abusive behavior, and the right against gender-based violence. In addition to this, the right to mobility, health, education, safe housing, protection from sexual exploitation and other rights are also being violated.

In the fiscal year 2078/79, there were a total of 145¹¹ cases related to human trafficking registered at the Nepal Police Human Trafficking Investigation Bureau. Of them, 211 people were found to be victims of human trafficking. Among those falling victim to human trafficking, 94.7 per cent are female and 5.2 percent male.

¹¹ https://www.nepalpolice.gov.np/other_links/index/10/

FY (BS)	No.	Victim		Accused		Arrested		Absconding	
		M	F	M	F	M	F	M	F
075/76	258	71	316	407	117	249	84	157	34
076/77	136	14	190	233	107	127	71	106	36
078/79	134	4	183	202	95	111	51	91	44
079/80	145	11	200	215	76	135	45	80	31
Total	673	100	889	1057	395	622	251	434	145
		989		1452		881		579	

Source: https://www.nepalpolice.gov.np/other_links/index/10

A study of the complaints registered at the Nepal Police Human Trafficking Investigation Bureau shows that the situation of trafficking within the country (internal) is increasing. It has been found that such incidents are more common in the areas of entertainment and hospitality services in various urban areas of the country, such as dohori sangh, dance bar, massage centers, Khaja Ghar, parlors. In particular, the women and girls are subjected to labour exploitation, sexual abuse and exploitation, and mental harassment.

In addition to internal trafficking, human trafficking is also taking place to countries like India and China. In India, trafficking and transportation takes place for the purpose of flesh trade, as a laborer, child marriage and in China in the name of marriage, cultural events, network business, holidaying, employment in the field of entertainment, etc. Furthermore, there is a trend of going abroad illegally and without documentation through irregular routes in the name of foreign employment. This is how people end up being trafficked.

During the COVID-19, many citizens were deprived of employment, and with small and medium scale businesses closed, daily livelihood of workers working in the informal sector was affected. It has been found that people who vulnerable due to such situation are at high risk of human trafficking. Various ministries and departments of government of Nepal, Nepal Police, non-governmental sector, civil society, media etc. are constantly working to prevent human trafficking. It has played an important role in raising public awareness, rescuing and protecting victims and reaching them to their families. After enforcement of federalism and formation of a three-tier government, it is necessary for the federation to make national policies and laws, for the provinces to coordinate the local levels within the respective province, and for the local levels to update the details of human trafficking issues, keep details of those going abroad, and run

rehabilitation centers and various programs for the protection of the victims. In addition, since the non-governmental sector, civil society, media and the private sector are equally important in this regard provision should be made for collaboration.

2.6. Child Rights

The issues related to child protection, child participation, right to survival, child development and other issues are considered as are child rights. The International Convention on the Rights of the Child, 1989 recognizes persons below the age of 18 as child. There is no uniformity in national laws regarding the age of children.

Children's rights are provided in various thematic human rights conventions and national laws. The International Convention on the Rights of the Child, 1989, Optional protocols to the Convention on the Rights of the Child, 2000 against the use of children in armed conflict and against the sale of children, child prostitution and pornography, 2000 are regarded as special. Similarly, in regional conventions, the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia 2002 also mentions about child rights. Considering the various aspects of children, the Convention on the Rights of the Child and other treaties provide for child protection, child development, saving children and participation of the children. Special emphasis has been laid on the best interest of the child, long life and development, non-discrimination and participation.

Likewise, the national laws also mention about children's rights. Article 39 of the Constitution of Nepal mentions the rights of children as fundamental rights. According to the constitution, emphasis is placed on children's right to identity and name, upbringing, basic health and social security, and the right against physical, mental or any other kind of exploitation. It is mentioned that helpless, orphaned, mentally retarded, conflict victims, displaced and vulnerable and street children shall be given special facilities by the state, they shall not be employed in factories, mines or other hazardous works or used in the army, police or conflict. The Children's Act, 2018 has also provided for child rights. Similarly, various provisions have been made regarding the rights of children in the Child Labor (Prohibition and Regulation) Act, 2000, the Bonded Labor (Prohibition) Act, 2002, An Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2006, the Domestic Violence (Offenses and Punishment) Act, 2010. The Sexual Harassment at Workplace (Prevention) Act, 2014, and its Regulations, Juvenile Justice (Procedure) Regulations, 2006, Domestic Violence (Offenses and Punishment) Regulations, 2011, Gender-based Violence Prevention Fund (Operation) Regulations, 2011, the Emergency Child Mitigation Fund (Operation) Rules, 2010, etc. address various aspects of children.

Various mechanisms have been set up at the international and national levels to implement the issue of child rights. A Child Rights Committee has been established for the implementation of the Convention on the Rights of the Child. States Parties are obliged to submit an initial report to the Committee within two years and a periodic report every five years. In the Universal Periodic Review (which takes place every 4.5 years), children's rights are also discussed on whether the state parties have fulfilled their obligations. Based on the conclusion from the discussions, recommendations are made regarding the role to be played by the state parties. Similarly, various mechanisms have been formed for the cause of children's rights at the central, provincial and local levels. Line ministries, committees under the ministries, etc. have been working in this regard. According to the National Census 2011, the total population of the country is 26,494,504 (12,849,041 male (48.5 percent) and 13,645,463 female (51.5 percent)). In this the number of children below 18 years is 11,084,311, which is 41.83 percent of the total population. Similarly, the percentage of children under the age of 16 was 37.37 per cent and children under the age of 14 were 32.35 percent. According to the preliminary data of the National Census 2022, the total population is 29,192,480 (Male 14,291,311 (48.96 per cent) and Female 14,901,169 (51.04 percent)). The data on the number of children has not yet been made public.

International instruments and mechanisms and national laws related to child rights are child-friendly. The implementation mechanisms have also been developed. Various activities are taking place with a focus on them. According to UNICEF, Nepal has made significant progress in improving the health of women and children. Due to improvements in primary health care, the mortality rate of children under the age of five has decreased. The country has been declared polio-free, the commitment and progress in improving maternal health, and the reduction in child mortality have been successful. The mortality rate is 21 for every 1,000 live births. In addition, the under-five mortality rate is 39 out of every 1,000. The infant mortality rate is almost twice as high among the poor as compared to the rich, and the rate is higher among young mothers. The report on the status of children in Nepal, 2021 showed that the net enrollment rate at the primary level increased from 64 percent to 97.1 percent between the fiscal year 1990/091 to 2020/021. In basic and secondary education, the ratio of female students increased from 0.43 to 0.98 and from 0.43 to 1.01 respectively. Overall, there has been an increase in access, equality, quality and effectiveness of school education. Similarly, the mortality rate of newborns, infants and children has improved significantly and has dropped from 50 to 16 per thousand, from 108 to 25 per thousand, and from 162 to 28 per thousand respectively. As a state party, the meeting of the Council of Ministers on 7 February, 2022 decided to approve the Sixth Periodic Report of Nepal under the Convention on the Rights of the Child, 1989 and submit it to the Child Rights Committee.

Despite these positive aspects, there are still many challenges in the children sector. Problems such as low quality and unequal access to education, geographical remoteness, gender, economic,

social and ethnic differences continue to exist. Due to poverty, social exclusion, disability, migration, child labour, social norms and gender-based discrimination, not all children are able to enroll in school and attend school regularly. According to UNICEF, 770,000 children are still out of school. In Grade 3, 5 and 8, only half of the students pass the Nepali and Mathematics exams. Looking at the inequality in the education sector, 65 per cent of the rich and only 12 per cent of the poor are literate. The number of child-friendly schools is very low.

In this FY 19 children lost their lives due to COVID-19, including 10 under the age of nine and eight under the age of 19.

According to Nepal Police, this FY a total of 52 cases of child marriage were registered including 10 cases each in Koshi, Madhesh and Karnali provinces, nine in Lumbini, five in Gandaki, four in Sudurpaschim and two in Kathmandu valley. Similarly, 314 cases of child sexual abuse have been registered, in which the highest number is 99 in Koshi and the lowest is 11 in Karnali Province. Similarly, 55 were registered in Kathmandu Valley, 46 in Bagmati Province, 37 each in Lumbini and Gandaki, 17 in Madhesh and 12 in Sudurpaschim province.

S. No.	Type of violence	Koshi	Madhesh	Bagmati	Gandaki	Lumbini	Karnali	Sudur Paschim	Kathmandu valley	Total
1.	Child marriage	10	10	2	5	9	10	4	2	52
2.	Child sexual abuse	99	17	46	37	37	11	12	55	314

This FY, 1064 children were found to be in juvenile correctional facilities, including 506 boys and 15 girls as prisoners and 521 boys and 16 girls as detainees. The juvenile correction facility in Bhaktapur, which has a total capacity for 75 people, was found hosting 157 people.

Details of children who are in juvenile correctional homes till the Mid June, 2022							
Juvenile Correctional Facility	Prisoner			Detainee			Capacity of Juvenile Correctional Facility
	Boy	Girl	Total	Boy	Girl	Total	
Juvenile Correctional Facility, Bhaktapur	123	15	138	141	16	157	75
Juvenile Correctional Facility, Morang	136	0	136	63	0	63	50
Juvenile Correctional Facility, Kaski	42	0	42	56	0	56	50

Juvenile Correctional Facility, Banke	91	0	91	90	0	90	
Juvenile Correctional Facility, Makwanpur	32	0	32	27	0	27	
Juvenile Correctional Facility, Doti	29	0	29	12	0	12	
Juvenile Correctional Facility, Parsa	11	0	11	92	0	92	
Juvenile Correctional Facility, Rupandehi	42	0	42	46	0	46	
Total	506	15	521	527	16	1064	
Source: Department of Prison Management, Ministry of Home Affairs							

The situation of children going missing but not being found is still present. It was reported in the media that 36,612 children have gone missing in 16 years, 13,353 of them are still not found. Media also reported that the rate of missing children has increased by 30 per cent but there is no investigation into why they are going missing. It was reported that 2,219 went missing in the FY 2019-020, 3,099 in the FY 2020-021 and 4,269 in the FY 2021-022.¹²

2.7. Right to Education

Education is the basic and fundamental right of every person. In democratic countries, this right has been established as a fundamental right in the constitution, and education up to the basic level is made mandatory and free. Acquiring education is not only about becoming literate and getting a certificate, but also to be linked with the development of innovative knowledge, skills and technology. In addition to this, it is also necessary to be qualified or able to compete in the national and international market.

Article 26 of the Universal Declaration of Human Rights stipulates that every person should be guaranteed the right to education. It has been emphasized that education up to the primary level should be available free of cost, basic education should be compulsory, technical and vocational education should be accessible to all, and children should have full right to choose their education. Article 13 of the International Covenant on Economic, Social and Cultural Rights, 1966 states that education shall be directed towards the development of human personality and dignity and that the state parties shall provide compulsory and free primary education for

¹² <https://www.nayapatrikadaily.com/news-details/94708/2022-08-31>

all. Articles 28 and 29 of the International Convention on the Rights of the Child emphasize that children should not be discriminated against in education, primary education should be compulsory and free, and that access to education should be expanded. Articles 10 and 14 of the Convention on the Elimination of All Forms of Discrimination against Women state that education and training opportunities should be provided to women without discrimination on the basis of caste, race, and gender, national or social origin.

The Constitution of Nepal has established education and cultural rights under fundamental rights. It has emphasized that every citizen has the right to get free education up to the secondary level as provided by law. It is stated that every community shall have the right to basic education in their mother tongue and to protect and promote their language, script, culture, cultural civilization and heritage, visually impaired citizens shall have the right to receive free education in Braille and deaf and people with vocal or speech disability through sign language according to the law. In section 11 (h) of the Local Government Operation Act, 2017, the right of basic and secondary education has been given to the local government. However, the legal provisions to this regard have not been implemented effectively.

While the complete details of National Census 2022 have not been received, the total literacy rate of Nepal is 65.94 percent as per 2011 Census. Prior to this, this percentage was 54.1 in the national census of 2001. Considering the academic session of 2022, out of a total of 34,368 schools there are 26,454 community schools, 6,760 institutional schools and 1,154 religious schools.

Condition of Schools				
Schools as per the level and type	community	institutional	religious	Total
Basic Level (Grade 1—5)	26335	6684	967	34138
Basic Level (Grade 6-8)	11652	5388	133	17228
Basic Level (Grade 1—8)	26429	6724	1100	34306
Secondary Level (Grade 9—10)	6882	3985	43	10902
Secondary Level (Class 11-12)	3412	877	21	43100
Secondary Level (Grade 9—12)	6885	4020	54	10962
Total	26454	6760	1154	43368

Details of teachers working in community and institutional schools, 2022

Level	Community Schools		Institutional Schools		Total		
	Female	Male	Female	Male	Female	Male	Total
Basic Level (Grade 1-5)	52904	63244	26225	19420	79129	82664	161793
Basic Level (Grade 6-8)	10064	26469	9525	11302	19589	37771	57360
Basic Level (Grade 1-8)	4668	23094	4329	17480	8997	40547	49571
Secondary Level (Grade 9-10)	903	6080	831	4227	1734	10307	12041
Total	68539	118887	40910	52429	109449	171316	280765

Situation of Universities		
S. No.	Name of the University	No. of Students
1	Tribhuvan University	422,535
2	Kathmandu University	16,847
3	Purvanchal University	48,858
4	Pokhara University	32,484
5	Midwestern University	8,657
6	Nepal Sanskrit University	3,049
7	Far Western University	13,873
8	University of Agriculture and Forestry	4,427
9	Rajarishi Janak University	399
10	Lumbini University	1,011
11	Open University	969
Total		556,797

Under higher education, a total of 556,797 students are studying in 11 universities and campuses within the country. The highest number of students are 422,535 in Tribhuvan University, 16,847 in Kathmandu University, and 48,858 in Purvanchal University. There are 32,484 students in Pokhara University, 8,657 in Midwestern University, 32,484 students in Pokhara University. Likewise, there are 8,656 students in Midwestern University, 3,049 in Nepal Sanskrit

University, 13,873 in Far Western University, and 4,427 students in Agriculture and Forestry University. The Open University has 969 students, Rajarishi Janak University has 399 students and Lumbini Buddhist University has 1011 students. Similarly, 3,571 students are studying in 5 health science institutes. Among the students studying in higher education, the number of students studying in Tribhuvan University and other universities is found to be 76.9 percent and 23.1 percent respectively.

According to international practice, the budget in the education sector should be above 20 per cent, but in the case of Nepal only half of that is allocated. In the year 2077-078, Rs 1,474 billion (11.64 percent), in 2078-079 Rs 1647 billion (10.92 percent) have been allocated. Among the allocated amount, the share is Rs 70.5 billion for the Ministry of Education, Rs 5.32 billion for the provinces and 121 billion for the local level.

The budget of the current FY has set the goal of linking education with skills, skills with labor, labor with employment, employment with production and production with the market, by prioritizing education and science technology. Emphasis has been laid on campaigns like studying and earning, our school, our responsibility, the expansion of technical and professional education: the basis of prosperity etc. Similarly, the provincial and local governments have also conducted educational campaigns considering their own characteristics and originality.

According to the Ministry of Education, Science and Technology, in 2020 the total and net enrollment rates in early childhood development and education have reached 86.4 and 67.2 per cent respectively, while in basic education (grades 1-5) this percentage is 119.3 and 97.1 respectively. Similarly, basic education (grades 1-8) gross and net enrollment rates are 110.4 and 93.8 per cent respectively. On the other hand, the average grade repetition rate in grades 1-3 is around 8 per cent and the dropout rate is around 4 per cent. The retention rate up to grade 8 is only 79.3 per cent. As about 21 per cent of the enrolled children have not even reached grade 8 and about 6.2 percent of children in the age group of 5-12 years are out of school, it is necessary to retain both these groups of children up to grade 8. At the secondary level (grades 9-12), the total and net enrollment rates are only 71.4 and 47.6 percent respectively, and a large population of secondary education age group (52.4 percent) is out of secondary level education.¹³

Even though the government has launched campaigns such as free education for children of all ages under the school admission campaign (let's bring them to school, retain them and teach them) up to the secondary level, declaring literate Nepal within two years, the wish of all of us, compulsory basic free education to ensure access to education for all children, the situation is not satisfactory. Although it is stated that free education, clothing, text books, mid-day meals

13 https://nepalindata.com/media/resources/items/20/bCommissionReport_edukhabar.pdf

will be provided from the government level, there is no reliable basis to achieve the expected goals. Still, it is estimated that more than 300,000 children in the age group of 5 to 12 years are out of school. It is certainly sad that access to school has not reached all children. This includes children with special problems, particularly children with disabilities, with economically disadvantaged parents, orphans without parents or guardians, disadvantaged children are deprived of education. Children who not no place to live, who are in the streets, who have to work for a living are also not within the reach of the school. The future of students admitted with individual support is not guaranteed. Due to caste-based discrimination, children of Dalit community do not go to school and even if they go they drop out. In addition to this, not all children have been able to reach school due to the geographical distance of the school, lack of physical infrastructure of the school, lack of quality education, lack of public awareness among the parents that children should be sent to school.

Although it is stated that education would be made technology-friendly, the number of schools using the Internet is low, and the attendance of students is also low. The improvement in the quality of community schools is not as expected. Due to lack of focus on quality teaching, strict management and effective monitoring, responsibility and accountability of stakeholders, the attraction towards government schools has not increased. The right to receive education in the mother tongue has not been implemented as expected. Not enough attention has been paid to free, quality, professional and culture-based education.

The condition of universities that provide higher education is even more pathetic. In particular, Tribhuvan University and Nepal Sanskrit University have been victims of party-based politicization. The NHRCN had monitored the issues of lockdowns, disruptions in teaching and learning in the university. The TU was found to have been padlocked for 200 days in two years, which is almost half of the days that the university would remain open. Hence, the NHRCN's monitoring shows that academic, physical improvement and other programs were affected due to the lock-down for almost half of the university opening days in two years. Education is an integral part of a human's life. Therefore, it is necessary to move ahead by addressing the aforementioned problems. Attention should be made to action plans based on the needs of the persons with disabilities, physically challenged, financially disadvantaged, excluded classes, regions and communities, and take long-term steps in various aspects such as school uniforms, mid-day meals, etc. It is necessary for the government and political parties to realize their responsibility to create a learning environment in schools and universities and keep them away from politics.

2.8. Right to health

The right to health is a fundamental human right of an individual. This right is established in various international human rights instruments and national laws. Article 25 of the Universal Declaration of Rights, 1948 states that every person has the right to health and safety for himself and his family, and security during sickness, infirmity and old age. Article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965, stipulates that the right to receive public health and medical treatment from the state should be provided without discrimination. Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, 1966 emphasizes the right of every person to the enjoyment of the highest attainable standard of physical and mental health. Rights related to women's health are included in Articles 11 and 12 of the International Convention on the Elimination of All Forms of Discrimination against Women, 1979. Article 24 of the Convention on the Rights of the Child provides for children to enjoy the highest level of health rights that can be obtained and to have the right to be treated for illness and to receive health recovery benefits.

The Constitution of Nepal has recognized the right to health as a fundamental right. Article 35 (1) of the Constitution states that every citizen shall have the right to receive basic health services free of charge from the state as provided by law. Under the state policy, it is mentioned that the standard of living of common people will be increased by developing basic facilities like education and health of citizens. Emphasis has been placed on participation of women in national development by making special arrangements for education, health and employment. Indigent Citizens Medicinal Treatment Fund Guidelines (Second Amendment), 2069 BS have been implemented. In Nepal, there is a provision for free dialysis facilities for kidney disease patients from designated listed hospitals, medical treatment facilities worth Rs. 400,000 through listed hospitals for kidney transplant. Rs 50,000 to organ recipient and organ donor for pre-kidney transplant test and Rs. 100,000 for post-transplant medication. A lump sum equal to Rs 150,000 is provided under this facility.

The government has allocated Rs 2.5 billion for free heart disease treatment for children under 14 years and senior citizens over 70 years of age, for heart, kidney, cancer, Parkinson's, Alzheimer's, spinal injury, head injury and sickle cell anemia treatment of the poor citizens. A total of 5.6 billion rupees have been allocated to distribute 70 types of medicines free of cost through all health institutions. Medical health insurance program has been expanded at all local levels, at least 50 per cent of families will be covered by insurance and Rs 7.5 billion has been allocated. Overall, the Ministry of Health and Population has been allocated a budget of 122.77 billion rupees. It is stated that there will be continuous monitoring of the availability and quality of medicines. Healthy Nepal Campaign: Emphasis on healthy thoughts, healthy food, regular

exercise has been emphasized. The provincial and local governments have implemented various programs in the health sector. It is a positive aspect that the state has recognized basic health services as a fundamental right and allocated the budget for it.

The World Health Organization's World Health Statistics, 2018 also mentions about the health situation of Nepal, according to which, out of 100,000 live children 258 die due to various post-natal problems. According to sustainable development goals, this number should be reduced below 70 per 100,000 people by 2030. Only 57 percent trained human resource, shortage of doctors in remote areas, and inadequacy of quality services still exist. Likewise, 88 teenage girls (10-19 years old) give birth per thousand. A total of 9.7 per cent children under five years suffer from malnutrition and 0.31 percent from hepatitis B. Child mortality rate is 34.5 percent per thousand. It has to be reduced to 12 percent by the year 2030 in order to achieve the sustainable development goal. The death rate (30-70 years) from non-communicable diseases is 21.8 percent. Every year, 193 per 100,000 people die due to pollution and 19.8 percent out of every 100,000 due to sanitation-related problem. Currently, only 27 per cent of the population has access to clean drinking water. The death rate due to HIV/AIDS is 0.3 per cent per thousand, 154 per 100,000 due to tuberculosis, 0.9 per cent per 100,000 due to malaria. According to the economic survey of FY 2022/023, as of March 2022, the health services and human resources is as follows:¹⁴

S.No.	Details	Total
1.	Total Health Services	7598
a.	Hospital	154
b.	Primary Health Centre	196
c.	Health posts	3853
d.	Ayurvedic Dispensary	424
e.	Sub-health post/basic health service center	2971
2.	Hospital beds	15790
3.	Total human resource	97449
a.	Doctors	4660
b.	Nurse and A.N.M.	24693
c.	Kaviraj	613
d.	Baidya	693
e.	Health Assistant/H.A. and A.H.W.	15367.
f.	Women's Health Volunteers	51423

14 [https://mof.gov.np/uploads/document/file/Budget%20Speech%20\(Final\)%20Full_20210530100738.pdf](https://mof.gov.np/uploads/document/file/Budget%20Speech%20(Final)%20Full_20210530100738.pdf)

The average life expectancy in Nepal has now reached 69.7 years due to the qualitative and quantitative improvement in various vaccination programs including the National Immunization Program and services related to infectious and non-infectious diseases. Similarly, the maternal mortality rate (per 100,000 live births) is 239, the infant mortality rate (per thousand live births) is 32, and the under-five mortality rate (per thousand live births) is 39. (Source: Fifteenth Plan Concept Paper and Nepal Demographic Health Survey). This data also says that the country still needs to make radical improvements in the health sector.

In keeping with the population, the government has set the goal of making provision of a doctor, a health technician with a nurse in every rural municipality and a nurse in every ward, expanding X-ray and laboratory services in the health institutions under the rural municipality. Emphasis has been laid on establishing health institution at a maximum distance of 30 minutes in proportion to the geography and population, a primary health center equal to 20,000 population, and a hospital with at least 25 beds in proportion to one hundred thousand population and to be included in the periodic plan.

Despite these positive efforts, the right to health is still not within the reach of the common people. Access to health services for remote areas and below the poverty line, backward, disabled and marginalized communities has not been simple, accessible and widespread. Due to cultural, gender, economic and social barriers, the available health services are not delivered in an equitable manner. Although the Government of Nepal has announced that 98 types of medicines will be distributed free of cost, it has not been implemented effectively even in the district hospitals. It has been found that even paracetamol is missing from time to time in various health posts. Some citizens are not even aware of the fact that they can get free medicine in the health centers of the district. It has been found that patients go to the nearest clinic after consulting the doctor in the district hospital. The lack of physical infrastructure continues to exist. In some mountainous and remote areas there is still the compulsion to use doko and bamboos as ambulances. Doctors working in government hospitals are found to spend more time in private hospitals and clinics, which has a direct impact on the services of government hospitals. With increasing commercialization of the health sector, thinking is developing that government hospitals are only for the poor.

These issues are also included in one form or the other in the annual report of the Department of Health Services 2015-2016. Citizens of any particular location, level, category, class and community do not have access to easy and accessible health services as per the aspirations of the Constitution. Health problems are increasing day by day due to climate change, increasing food insecurity and natural disasters. Cancer, high blood pressure, diabetes and problems related to heart, kidney and lungs as well as other non-communicable diseases (such as mental illness,

dental problems) are increasing. The state has not been able to carry out health promotional programmes with priority and in the required quantity. Access to quality medicines, correct use of medicines, production of essential medicines and medical tools within the country has not been effective and people-oriented. The materials and medical equipment used in the laboratory are not of good quality. The existing human resource is also migrating, while skilled human resource related to health service has not been produced in proportion of the population. The concerns including the safety of the people working in the health service have not been addressed in a planned way so far.

Various news related to health were published in this FY. 'Bacteria of diarrhea and cholera'¹⁵ found in the water of KUKL and tankers', 'big government hospitals do not give patients 98 types of free drugs'¹⁶ prescribed by the government', '3 hospitals in province 1 close the health insurance program'¹⁷, 'BP suspends health insurance.'¹⁸

2.9. Consumer rights

Every individual is considered a consumer because every individual has to consume or use goods or services. Consumers are those who buy or use quality goods or services for a living. The United Nations Consumer Protection Guidelines, 1985 provides consumers with the right to protection, the right to be informed, the right to choose, the right to be heard, the right to consumer education, the right to compensation, the right to access to basic needs, and the right to a clean and healthy environment. Article 25(1) of the Universal Declaration of Human Rights, 1948 states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, shelter and medical facilities and necessary social services, and the right to security in case of unemployment, sickness, infirmity, widowhood, old age or in the absence of means of livelihood in circumstances beyond their control. Likewise, Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights, 1966 mentions the right of every person to adequate income, clothing and housing for himself and his family to continuously improve their adequate standard of living.

The Constitution has recognized the rights of consumers as fundamental rights. Article 44 of the Constitution ensures that consumers have the right to receive quality goods and services and the right to compensation if someone is harmed by poor quality of goods or services. The Consumer Protection Act, 2017 has ensured the right of the general consumers to be informed

15 <https://nayapatrikadaily.com/news-details/89922/2022-07-01>

16 <https://www.nayapatrikadaily.com/news-details/95901/2022-09-16>

17 <https://www.onlinekhabar.com/2022/07/1159384>

18 <https://ekantipur.com/pradesh-1/2022/07/01/165664205003462761.html>

and protected. The right to a clean environment in Article 30 of the Constitution and the right to health in Article 35 are also associated with consumer rights.

Although consumer rights are protected in instruments, laws and government commitments related to human rights, the implementation aspect are found to be weak. The NHRCN has been continuing the monitoring according to its consumer's rights monitoring guidelines. The facts obtained from the monitoring shows that the situation of consumer rights is not satisfactory. There is lack of easy supply and food security, adulteration of non-food items, sale of date expired food items, artificial price increase, quality items, product accumulation or storage, and transportation. Consumers are not getting enough information and knowledge. Advertisements that misinform and tempt customers are seen as a challenge. On the one hand, there is a situation where the market is not clean and competitive, while on the other hand, the actions of the government agencies responsible for monitoring and regulation, including the Department of Commerce, are not effective and transparent. Apart from this, the lack of resources and coordination, skilled human resource, lack of laboratories, existing laboratories remaining unused, effective monitoring, action etc. are other factors.

According to Nepal Rastra Bank, the annual consumer inflation rate reached 7.14 percent Mid of last March. The inflation rate is 4.11 percentage points higher compared to mid of the last fiscal year. In mid of last fiscal year, the rate of inflation was 3.03 percent. The inflation rate of mid of last March is higher than the annual target set by the Rastra Bank for the current financial year. The Rastra Bank had set a target of 6.5 percent inflation in the current financial year.¹⁹ "In the financial year 2021/022, the consumer inflation rate will be limited to an average of 6.5 percent, while giving priority shall be given to economic recovery, liquidity will be managed in such a way as to help in the expansion of the economy," said the monetary policy. According to the monthly report of the Rastra Bank, the price inflation rate of food and beverages category is 7.51 percent and that of non-food and services category is 6.84 percent. Compared to February 2021, in February 2022, the price inflation of ghee and oil under the food and beverage category is 26.34 percent, of vegetables 13.96 percent, of dairy products and eggs 11.30 percent, and of pulses and cereals 10.30 percent. Under the service category, the price inflation rate is 16.27 percent, miscellaneous goods and services it is 9.01 percent and education sub-category is 8.79 percent.²⁰ It has been seen from the NHRCN's monitoring that the citizens have to pay high price in daily consumable goods and the daily life of those making a living through daily wage work and with poor financial condition has become very miserable.

The consumer's kitchen is not pesticide free. The laboratories for pesticide testing are few, and

¹⁹ Kantipur daily, 13 April, 2022

²⁰ Ibid

they are also not in full use. Some laboratories lack staff and some lack infrastructure. In this regard, a news report with the title "Kalimati's pesticide testing laboratory opens only after the vegetables reach the consumer's kitchen and on government holidays the pesticide testing laboratory does not open at all." It was stated in the news report: Vegetable trucks enter Kalimati every night after 12 o'clock. After unloading overnight, the wholesale and retail traders of the valley pick up the vegetables around 3 am. By 5 o'clock in the morning, even the street vendors will have taken the vegetables. However, the Kalimati Pesticide Rapid Development Center opens only at 6 am. The center is meeting formalities by testing only a few of the remaining vegetables.²¹

According to the Kalimati Pesticide Rapid Development Center, out of 224 vegetable samples tested in January, 11 of them were found to be inedible, i.e., high percentage of pesticides was found. Similarly, in February, three samples of 267 vegetables were found to be inedible. In March, as of the 15th, when a total of 25 samples were tested for pesticides, three were found to be unfit for consumption. Prakash Ghimire, Head of the Kalimati Pesticide Rapid Development Center, is quoted in the news as saying: We will do as the government says, we cannot open before 6 am. Not only in Kalimati, pesticides are tested for domestically produced vegetables in six other places in the country under the Central Agricultural Laboratory. However, the laboratory in Pokhara remains closed for three years due to lack of staff. The labs in Sarlahi and Nepalgunj have been at a standstill for three months due to lack of infrastructure including machines.²²

Although the inflation rate is said to be 6.5 percent, in practice, the kitchen of consumers has become very expensive. A news report published under the title "Backbreaking inflation" also speaks about the extent of the situation: From daily consumables to public transport, the inflation has skyrocketed. The price of vegetables has increased by almost 500 percent in the last three months, cooking gas has increased by 125 rupees per cylinder, and fares in public transport have been increased by 28 percent, but the regulatory body says: We cannot say make it cheap. Edible oil became expensive by 60 rupees per liter, rice by 75 rupees per sack and pulses by 35 rupees per kilo.²³

The increase in the price of petroleum products has its affect in all directions. Since it is not domestically produced, the price is determined by the international market is the readymade response of the government officials. Although it is now called the effect of the Russia-Ukraine war, internal reasons are equally responsible. Particularly, there is a common understanding that the mismanagement within the Nepal Oil Corporation invites the problem. Not much attention

21 <https://nayapatrikadaily.com/news-details/83780/2022-04-04>

22 Ibid

23 <https://www.nayapatrikadaily.com/news-details/75082/2021-11-21>

has been paid to the implementation of the recommendations of the task groups or advisory committees formed at different times. News reports have been published stating that the market inflation hike has fully affected up to the kitchen. In the last seven months (October to May) the price of fuel has been increased 10 times. In just 10 days after the local elections, the price has been increased twice. After the increase in price on Sunday (22 May), petroleum has become the most expensive ever. According to Nepal Oil Corporation, now the price of petrol per liter has reached 180 rupees and the price of diesel and kerosene has reached 163 rupees per liter. The price of aviation fuel is Rs 163 per liter. Similarly, cooking gas per cylinder has been reached 1800 rupees.²⁴ On Jestha 10, the government reduced the infrastructure tax on petroleum products by Rs.10. Expired food items are found everywhere in the market. Not much care is taken about displaying the price list in the shops. The activity or responsibility of the bodies that should be responsible for monitoring and action has become limited to formality and in a vacuum. The NHRCN Provincial branch office Khotang had written to the concerned authorities to ban the import of inedible items found in the market and to monitor the market regularly.

The aforementioned representative examples show that the situation of the consumer's rights is pathetic. The situation of the country's public transport system is not satisfactory in practice. Apart from the fact that the process of determination of price of goods and services is not fair, consumers are not able to easily obtain essential goods and services including cooking gas. Unnatural rise in market price, no one being held to account, misleading advertisements about goods and services have become a normal thing. Consumers themselves have not been organized and sufficiently aware of their rights. Overall, rights such as consumer protection, access to goods, informed choice, legal remedy, compensation have not come into force. Therefore, it is necessary for all three tiers of government and stakeholders including the consumers to become more responsible on these matters.

2.10. Rights against Human Trafficking

The Constitution of Nepal (2015) has ensured that human trafficking and transportation are constitutionally prohibited, punishable and the right to compensation for the victims. The 9 articles under the fundamental rights of the constitution (Article 17 right to freedom, Article 18 right to equality, Article 20 right to justice, Article 21 right of crime victims, Article 29 right against exploitation, Article 33 right to employment, Article 34 right to labour, Article 38 rights of women and Article 39 rights of children) are directly related to human trafficking and slavery. In addition, the provisions mentioned in the policies of the state have also addressed the issue of human trafficking.

²⁴ <https://www.nayapatrikadaily.com/news-details/87217/2022-05-23>

Nepal has endorsed the United Nations Protocol to prevent trafficking in human beings, especially women and children, 2000 by both houses of the federal parliament (from the National Assembly on 19 January, 2020 and from the House of Representatives on 12 March, 2020) and after the endorsement of the Palermo Protocol 2000, the Government of Nepal, Ministry of Home Affairs has also developed an action plan as an effort to localize it.

Nepal Police Human Trafficking Investigation Bureau has in the FY 2021/022 received a total of 145 cases²⁵ related to human trafficking, where 211 people are found to have fallen victims to human trafficking. And 94.7 per cent of those who are trafficked are women while 5.2 per cent are men.

In cases of human trafficking, individuals are deprived of basic human rights as well as multi-dimensional human rights. Victims and survivors of human trafficking mainly are deprived of the right to information, the right to freedom and security, the right to life, the right to self-respect, the right against slavery and labor exploitation, the right against abusive treatment, the right against gender-based violence, the right to mobility, the right to health, the right to safe housing, the right to work in a safe environment, the right to be protected from sexual exploitation, the right to effective family reunion, the right to social security, the right to special protection for children and the right to repatriation to home country.

A study of the complaints registered at the Nepal Police Human Trafficking Investigation Bureau shows that the situation of trafficking within the country (internal) is increasing. In various urban areas of the country, acts like labor exploitation, sexual abuse and exploitation, and mental harassment are taking place against women and girls, especially in the entertainment sector and hospitality services such as dohori sanjh, dance bar, massage centers, khaja ghar and parlors. Similarly, children are subjected to forced labor, sexual abuse and exploitation within the country itself, making them highly vulnerable to human trafficking.

In addition to internal trafficking, trafficking and transportation is also taking place to India for flesh trade, as labourers and child marriage and to China in the pretext of marriage, cultural programs, networking business, to dance in orchestra, holidaying and under the pretext of providing employment in the entertainment sector. Similarly, there have been cases where people who have traveled through irregular channels in the name of foreign employment and left abroad without legal documentation have fallen victim to human trafficking.

During the COVID-19, many citizens were deprived of employment, and with small and medium scale businesses closed, daily livelihood of workers working in the informal sector was affected. It has been found that people who vulnerable due to such situation are at high risk of

25 https://www.nepalpolice.gov.np/other_links/index/10/

human trafficking. Various ministries and departments of government of Nepal, Nepal Police, non-governmental sector, civil society, media etc. are constantly working to prevent human trafficking. It has played an important role in raising public awareness, rescuing and protecting victims and reaching them to their families.

After enforcement of federalism and formation of a three-tier government, it is necessary for the federation to make national policies and laws, for the provinces to coordinate the local levels within the respective province, and for the local levels to update the details of human trafficking issues, keep details of those going abroad, and run rehabilitation centers and various programs for the protection of the victims. In addition, since the non-governmental sector, civil society, media and the private sector are equally important in this regard provision should be made for collaboration.

2.11 Migrant Workers' Rights

Every individual has the right to get employment according to their qualification, competence and choice. In the present context it has become common to go abroad for employment, which constitutes a large proportion of migrant workers. Article 2 (1) of the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, 1990 defines migrant worker as a person who is recruited or engaged or employed in a waged activity in a country of which s/he is not a citizen. This Convention protects the rights of migrant workers against discrimination, the right to nationality, the right against torture, inhuman or degrading treatment or punishment, right against slavery, slave trade, right against forced labour, right against illegal arrest, right to clean and fair trial, freedom and security, right against arbitrary arrest or detention.

Various international and national arrangements have been made in relation to the rights of migrant workers. At the international level there is an International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990. The NHRCN has recommended to the government of Nepal to ratify this convention. Similarly, the ILO Convention 1930 (No. 29) on compulsory or forced labour, Migration for Employment (Amended) Convention, 1949 (No. 97), Decent Work Convention for Domestic Workers 2011 (No. 189) are also in effect. Likewise, the workers' rights are also mentioned in Convention on Freedom of Association and Protection of the Right to Organize, 1948 (No. 87), Migrant Workers (Additional Provisions) Convention, 1975 (No. 143), Private Employment Agencies Convention, 1997 (No. 141).

There are global mechanisms, regional arrangements, United Nations protection system for the protection of the rights of migrants. They are directed towards migration management (good governance) and human rights protection. The Sustainable Development Goals 2030, the Global Compact on Migration 2018, the Colombo Process, the Abu Dhabi Dialogue, and the Bali Process are also present. The Global Compact on Migration (GCM) is considered as a special and important international instrument of human rights for the protection of migrants' rights. In this instrument, it is intended that the problem of migrant workers can be brought to a sustainable solution only if all the stakeholders can act along with the roles and responsibilities by internalizing the fundamental principles of human rights. Migrants-centered, rule of law and due process, sustainable development, human rights-centered, child sensitivity, involvement of all government agencies, participation and involvement of all stakeholders in the society are mentioned as the major guiding principles of the GCM. Among the 23 objectives of this instrument adopted by most countries of the world are the need for disaggregated data, the reduction of forced migration, the dissemination of accurate information, the adoption of simple and easy procedures, the certainty of legal identification and documentation, clean and ethical recruitment processes, decent work and protection, risk reduction, protection of lives, coordination in the search for missing migrants, efforts for multination solution, prevention and control of human trafficking in the context of migration, border management, use of detention as a last resort, ending all forms of discrimination, skills development, mutual recognition of qualification and competence, simple and easy transfer of remittances, safe and dignified repatriation, sustainable reintegration, social security, international cooperation and global partnership.

The government of Nepal has introduced and implemented the following policies, procedures and guidelines to manage foreign employment.

- Foreign Employment Act, 2007
- Foreign Employment Regulations 2008 (amendment 2018)
- Foreign Employment Policy, 2012
- Reintegration Programme (Operation and Management) Directives for Returnee Migrant Workers, 2022 Foreign Employment Board Working Procedures, 2011
- Procedures for national recognition and award management of entrepreneurs who have returned from foreign employment, 2019
- Procedures for Listing, Renewal and Monitoring of institutions for Health Examination of Workers Going for Foreign Employment, 2015 (Second Amendment)

- Foreign Employment Skills Development Training Operation Procedures, 2017
- Procedures related to appointment of labor attaché', 2016
- Guidelines for sending Nepali workers to Israel, 2021
- Guidelines on legal protection of Nepali workers who have gone to foreign employment, 2018
- Guidelines for management of domestic workers in foreign employment 2016 (Third Amendment)
- Foreign Employment Offenses Investigation and Inquiry Directives, 2005
- Foreign Employment Tribunal Rules, 2011

The bodies responsible for the management of foreign employment are the Ministry of Labour, Employment and Social Security and its subordinate Department of Foreign Employment and its offices and provincial labor offices. There is provision for a Foreign Employment Tribunal for dispensation of justice, while the contribution-based welfare works are carried out by the secretariat of the Foreign Employment Board (FEB). A provision has been made whereby the FEB can localize its services and seek application for welfare services through local bodies. In the destination countries, Nepali missions and labor-attaché' have been carrying out the work of management and protection of Nepali migrant workers. The Department of Consular Service under the Ministry of Foreign Affairs has been facilitating the work of search and rescue of Nepali workers, retrieving dead bodies from abroad and helping with claims of compensation and insurance. The Department has made a provision to register application online and also by visiting the Department to make the execution of the work fast and efficient. In addition, an application can be registered through the local body or the district administration office.

In relation to sending workers for foreign employment, it is done on the basis of institutional labour permit and individual labour permit, while labor agreement is reached with employer country. So far, the government of Nepal is found to have granted institutional labour permits to 111 countries. Looking at the nature of foreign employment, it is found that people are going on both institutional and individual basis. A significant number of them go to third world countries for employment by taking institutional labour permits. Based on the demand received from the employers located abroad, the foreign employment recruitment agencies send workers to the third world country after enrolling them with the institutional labour permit. In the case of individual work permit, the person going for foreign employment searches for work on his/her own or through a relative and go for it with the individual work permit.

The government of Nepal does not have any official data regarding the number of Nepali citizens going to India for employment. According to the Nepal-India Friendship Treaty of 1950, Nepali workers have been going to India for employment since centuries on the basis that the citizens of India and Nepal do not require a formal entry permit to travel to one another country. In terms of employment, it is estimated that there are about one million Nepali workers in India (National Planning Commission, 2020). The fact that India is the leading destination country for Nepali workers has also been established by the population survey conducted by India in 2001. Of the total number of 5,209,539 migrants in India 596,696 were Nepalese, which is 11.5 percent of the total migrants in the country. Bangladesh stood first with 59.2 percent, Pakistan second with 19.1 per cent and Nepal third with 11.5 per cent (Population Survey, 2001, India). The problems faced by Nepali workers and citizens going to India include many going missing for years, some in prison and detention, some facing labor exploitation and sexual exploitation of women workers.

Looking at the trend of the number of people going for foreign employment after being documented, the number was 220,000 in 2008/2009, and by 2021/2022 the number of people going for abroad for work is 347,504 annually. This number is low due to the restriction imposed by various major destination countries due to the COVID-19 pandemic. Similarly, if we look at the number of women, the number was less than 9000 in 2008/2009, while in the year 2021/2022 the number was 33,000. Looking at the trend of the annual labour permit of 2021/2022 after the COVID-19 it was 628,503, of which 3,47,504 people have taken re-labour permit. If we look at the ratio of percentage, then the data shows that 52.5 percent have taken new labor permit while 47.5 percent have taken re-labour permit. The trend of the number of people who acquired labour permits and went to work abroad, compared as of FY 2021/022, is as follows based on a six-year report:

Six-year details of labour permit issued for foreign employment

Fiscal Year (BS)	Total except those who acquired re-labour permit			Total along with re-labour permit		
	Male	Female	Total	Male	Female	Total
2073/2074	363304	20189	383493	609339	33520	642859
2074/2075	331665	22417	354082	579721	32964	612685
2075/2076	215633	20578	236211	476705	32123	508828
2076/2077	172247	18206	190453	340000	28433	368433
2077/2078	64903	7178	72081	155242	11456	166698
2078/2079	315548	32956	347504	579528	48975	628503

Foreign employment seems to have had both positive and negative impact on the Nepali society. Under positive impact, it has contributed in the fields of skills and efficiency enhancement, remittances, economic prosperity, children's education etc. Foreign employment has directly and indirectly affected every household. In terms of sources of foreign exchange reserves, it is tourism, foreign aid and remittances. Out of these three, the share of remittance is found to be the largest. In regards to the problems faced by those who have gone abroad for employment, the statistics of the Foreign Employment Board show that the number of deaths is 1479, the number of amputations is 245, the coordinated number of rescues is 999, the number of bodies retrieved is 213, and the number of dead bodies reached to the decease home is 795.

Support from the Foreign Employment Board Secretariat to migrant workers and their families in 2021/022

S.N.	Activities	Women	Men	Total	Funds provided
1.	Financial assistance to families of deceased workers	46	1433	1479	836,099,000.00
2.	Financial assistance to dismembered/ sick workers	20	225	245	91,775,000.00
3.	Medical assistance to workers' families	5	4	9	430,000.00
4.	Coordinating with concerned missions for rescue	101	898	999	1,042,421.00
5.	Coordinating with the concerned mission to retrieve the bodies	11	202	213	9,523,458.00
6.	Dead body delivered to home address	38	757	795	26,351,500.00
7.	Amount for Orientation Training payment	465	0	465	325,500.00
8.	Foreign Employment Scholarship	1243	1351	2594	24,886,000.00
	Total	1929	4870	6799	990,432,879.00

Source: Foreign Employment Board, Annual Progress Statement, FY 2021/022

Data shows that Nepali workers who went for foreign employment have die due to various reasons in the destination countries. The five-year statistics and the cause of death from the year 2016/2017 to the year 2020/2021 show the number of deaths due to natural causes is 931. Similarly, the number of unrecognized causes of death is 956, suicide is 581, workplace accident is 297, road accident

is 586, sudden heart failure (cardiac arrest) is 474 and heart attack is 305. The data shows that the number of natural deaths of Nepali workers in foreign employment is higher. The number of natural deaths of people who have been certified as healthy in Nepal can be considered mysterious. Questions can be raised whether the post-mortem process of the dead has been carried out as per the established standards. Various international studies are raising questions on this matter.

Reasons of death during foreign employment from 2016/2017 to 2020/2021

Cause of Death	2016/2017	2017/2018	2018/2019	2019/2020	2020/21	Total no. of five years	Percent
Natural deaths	246	252	126	136	171	931	21.2
Cardiac Arrest	148	64	72	86	104	474	10.8
Road accidents	103	122	127	115	119	586	13.4
Cause not identified	32	103	184	210	427	956	21.8
Suicide	109	89	132	111	140	581	13.2
Heart Attack	94	64	114	33	0	305	7.0
Workplace accidents	81	61	67	62	26	297	6.8
Others	0	0	0	0	248	248	5.7
Total	813	755	822	753	1242	4385	100

Source: Foreign Employment Board, 2019/2020, Labor Migration Report, 2020, Foreign Employment Board Secretariat, 2020/2021

Initiatives to protect the human rights of Nepali migrant workers

Concern for the rescue of Nepali workers from Afghanistan

The NHRCN observed special concern about the workers who were on foreign employment in the adverse situation that developed in Afghanistan and took measures accordingly. In particular, a meeting was held with the Government of Nepal, the Secretary of the Ministry of Foreign Affairs and the Director General of the Department of Foreign Employment on 17 August, 2021 in relation to the security of the citizens and workers working in the country, their status, food and accommodation, relief and repatriation. In the meeting, a request was made to

the Ministry of Foreign Affairs for the safe rescue and repatriation of the Nepali citizens. On 30 October, 2021, the Ministry of Foreign Affairs issued a statement informing that a total of 940 Nepali citizens have been rescued and have arrived safely in Kathmandu.

On 16 July, 2021, a letter was sent to the government of Nepal regarding management of vaccines for Nepali workers who intend to go and are about to go for foreign employment, drawing the attention for its easy arrangement.

It is inevitable to make the procedure of going for foreign employment simple, easy and accessible. Though there are private recruitment agencies approved by the government of Nepal to send people for foreign employment, they have been established with the objective of making profit. In other words, they are running a profit-making business. So, the first people of concern which serves as the means of earning profit for those companies are the people who want to go abroad for employment. On the other hand, problems faced by those who want to go for foreign employment such as fraud, not being sent for employment on time, charging more money for free ticket free visa, charging more than the prescribed fee, not getting work in the employer's country as stated in Nepal, not paying for overtime work, not paying wages on time, physical assault, torture and even deaths have come to light. Hence, the question of protection of Nepali workers is the major concern. The government of Nepal, development partners, non-governmental organizations, the NHRCN and other stakeholders are working for protection of the migrant workers. In spite of all these efforts, protection of human rights is still a challenge due to the fact that the recruitment agencies within Nepal and the destination countries are not accountable. This shows that the government should have certain standards for conducting responsible business, which should be implemented effectively. The present context of Nepal calls for adoption of the principles of business and human rights, formulating standards and laws and implementing them effectively. In addition, the Foreign Employment Act 2007, Foreign Employment Regulations 2008, various procedures and guidelines designed to manage foreign employment should be implemented in a meaningful way with and the officials of the concerned agencies taking it seriously. The Government of Nepal needs to act with priority on issues such as increasing the skilled human resources in the same proportion to the assessment of problems in the foreign employment sector, and ensure easy and effective management of financial resources. Foreign employment should not only be made a matter of remittance, but there is a need to be more serious about the immediate problems of the Nepali workers and the long-term social cost to be faced by the Nepali society. Furthermore, the future policies, programs and resources of the government of Nepal need to be directed towards that.

2.12. Rights of senior citizens

The rights of senior citizens are mentioned directly and indirectly in various international and national human rights instruments. Article 25 (1) of the Universal Declaration of Human Rights has ensured the right to social security for livelihood even in the old age. Article 10 of the International Covenant on Economic, Social and Cultural Rights, 1966 stipulates that the state must recognize the right of every individual to social security. According to Article 6 of the Convention on Civil and Political Rights, 1966, every person has the inherent right to life and the right to live. It is mentioned that no one's life will be taken arbitrarily and everyone's right to life should be protected by law. Article 11 (1) (e) of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 states that there shall be no discrimination in the right to social security of senior women citizens. Article 25 (b) of the Convention on the Rights of Persons with Disabilities, 2006 stipulates that health services should be provided to senior citizens to reduce or prevent further disabilities. Article 28 (b) of the same convention states that access to social security and poverty reduction programs for senior citizens with disabilities should be ensured. Similarly, the Vienna International Plan of Action on Ageing, 1982, the United Nations Principles on Aged Persons adopted by the United Nations General Assembly on 16 December 1991, the Macau Plan of Action on Ageing for the Asia and Pacific Region, 1998 mention talks about various aspects of the rights of senior citizens.

Under the right to equality in the Constitution of Nepal (2015), the proviso phrase of Section (3) of Article 18 provides that special provision can be made by law for the protection, empowerment or advancement of children, the elderly and people with disabilities or physically or mentally challenged persons. It is mentioned that the state shall adopt a policy of making special arrangements of social security for the protection and advancement of the helpless, elderly, etc., under the directive principles and rights related to social security for women, workers, elderly, people with disabilities and the physically challenged and helpless citizens as provided in the law. Article 41 of the Constitution states that senior citizens shall have the right to special protection and social security from the State. The Senior Citizens Act provides for the formation of the Central Senior Citizens Welfare Committee and the Senior Citizens Welfare Fund for the care, attention and social security of the senior citizens. Similarly, Section 19 of the Civil Code 2017 provides for positive discrimination, Section 122 of the Act provides for the responsibility of children towards their parents and the Social Security Act, 2018 provides for social security allowances, etc.

Like in the past, the NHRCN has advanced the work related to the protection and promotion of the rights of senior citizens this FY as well. In particular, through the medium of monitoring, observation, conversation, discussion, interaction, etc., the NHRCN's team has acquired

information from the stakeholders about the physical condition of the old age homes as well as the rights of senior citizens. In this FY, programs related to the rights of senior citizens such as monitoring and interactions have been completed, which 16 rural municipalities and 9 municipalities were selected as model municipalities under Tanahun, Gorkha, Lamjung, Kaski, Syangja, Myagdi, Parbat and Baglung districts of Gandaki Province. The policy, plan, program, implementation status of the budget concerning the senior citizens, and their meaningful participation in it was the focus here. In addition to this, issues such as social security, medical treatment, and other services provided by the state in relation to the protection of the rights of senior citizens were also included. Under the initiative a separate discussion was held about the understanding of the senior citizens regarding the services provided by the state by reaching out to their doorsteps.

Based on the facts obtained some of the senior citizens living in the old age home were found to have been deprived of the social security allowances and health benefits provided by the state due to lack of citizenship certificate. Some of the senior citizens had to end up at the old age home because they were insulted by their sons, daughters-in-law and husbands. It was also found that some affluent and educated families too had left their parents at the old age home. Many are also forced to take refuge at the old age home because their children do not take care of them at home and also take away their social security allowance. It was found that the senior members of old age home are no longer searched by their families, while some of them are ignorant about their families. It has been found that the conduct and manners of some old age home proprietors are not humane in nature, and they do not pay attention to food, cleanliness etc.

The old age homes are found not following the government standards and the buildings, toilets and building premises and surrounding environment are not senior citizens friendly. It has been found that not only there is no monitoring by the District Senior Citizens Welfare Committee but the office-bearers and proprietors of the committee are not informed about the situation. No provision was found to have been made for a separate senior citizen treatment room (Geriatric Ward) and necessary human resource for the senior citizens.

The facts obtained from the monitoring, interaction, and discussion show that poverty, family discord and disintegration, and the degradation in moral values in the society have had an impact on senior citizens. Being without a family, deprived of family affection and respect, living as a widow, has forced them to go to an old age home. Senior citizens are forced to take shelter in old age homes due to lack of awareness, problems in children's sense of responsibility, inter-generational conflict, and search for solitude and religious place. Most of the senior citizens in old age homes are suffering from some family, psychological and social problems and physical ailments. Physically challenged due to increasing age, lack of proper

nutrition, health problems, lack of family and humane behavior, deprivation of citizenship for some, forced to live a lonely life without society, rude behavior from family members etc. are the problems faced by senior citizens. As some of the senior citizens, who led the family, society and the nation, are becoming financially, physically and mentally weak, the family feels the burden and puts them in old age homes. Due to the influence of western culture, migration, foreign employment and other reasons, the joint families have turned into nuclear families, and its impact has been on senior citizens. It has also been found from the NHRCN's monitoring that some financially poor senior citizens are forced to indulge in different types of labour to make ends meet.²⁶

Barring some exceptions, the increasing number of old age homes and care centers means an increase in the number of senior citizens who are rejected by their families. Based on the facts obtained, the government's decision to give fee concessions in the public transport and health sector has not been enforced. Even now they have to go through economic, social, health and family problems. It shows that the government's investment has not reached the target group (senior citizens). There seems to be a lack of effective concrete policies and programs in this regard. Due to the non-transparency of government subsidies, some of the day service centers have not been able to make good use of the investment.

According to the concept of social security, the government is currently providing a monthly allowance of 3000 rupees to senior citizens who have reached the age of 68 under social security scheme. The government has adopted a policy to encourage service providers to provide special discounts in entertainment and designated areas for senior citizens. Likewise, the Supreme Court has also issued an order in the name of the government to give 50 % discount on public and other services to senior citizens as per the law. The government has adopted a policy of providing 50 percent discount on the public transportation fare by providing reserved seats for senior citizens in public vehicles.

Some senior citizens are still forced to end up in old age homes due to lack of love, affection and respect from the family. There is an increase in the practice of families feeling the burden and placing them in old age homes when they become financially, physically and mentally weak. Due to the increasing influence of modernization and western culture, the disintegration of ancient traditional culture seems to have given place. In addition, the inter-generational gap is increasing. As the Nepali society moves from a joint family to a nuclear family, its impact has fallen on the senior citizens. As a result, they are forced to live alone, have no property, are neglected, have to endure abuse and finally have to be evicted from their homes. Due to the growing influence of western culture, migration, foreign employment, etc., the trend of family

26 https://www.NHRCNepal.org/uploads/publication/Strategic_Plan_021-26_Nepali_for_Website_compressed.

fragmentation is intensifying. Senior citizens have been affected the most. Serious problems have been observed in their care due to old age and weak mental and physical condition. Therefore, it is already late to draw and focus the attention of relevant stakeholders to address the human rights of senior citizens.

2.11. Rights of human rights defenders

In general terms, a human rights defender is a person or group or organization that works for the protection and promotion of human rights in a peaceful manner unilaterally or together with others. Individuals, groups and organizations involved in the respect, protection, promotion and fulfillment of human rights in an individual, group or institutional manner should be considered as "human rights defenders", who are active on a full-time or part-time, paid or voluntary basis. Considering the need and importance of human rights defenders, the United Nations has issued the Declaration on Human Rights Defenders, 1998. The Government of Nepal has also issued an Order on Security and Protection of Human Rights Activists, 2021. Likewise, the National Human Rights Commission is also actively working towards making necessary policy regulations regarding the protection, respect, identification and documentation of human rights defenders.

The role of human rights defenders is considered special and important in the respect, protection, fulfillment, and development of human rights culture. They are active in partnership and collaboration with the state or state agencies on human rights issues. They play a role in preventing human rights violations and in case it happens taking action against the perpetrators, providing relief and compensation to the victims and preventing the recurrence of such incidents through peaceful means.

In the context of Nepal, human rights defenders are the first and closest sources of information about incidents of this nature. They have information, facts and knowledge about human rights violations that have taken place at the local, regional and national level. They are making individual, coordinated and collaborative effort for information collection, communication, rescue, protection, justice and rehabilitation and take necessary action. They have been playing a leading role in activities such as ensuring accountability from the relevant parties, documenting human rights violations and excesses, ending impunity, promoting human rights education, and protecting the rights of victims.

The NHRCN has been working on the rights and conditions of human rights defenders through monitoring, discussion, interaction, provincial and national conferences. In this regard, the first national conference was held in 2011, the second in 2017 and the third in 2022. Prior

to this, discussions and conferences were held with the human rights defenders at the local and provincial levels with a focus on the theme. The first National Conference on Human Rights Defenders organized by the NHRCN issued the Guidelines on Human Rights Defenders, 2012. It has also been carrying out monitoring of the condition of human rights defenders and investigating complaints of human rights violations against human rights defenders as well as making recommendations. It has appointed a focal point to make this kind of work regular, orderly and agile.

The latest study carried out by the NHRCN has found that the human rights defenders are facing various (political, economic, social, physical, physical and mental) challenges. It has been found that political parties and government mechanisms are not sensitive to the role, identity and security of human rights defenders. Human rights workers, lawyers, media workers and defenders, people who raised their voice for the justice of the victims have not been able to feel safe till present. They are forced to face directly and indirectly incidents like threats, violence and illegal arrests.

This FY the NHRCN has completed the regional and national conference of human rights defenders. The NHRCN has held the first Human Rights Defenders Conference on the 4-5 March, 2022 at the same date and time in all the seven provinces. More than 700 human rights defenders from all over the country participated in the regional conference. In the conference, the rights, duties, protection, identification, recognition, conditions, challenges and solutions of problems faced by human rights defenders were discussed. Before the discussion, a check list was been prepared and studied with the aim of recommending to the government of Nepal for the formulation of laws related to human rights defenders. At the end of the program, a declaration and position paper covering these overall topics were issued.

Suggestions from the Regional Conference of Human Rights Defenders have been received. Based on it, the NHRCN has developed a draft model law for the protection of human rights defenders to recommend it to the Government of Nepal. Based on the provincial conferences, the NHRCN organized the third national conference in Lalitpur on 23-24 June, 2022. In the conference, there was a wide discussion on the draft model law. More than 800 (government of Nepal, security agencies, civil society, human rights defenders, media) participated in the conference.

The regional and national conference held special discussion about the rights and duties of human rights defenders as well as their identification, security, networking, legal and institutional mechanism. During the discussion, it was pointed out that there was a lack of environment where human rights defenders could work safely. It was raised that the state has not been able to work effectively on the identification, protection, networking of human rights defenders and

the protection and promotion of the rights of defenders. Among the human rights defenders, the dalit, persons with disabilities, single women, women, sexual and gender minorities are more vulnerable.

2.12. Transitional justice

The NHRCN has been discussing and dialogue with the civil society, victims, victims' families, and concerned parties at various times regarding the transitional justice that is yet to be addressed in the peace process of Nepal. The NHRCN has been drawing the attention of the government through its recommendations that transitional justice should be concluded as soon as possible, including by ensuring the participation of the victims and forming a transitional mechanism in accordance with the order of the Supreme Court and as per international standards.

In this context, the National Human Rights Commission has been working in coordination and collaboration with the state agencies. On 13 June, 2022 Chairperson of the Truth and Reconciliation Commission and other members of the Commission held a discussion regarding the coordination and collaboration between the commissions on the issue of transitional justice.

The NHRCN has attended the programs organized by the Ministry of Law, Justice and Parliamentary Affairs as observers. As mentioned in the comprehensive peace agreement (CPA), as part of the peace process, consultation programs were held in all 7 provinces with the aim of providing justice to the victims of human rights violations that took place during the 10-year armed conflict in Nepal. Regarding the suggestions received from the consultation program, a national consultation program was held on 3 June, 2022. The Minister of Law, Justice and Parliamentary Affairs was present and the NHRCN was there as an observer in all the consultation programs held at the provincial and national levels.

The program was also attended by the secretary and joint secretaries of various ministries, the conflict-victim common platform, National Network of Victims of Conflict, the National Network of Conflict Victims with Disabilities, representatives of national and international non-governmental organizations working for the rights of conflict victims and other stakeholders. In the program, the discussion focused on the four pillars of transitional justice, under which 10 questions on truth, 12 questions on justice, 3 questions on reparation, 5 questions on institutional reforms and 6 questions on miscellaneous were fixed. Suggestions were then collected through group discussion and presentation on these questions. The findings of these programs were expected to help shape the bill to amend the Transitional Justice Act. The NHRCN observations also saw complaints that the victims and victims' families did not

have proper participation in these programs.

Similarly, on 6 July, 2022, at a consultation program with the experts on the role of NHRCN in addressing transitional justice, honorable members of the NHRCN, chairperson of the Commission for Investigation of Enforced Disappeared Persons, national and international experts in conflict, transitional justice and human rights, Deans and professors from Kathmandu University School of Law, ex-military officers, ex-members of the NHRCN and secretary of the NHRCN were present.

Remembering the NHRCN's actions in the past and the opinion of the NHRCN with the experts on transitional justice, the issues raised in the regional and national consultation programs organized by the Government of Nepal for transitional justice and structural reforms, and the views of the NHRCN on the laws drafted by the Government of Nepal and the views of the NHRCN in addressing transitional justice and the role to be played in the future were discussed. According to the suggestions of all the participants, the program concluded that there is a need for action to bring the transitional justice to a logical conclusion, the NHRCN and the transitional mechanisms should be able to take all parties into confidence and make their views public and make recommendations accordingly to the Government of Nepal.

At the same time, since the process of amending the law related to transitional justice is underway suggestions were also received about the need to have sufficient discussion with the victims, the draft of the amendment bill should be sent to the National Human Rights Commission for the NHRCN's study, etc. In view of the findings from the NHRCN's observation in the consultation programs and the suggestions of the discussion program with the experts, the NHRCN developed a 12-point opinion to provide recommendations to the government of Nepal regarding the amendment bill and for discussion in the parliamentary committee.

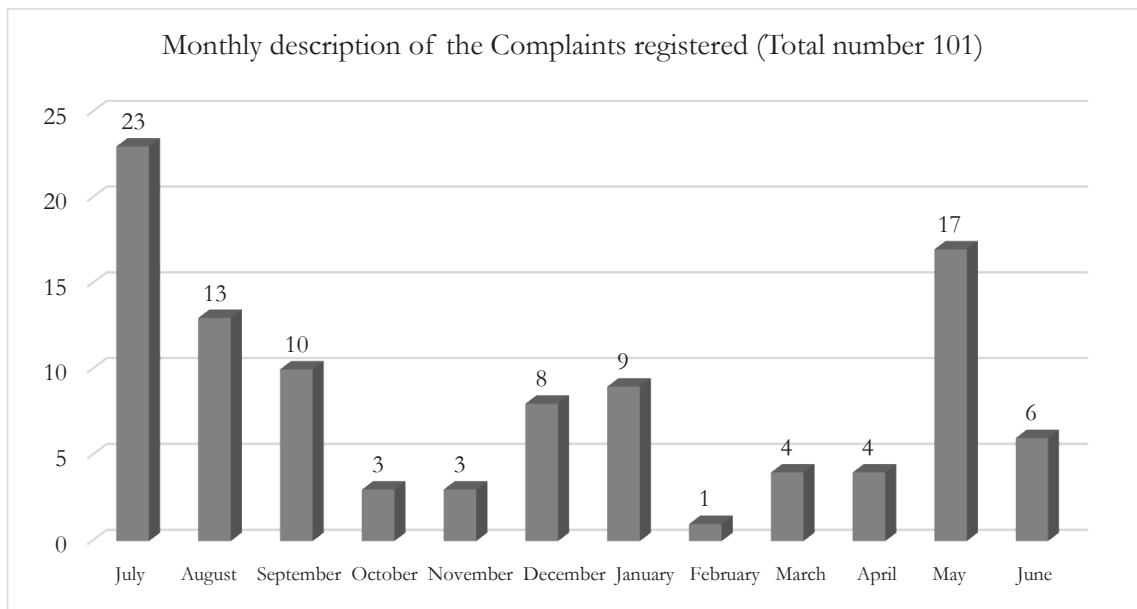
Chapter - Three

Functions Accomplished by the NHRCN

3.1 Protection related actions

Protection of human rights is an important function of the NHRCN. The NHRCN has been carrying out this activity through receiving of complaints, monitoring, investigation and recommendations. This FY too these works have been executed with priority by the NHRCN. The works thus executed are as follows:

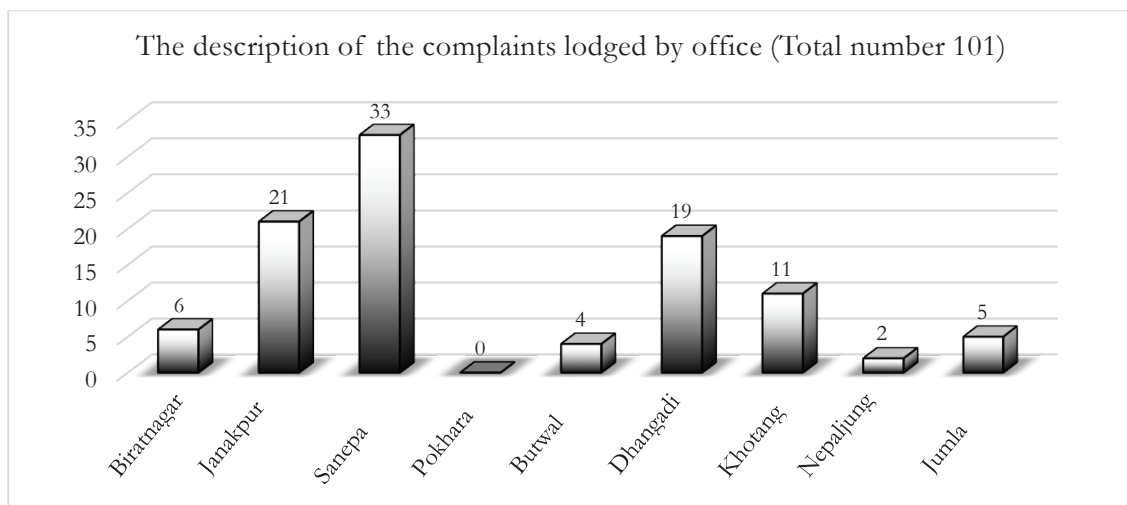
Actions related to complaints



The NHRCN has been accepting complaints of incidents of human rights violations or abuses within the scope of the constitution, act and regulations in a discretionary manner and by other means. Complaints of this nature are accepted on the basis of the victim, the victim's family, organizations, individual or on the basis of media reports. Based on the nature of the complaint, the NHRCN monitors, investigates and probes and makes recommendations to the

government or the relevant agencies for relief, compensation and legal action. Complaints that do not fall under the jurisdiction of the NHRCN have been sent to the relevant agency for necessary action. In addition to this, appropriate counseling is being provided to the victims.

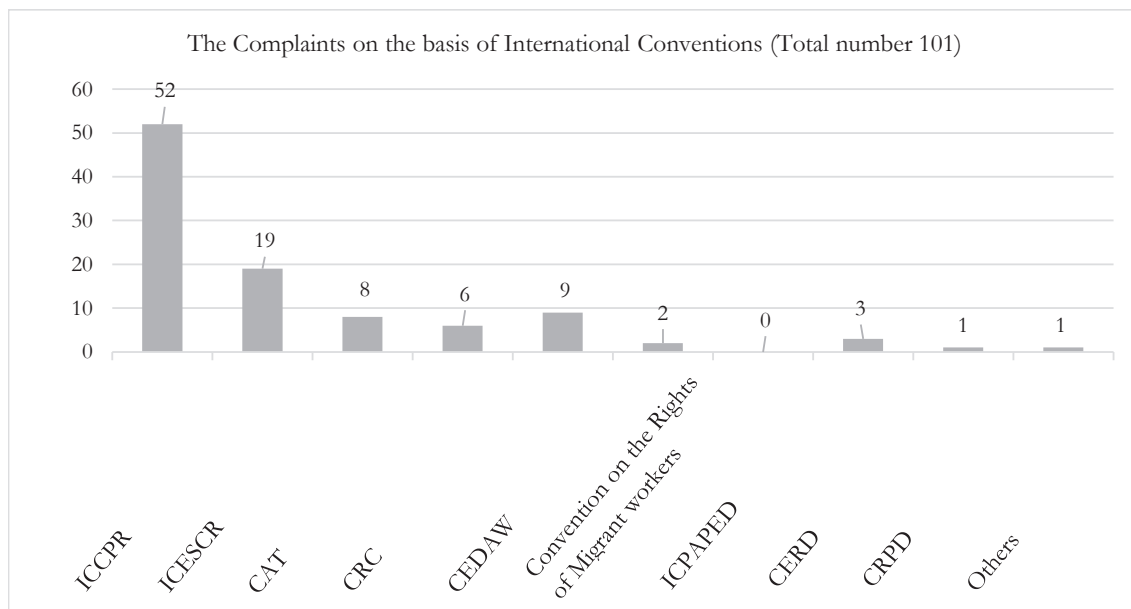
3.2 Complaints filed on a Provincial Basis



This FY, a total of 101 complaints have been registered in the central, provincial and provincial branch offices of the NHRCN. The subjects of the complaints submitted to the NHRCN are related to political and civil rights, economic, social and cultural rights, rights against torture. Similarly, complaints related to women's rights, children's rights, rights against caste-based discrimination, etc. have been registered.

In this financial year, a total of 101 complaints have been registered including 6 in the provincial office in Biratnagar, 21 in Janakpur, 33 in Sanepa, 4 in Butwal and 19 in Dhangadhi. Similarly, in the provincial branch offices 11 complaints were received in Khotang, 5 in Jumla and 2 in Nepalganj.

3.3. Complaints based on the Conventions



Looking at the nature of the complaints based on the convention in the NHRCN this FY, 52 complaints were filed stating that civil and political rights were violating while 19 complaints were filed against violation of economic, social and cultural rights. A total of 101 complaints have been registered, including 8 on the right against torture, 9 on the violation of women's rights, 6 on the rights of children, 2 on the rights of migrant workers and their families, 3 on the rights against discrimination, 1 on the rights of persons with disabilities and 1 on senior citizens. Full details of the complaints are included in Annex 3.

3.4. Human rights monitoring

The NHRCN has been monitoring the situation of human rights as a whole or in a thematic manner on a regular and emergency basis in coordination and collaboration with stakeholders for the protection of human rights. In particular, monitoring has been completed by the NHRCN's offices as well as by thematic divisions, branches and units in a single, coordinated and collaborative manner.

The monitoring is carried out on the basis of state of enforcement of International Human Rights Treaties and Conventions, National Laws, National Human Rights Action Plan, State's

Policy and Guiding Principles, etc. Action is also taken by forming a Rapid Response Team on the basis of the seriousness of the subject and need.

In the current financial year, the NHRCN has carried out monitoring a total of 214 times on various issues related to human rights.

Monitoring Related Activities	Central Office	Koshi Province	Madhesh Province	Bagmati Province	Gandaki Province	Lumbini Province	Sudur Paschim Province	Province Branch, Khotang	Province Branch, Nepalgunj	Province Branch, Jumla	Total
	28	11	34	29	21	21	24	4	25	17	214

Topics monitored include civil and political rights; economic, social and cultural rights; and those related to the rights of women and children. Monitoring of human rights in local elections is particularly important. The NHRCN monitored the overall human rights situation in 77 districts in the pre-election, election and post-election period. Monitoring has been carried on the situation of COVID-19 and right to health, judicial administration, condition of prison and detention centres, rights of prisoners, illegal detention. In addition, issues such as caste-based discrimination, rights of persons with disabilities and senior citizens, right to information, right to privacy, freedom of mobility, etc. have also been monitored. Full details of monitoring are included in a province-wise manner in Annex 4.

3.5. Decision over complaints

Decision over complaints	Central Office	Koshi Province	Madhesh Province	Bagmati Province	Gandaki Province	Lumbini Province	Sudur Paschim Province	Provincial Branch, Khotang	Provincial Branch, Nepalgunj	Pradesh Branch, Jumla	Total
	2	0	42	120	37	120	48	1	27	17	414

In relation to the incidents of human rights violations and incitement, the NHRCN has been

carrying out the investigation work with priority within the scope of the constitution, act and regulations. During this period too, the investigation has been completed on the complaints of the previous years and those registered this financial year. This FY, the NHRCN has investigated a total of 503 complaints including new and old.

The investigations carried out in this way are related to the armed conflict and the subsequent complaints registered at the NHRCN. Particularly, under civil and political rights, there are more complaints concerned with the right to life, torture and disappearances. Similarly, economic, social and cultural rights are related to displacement, looting of property, compensation, rights of women and children, etc. Subject matter experts are also involved in the investigation team for incidents of special nature.

3.6. Promotional activities

The role of promotional activities is special in increasing human rights education and awareness, and expanding the work related to human rights advocacy, lobbying and information dissemination. The NHRCN has been carrying out these types of activities under the constitutional and legal obligations. The National Human Rights Commission has issued the Human Rights Cooperation and Coordination Guidelines, 2011 to make the promotional activities more organized and effective.

Promotional activities	Central Office	Koshi Province	Madhesh Province	Bagmati Province	Gandaki Province	Lumbini Province	Sudur Paschim Province	Provincial Branch, Khotang	Provincial Branch, Nepalgunj	Pradesh Branch, Jumla	Total
	49	1	15	17	11	9	19	15	20	15	171

During the current FY, the NHRCN has been working on priority for the implementation of the slogan "Right to life, dignity, equality and freedom: the basis of sustainable peace and growth". In order to realize the slogan of the NHRCN various activities have been carried out in the field of promotion of human rights under the promotion division, thematic division, branch, unit and the provincial and branch offices of the NHRCN in an individual, coordinated and

collaborative manner. The executed works include interactions, discussions, meetings, seminars, workshops, training etc.

3.7. Financial activities of the NHRCN

Of the budget received from the government of Nepal for the financial year 2021/022 under budget sub-heading No. 21400113 towards current expenditure worth Rs.24,38,93,242.00 (two hundred and forty-three million eight hundred ninety-three thousand two hundred forty-two rupees), Rs. 1953,26,943.32 (one hundred and ninety-five million three hundred and twenty-six thousand and nine hundred and forty-three rupees thirty-two paisa) has been released and spent. Similarly, under budget sub-heading No. 214000013 for the current expenditure of Rs. 6963,450.00 (six million 963 thousand four hundred and fifty rupees) Rs. 69,56,080.00 (six million 956 thousand and eighty rupees) has been released and spent. In the same way, under budget sub-heading No. 21400114 for capital expenditure Rs. 34,00,000.000 (three million four hundred thousand rupees), only Rs. 33,31,897.50 (three million three hundred thirty-one thousand eight hundred and ninety-seven rupees and fifty paisa) was released and spent.

Similarly, this year the revenue income worth Rs. 100,454.24 (one hundred thousand four hundred and twenty-four paisa only) has been saved and deposited in the consolidated fund. Under guarantee, along with the liabilities of the previous FY, the total income was Rs. 91,935.75 (ninety-one thousand nine hundred and thirty-five rupees and seventy-five paise), the same amount is left as a guarantee. Similarly, the balance of foreign aid and miscellaneous accounts till last year was Rs.18,515,632.69 (eighteen million five hundred fifteen thousand six hundred and thirty-two rupees and seventy-nine paisa) while this year's income is Rs. 6,728,871.90 (six million seven hundred and twenty-eight thousand eight hundred and seventy-one rupees and ninety paisa), combining to make a total of income of Rs. 252,44,504.59 (twenty-five million two hundred and forty-four thousand five hundred and four rupees and fifty-nine paisa). Of this, Rs. 23660,754.22 (twenty-six million six hundred and seventy thousand and seven hundred fifty-four rupees and twenty-two paisa) has been spent this FY with Rs. 1583,750.37 (one million five-hundred eight-three thousand seven hundred and fifty rupees and thirty-seven paisa) remaining as savings in the bank.

Chapter-Four

Relationship between NHRCN and Stakeholders

The role of organizations working in the field of human rights, civil society, media, legislature, judiciary, professional organizations has been important in the establishment of the National Human Rights Commission. Similarly, various initiatives were taken by the international community to establish a national human rights institution. After the establishment of the NHRCN, the relationship between the NHRCN and stakeholders has been expanding based on the nature of work. The issue of collaboration and coordination for the protection, promotion and fulfillment of human rights is also mentioned with priority in the constitution, laws and strategic plans. The NHRCN has since the past continued its relations at the national, regional and international levels.

Based on the nature of its work, the NHRCN is regarded as an independent and autonomous institutions as per the constitution. This institution should also be especially accountable towards the victims regarding their actions. The activities of the NHRCN should be the subject of debate and discussion. The constitution has also adopted the provision that the annual report should be submitted to the Honorable President including the activities carried out within the particular financial year. The President, through the Prime Minister, has to submit the report to the Federal Parliament for discussion. In order to carry out these activities responsibly, the NHRCN has been working in collaboration and coordination with the relevant stakeholders based on the subject matter and needs. In this regard, an attempt has been made to briefly mention about the relationship between the NHRCN and the stakeholders.

4.1. NHRCN and Law, Justice and Human Rights Committee

Human rights fall within the scope of the Law, Justice and Human Rights Committee. The Committee and the NHRCN have been discussing burning issues related to human rights. It has been a tradition for the Committee to hold discussion on the issues raised in the NHRCN's annual report submitted to the Parliament through the Prime Minister. In the past year too, the committee and the NHRCN discussed the organizational structure decided and submitted by the NHRCN, the bill introduced by the government to restrict the jurisdiction of the NHRCN, etc. This FY too, the Committee and the NHRCN have discussed the issues related to respect, protection and promotion of human rights pointed out in the report. The discussion is particularly focused on the implementation aspect of the recommendations made by the NHRCN.

4.2. NHRCN and the Government of Nepal

According to the federal structure, the country is currently being operated by three levels of government (federal, provincial and local). The main responsibility for respecting, protecting, promoting and fulfilling human rights rests with the government. From the implementation of the recommendations made by the NHRCN to the financial matters, they are directly concerned with the government and the government agencies. Keeping this aspect in mind, the NHRCN has been working in collaboration and coordination with the federal, provincial and local governments on the issue of human rights, based on the need, subject matter and nature of work.

Discussion/interaction is held with the federation i.e., the central government on the country's human rights situation, the implementation status of the NHRCN's recommendations, the protection of citizens from pandemic like COVID-19 and dengue. Similarly, matters relating to transitional justice, human rights national action plan, law and order, rights of migrant workers and their families, rights of women, children, senior citizens, consumers, health rights etc. have also been discussed. Based on the findings of the NHRCN's monitoring, investigation, promotion, discussion and interaction programs, recommendations, advice, drawing of attention and necessary instructions are given to the government. Likewise, trainings on law and order, disaster management and human rights have been held with the security agencies. The NHRCN has been inviting the Prime Minister, Ministers, high-ranking or related officials of the Government of Nepal to the program related to human rights and government organized by the NHRCN. Similarly, the NHRCN has been participating in the programs hosted by the government agencies as chief guest, guest, resource person, etc. and sharing its institutional opinion.

Even at the province level, the NHRCN has been working in collaboration and coordination with the province government on matters such as the situation of human rights, drafting of human rights-friendly laws. It has been analyzing the situation of human rights at the provincial level and taking necessary steps for improvement through the Chief Minister. Similarly, it has played the role of facilitation in the implementation of the National Action Plan on Human Rights, sustainable development goals and interaction on the human rights situation, as well as the formation of committees with the local government. In addition to organizing training on human rights, some places have been named "Human Rights Chowk" (in Diktel of Khotang in coordination with Provincial Branch Office, Khotang and local level) in coordination and collaboration with the NHRCN. It has been facilitating the drafting of human rights-friendly laws on matters within its jurisdiction. The overall collaboration and coordination that is carried out is also included in the activity booklet published by at the province-level.

4.3. NHRCN and thematic Commissions on human rights

Activities have been implemented in collaboration and coordination between the NHRCN and constitutional commissions related to human rights. These include the National Women's Commission, the National Dalit Commission, the National Inclusion Commission, the Indigenous Nationalities Commission, the Madhesi Commission, the Tharu Commission, and the Muslim Commission. Similarly, programs have also been implemented with the National Natural Resources and Finance Commission. In addition, works are being carried out in collaboration and coordination with the Truth and Reconciliation Commission formed to address transitional justice and the Commission on Investigation of Enforced Disappeared Persons as well.

4.4. Civil Society/Non-Governmental Organisations/Professional Associations

The role of various commissions, the civil society, organizations active in related fields is considered important in the work related to the protection and promotion of human rights. Considering this fact, the provision that the NHRCN can work in collaboration and coordination has also been mentioned in the Constitution, Acts as well as in the strategic plan. In order to implement these provisions in a more organized manner, the NHRCN has been working by developing guidelines on collaboration.

This FY too, the NHRCN has carried out its activities in collaboration and coordination with the aforementioned stakeholders at the central, provincial and local levels. The central, provincial and provincial branch offices of the NHRCN have been working in collaboration and coordination for the protection, promotion and fulfillment of human rights. Discussions, orientations, and interactions have been held at various stages regarding moving forward on collective and thematic issues with concerned constitutional commissions related to human rights. In particular, the organizations that have held programs in collaboration and coordination with the NHRCN include the Nepal Bar Association, Federation of Nepali Journalists, NGO Federation, National Federation of the Disabled Nepal, Consumer Rights Protection Forum, Informal Sector Service Center (INSEC), CZOP, CWIN etc. At the provincial and local levels, programmes have been held in collaboration with the Madhesh Human Rights Home, Siddharth Social Development Center, and National Campaign for Education Nepal, Human Rights Alliance, LEDO Nepal, FIAN Nepal, Dalit Women's Rights Forum. Programs have also been held with organizations such as Sunshine Social Development Center, Kalika Self-reliance Centre, Dalit Social Development Center, Nepal Red Cross Society, Kopila Nepal, Nepal Disabled Women Association. Similarly, thematic programs have also been held with KOSHIS Nepal, ICRC, Freedom Campaign Nepal, Advocacy Forum, Human Rights and Justice Forum,

Freedom Forum, Nepal People's Forum, HIV/AIDS infected single group.

Due to COVID-19, some of the activities related to the promotion through collaboration and coordination was carried out by the NHRCN through virtual medium. The NHRCN has forwarded the formation of a mechanism to monitor the situation of human rights in the then complex situation caused by COVID-19. This mechanism includes the NHRCN, thematic commissions related to human rights, Nepal Bar Association, Federation of Nepali Journalists and Federation of Non-Governmental Organizations Nepal. Similarly, Nepal Medical Association, National Federation of the Disabled, Consumer Rights Protection Forum, National Dalit Rights Federation, Women's Rights Forum, INSEC, Single Women's Group for Human Rights. At the central level, high-level human rights situation monitoring and coordination committees, province level committees and district level committees have been formed.

4.6. NHRCN and project

Some human rights related discussions, interactions, and training programs have been carried out by the NHRCN with support and coordination of the projects. Among such projects is the Strategic Plan Support Project. The NHRCN has been advancing its activities in collaboration with the UNDP. In particular, this project has been providing financial support in the areas of human rights situation (local level member election 2079)-monitoring, human rights training, workshops, orientation, publication etc.

4.7. NHRCN and international organizations

The NHRCN has also been working in collaboration and coordination with international organizations. These organizations include the Global Alliance of National Human Rights Institutions and the Asia Pacific Forum. Similarly, it includes national organizations related to human rights of the respective countries and international agencies related to human rights of the United Nations and diplomatic missions etc. In addition, at the international level, collaboration and relationship with national human rights organizations, international NGOs, donor agencies, foreign embassies on the basis of need and rationale.

Chapter -Five

Achievements, challenges, possible solutions and further steps

5.1. Achievements

Various achievements have been made through the activities related to the protection and promotion of human rights carried out by the NHRCN during this period. Receiving complaints related to human rights violations, monitoring, investigation, recommendations, as well as other various promotional activities are being continuously carried out. Programs such as discussions/interactions have been organized through physical presence and online as well to increase awareness on various issues of human rights. In addition, publishing study reports, reviewing discriminatory laws, organising press conferences and issuing press statements, press notes and making recommendations to draw the attention of the government and related stakeholders to important events and issues were carried out. The achievements, challenges faced, possible solutions and steps to be taken ahead based on the works accomplished in this FY have been briefly mentioned.

5.1.1. Formulation and implementation of the Sixth Strategic Plan of the NHRCN

The NHRCN's Sixth Strategic Plan (2021-2026) envisions the right to life, dignity, equality and freedom as the basis for sustainable peace and growth, along with priority to civil and political rights, economic, social, cultural rights and the innovative dimensions of human rights including development and environment and business and human rights. The human rights sector is vast and the effective implementation of the Sixth Strategic Plan of the NHRCN has contributed to the creation of a human rights culture in the society by promoting human rights education and bringing uniformity in the understanding of human rights among the stakeholders. Continued efforts are being made to address new issues of human rights that have emerged as challenges to human rights including transitional justice, modern slavery and the rights of people suffering from extreme discrimination.

5.1.2. Complaints Management

In the course of protection of human rights, the NHRCN has completed the activities of receiving complaints, monitoring, investigating incidents of human rights violations and

making recommending. During this period, 101 complaints of human rights violations have been registered at the NHRCN. This FY, the NHRCN has decided on 414 complaints that have been investigated, of which six are policy-related issues. Similarly, investigations have been completed on 503 complaints. For the management of complaints, the NHRCN has managed the Complaint Management and Reporting System (CMRS) and entered more than 6,000 complaints into the software. Currently, the software is being reviewed by an expert team to transfer the data and update the details of all complaints. The NHRCN has expected that this system will be effective to get information in a simple and easy manner about the status of the proceedings on the complaints of human rights violation registered with the NHRCN by the complainants and victims. Efforts have been made by the NHRCN to adopt modern information technology by starting the practice of accepting complaints online. The complaint files decided upon by the NHRCN are documented in the archives.

5.1.3. Monitoring of local level election, 2022

The NHRCN monitored the local level member election, 2022 held this year in all the 77 districts. The monitoring team monitored the pre-election, election day and post-election activities from the perspective of human rights. Monitoring the local level member election, 2022 from the perspective of human rights has helped in conducting the election in a healthy, fair and fearless manner. The NHRCN has taken this as an important achievement. The presence of the National Human Rights Commission in the local level members election monitoring has helped to convince the voters, civil society, election staff and security agencies that the election process will be conducted in a clean, fair and fearless manner. Also, the coordination of the NHRCN with the security agencies helped to deploy security mechanism with high morale in sensitive and highly sensitive polling stations.

5.1.4. Promotion of human rights

This FY, the NHRCN has carried out 173 promotion related programs. According to the federal structure, the NHRCN has been working in collaboration and coordination with all three levels of government including federal, province and local. Collaboration and cooperation have also continued with constitutional commissions related to human rights, government, NGOs, civil society, professional organizations, and the international community. In the programs organized by various organizations, the institutional views on the subject matter are presented by participating as resource persons, chief guest, guests and subject experts. Promotional activities are being carried

out through reports, press releases, in print and electronic media, online as well. Considering the need and the seriousness of the matter, discussions, interactions, seminars, training, experience sharing, etc. have been held with stakeholders at the national and international level.

The human rights promotion activities carried out by the NHRCN to increase human rights awareness in the society are found to have had a positive effect and the incidents of human rights violations are reported to the NHRCN immediately, which also shows that the human rights awareness is increasing among the common citizens. During this period, the NHRCN's relationship with various organizations working in the field of human rights has been strengthened and information and knowledge related to human rights have been exchanged, and knowledge about the Paris Principles regarding the criteria for the establishment of national human rights organizations and other national and international human rights standards have been strengthened and uniformity in understanding among the stakeholders has been promoted. The activism and partnership of various organizations working in the field of human rights has helped to increase the access to human rights awareness of citizens in remote areas.

5.1.5. Coordination and collaboration

The major duty of the National Human Rights Commission is to ensure the respect, protection, promotion and effective fulfillment of human rights. In the course of fulfilling this duty, the NHRCN has been collaborating and coordinating with various stakeholders. In this FY, the NHRCN has organized human rights promotion programs in coordination with 16 organizations working in various thematic areas of human rights at the central level. Promotional programmes have been carried out on children as zone of peace, mental health issues, human rights and mass media, rights of migrant women workers, rights of people with disabilities, sustainable development goals, rights of endangered Raute communities and human rights-oriented development methods to help in increasing human rights awareness. Necessary collaboration and cooperation with the NHRCN were carried out by the aforementioned agencies. In addition, work has been carried out in coordination and collaboration with more than 50 different non-governmental organizations working in the field of human rights even at the provincial level. Apart from this, the NHRCN has been carrying out various activities through collaboration and coordination in the field of human rights protection and promotion with other constitutional commissions related to human rights.

The NHRCN has been coordinating and collaborating with various government agencies to work on the implementation of the National Action Plan on Human Rights, the adoption of human rights-oriented development methods, the rights of marginalized and minority communities, the issues of senior citizens, persons with disabilities and on human rights education.

5.1.6. Development of a strategic framework for coordination and collaboration among constitutional commissions

The need for a strategic framework on collaboration and coordination to make the collaboration and coordination between the National Human Rights Commissions and the constitutional commissions related to human rights agile, sound and effective was felt since the past. As a result, a strategic framework has been formulated and implemented for coordination and collaboration between the National Human Rights Commission, National Women's Commission, National Dalit Commission, National Inclusion Commission, Indigenous Nationalities Commission, Madhesi Commission, Tharu Commission and Muslim Commission. The important feedback received from all the stakeholders in the field of human rights while formulating this framework has revealed that there is collaboration, coordination and unity in the work of the NHRCN and the important role of the NHRCN in the protection and promotion of human rights. Through continuous discussion, interaction and meetings with the constitutional commissions related to human rights, the implementation of this framework has become effective and uniformity in the understanding of the mandate of the NHRCN is maintained, thereby eliminating the duplication of work, frugality in the use of resources, exchange of mutual experience and learning, and work effectiveness is increasing.

5.1.7. Publication and Distribution

During this period, reports, journals (Human Rights Sambahak), booklets, brochures, etc. have been published. The NHRCN's annual report (three including full and summary in Nepali (uploaded in website only) and in English) has been published. Besides highlighting the annual activities of the NHRCN, the report also reflects the situation of human rights at the national and provincial levels. Likewise, separate activity booklets have been published depicting the activities executed by the NHRCN's provincial and provincial branch offices, and on and the human rights situation. A journal (Human Rights Sambahak, two issues) has been published covering various topics of disaster management and human rights. An illustrated children's story has been published for child rights awareness. The Newsletter of Human Rights (three issues) has been prepared bimonthly and made public through the website.

5.1.8. Attention of all three levels of government drawn to various human rights issues

In the current FY, 24 press releases and 6 press notes have been issued on contemporary issues of human rights. The press releases issued accordingly focus on civil and political rights, economic,

social and cultural rights. Similarly, press releases have been issued on issues such as women, children, caste-based discrimination, rights of migrant workers, transitional justice, etc. During this period, press conferences and press meet programs on human rights situation and issues have been held. At the press conference, the opinion of the NHRCN was made public based on one-year achievements, challenges and future programs, election monitoring and on the facts obtained from other sources.

5.1.9. Implementation of NHRCN recommendations

Due to the repeated concern of the NHRCN and other stakeholders, the Government of Nepal has recently formed a Recommendation Implementation Task Force to advance the implementation of the NHRCN's recommendations with urgency. The NHRCN has taken it as a positive step the inclusion of the National Human Rights Commission in the recommendation implementation task force and conducting discussion and meetings at various stages. The implementation of the NHRCN's recommendations is expected to improve in the coming days. As there is a legal obligation to implement the recommendations of the NHRCN and the right of the victims to get justice can be ensured only through the implementation of the recommendations, there is a need for the Government of Nepal to develop and implement an action plan for the implementation of the recommendations. Therefore, continuous advocacy, discussions with the victims and families of the incident and stakeholders and meetings have been held with government agencies. As a result, it can be considered as an achievement that the government has set up a recommendation implementation committee from this year and has taken this issue seriously. Currently, 15.3 per cent of the NHRCN's recommendations have been implemented, 39.2 per cent are partially implemented, and 45.5 percent of the recommendations are yet to be implemented. The implementation of the recommendations of the National Human Rights Commission has been taken as an achievement by the fact that there has been some improvement compared to the previous year.

5.1.10. Provincial and National Conferences of Human Rights Defenders

Protection and promotion of human rights is not possible with the lone effort of the National Human Rights Commission. Since only the collaboration, coordination and cooperation of human rights defenders can help to make the protection and promotion of human rights effective, it is an important responsibility of the NHRCN to enhance the capacity of human rights defenders by paying special attention to their protection. Considering this matter, the

National Human Rights Commission has initiated the National Conference of Human Rights Defenders since 2011. These types of conferences, which have not been held for some years due to the effects of COVID-19, have been resumed. From this year, the NHRCN managed to organize human rights defender conferences simultaneously even at the provincial level. The NHRCN held the Human Rights Defenders Conference on 4-5 March, 2022 in all the seven provinces and issued declarations and position papers regarding the situation, challenges and future steps of the human rights defenders simultaneously. The 3rd National Conference of Human Rights Defenders was held at the Staff College in Lalitpur on 23-24 June, 2022 and an 11-point declaration was issued. The NHRCN considered the participation of more than 700 human rights defenders from all over the country and the review of opportunities and challenges of human rights defenders at the provincial level and more than 800 human rights defenders from across the country participation in the national conference as an important achievement.

In the provincial and national conferences, the rights and duties of human rights defenders, as well as the legal and institutional arrangements to work on issues such as identity, security, networking, etc., have been specifically raised. Realizing the need for a special law to address the issues of identification, protection, documentation and capacity building of human rights defenders, a model draft law was also prepared to address the legal requirements related to human rights defenders and was discussed and presented at the national conference. The conferences have decided the way to protect the rights of human rights defenders. Therefore, human rights defenders are an integral part of the National Human Rights Commission and the NHRCN guardianship should increase for their protection and promotion.

5.1.11. International Relations

The NHRCN has been working in continuous collaboration and coordination with international agencies. These organizations include the Global Alliance of National Human Rights Institutions, the Asia-Pacific Forum of National Human Rights Institutions. Similarly, there are national organizations related to human rights of the respective countries and international organizations related to human rights of the United Nations and diplomatic missions etc. In addition, at the international level, there is collaboration and networking with national human rights organizations, international organizations, donor agencies, foreign embassies on the basis of need and rationale. This FY, the Honorable Chairperson, members and staff of the NHRCN visited the Human Rights Commission of Malaysia and the Philippines. During the visit, the protection of human rights of migrant workers and their families, exchange of experiences and future steps were discussed on matters related to disaster and human rights. In addition, a memorandum of understanding has been signed

between the National Human Rights Commissions of Nepal and Malaysia for the protection and promotion of the human rights of migrant workers and the work has been forwarded accordingly.

The NHRCN has formulated an action plan to ensure the effective implementation of universal periodical reviews and recommendations of treaty bodies and has made recommendations to the Government of Nepal. Based on monitoring index and monitoring action plan, there has been collaboration with civil society in monitoring. Also, the NHRCN is taking necessary initiatives to make all three levels of government accountable on this matter.

In relation to the achievements to be made by the Government of Nepal under the Sustainable Development Goals (2020-2030), the NHRCN has been moving forward with monitoring, study, research and promotional activities from a human rights perspective. In view of the fact that the role of the international community will be important in this, the NHRCN has been continuously communicating and collaboration with the international community through physical presence and virtual methods.

5.1.12. Human Rights Education

Since its inception, the NHRCN has been giving priority to human rights education and its promotion by enhancing the human rights awareness of the citizens and helping to build a human rights culture in the society. The past practice of the participation of the NHRCN in the formulation of the national curriculum has led to increased coordination and collaboration with the relevant agencies of the Government of Nepal in the promotion of human rights education in the school curriculum.

Human rights subjects in school curricula up to secondary level have been included, which has helped to maintain uniformity in the understanding of human rights. As rights and duties are interdependent, only the harmony between these two can create a human rights culture in the society. Therefore, the issue of fulfilling the duty while claiming the right is gaining ground. There is a growing awareness about the need to appreciate and respect each other's opinions and to treat those with different opinions with respect. The importance of human rights education has been highlighted by the fact that discussion and debate have been held to develop and implement human rights education courses even in universities.

While expanding its scope of work, the NHRCN discussed with experts from various educational institutions and universities on human rights education, artificial intelligence and human rights, organ transplantation and human rights, development and cultural rights, age of child marriage,

extent of sexual violence, business, environment and development and human rights issues. The NHRCN has started debate discussion, and advocacy on burning and new concerns related to human rights.

Therefore, there is still a lot of work to be done to bring human rights education to the level of every parent, teacher, student and the entire citizen, and the interest has been created among the stakeholders. It has been found that human rights education is becoming meaningful to increase the knowledge, skills and abilities of citizens towards human rights. The NHRCN has taken the investment in human rights education as an important achievement to set the foundation for the protection and promotion of human rights.

5.1.13. Thirteenth Human Rights National Megna Meet

The Human Rights National Megna Meet, which was started in 2009, has become a practice since the past to be held in a grand manner through the collaboration and coordination between most of the organizations active in the field of civil society and human rights. This FY too, the 13th National Human Rights Megna Meet was held with the participation of more than 130 organizations. The 13th National Human Rights Conference was held on a week-long basis by organizing various human rights awareness programs. To raise civil rights issues through cooperation, coordination and partnership in the field of human rights protection and promotion, to raise awareness, discuss and exchange information about various new dimensions of human rights and to draw the attention of the government by constantly raising awareness about the importance of human rights and the responsibility of the government for its fulfillment. Civil society and organizations in the field of human rights to carry out various activities including solidarity programs have been completed, thus helping to increase human rights awareness. The National Human Rights Commission has been supporting, participating and contributing to the events of the National Human Rights Megna Meet at the central and provincial levels.

Due to the fact that the issues of human rights are being brought to light through such programs and the effectiveness of the role of civil society is increasing, it is helping to improve the human rights situation to some extent. In the coming days, there is still a need to draw the attention of the relevant stakeholders to bring the programs of the Human Rights National Megna Meet even to remote and rural areas.

5.1.14. Transitional justice

Since its inception, the NHRCN has been working in coordination with stakeholders regarding transitional justice, while giving priority to complaints related to armed conflict. The NHRCN has been working with the victims and victims' families, heads and representatives of various non-governmental organizations operating in the field of human rights, the Law, Human Rights and Social Justice Committee at various stages to not grant amnesty to the perpetrators of serious human rights violations, to amend the law in accordance with international standards and the order of the Supreme Court. After discussion, 12 recommendations have been provided. This year, the government is currently making an effort to amend the Act.

5.1.15. Gender equality and social inclusion

The National Human Rights Commission has formulated and implemented a gender policy. Emphasizing on the need to address various concerns related to gender issues, addressing the problem of gender inequality as root cause in the social system, and giving importance to gender responsive budget, gender empowerment and gender mainstreaming to end gender-based discrimination, reforming discriminatory policies and laws and increasing the government's investment in this area, activities are progressing through the strategic plan. An action plan is also being developed giving priority to gender-related issues in the performance of the NHRCN. This policy has also provided guidelines to address the issues of underprivileged and marginalized women.

The NHRCN's strategic plan gives importance to the promotion and implementation of this policy and the NHRCN has been taking necessary initiatives to ensure compliance with the principles of gender equality and inclusion, fully implementing the code of conduct and increase policy level awareness. The NHRCN has been coordination at the national and international levels for the implementation of this policy as it will help to build a human rights culture in the society by increasing gender sensitivity among the stakeholders of the human rights sector.

The NHRCN has been coordination and collaboration through discussions with the civil societies in relation to the formulation and implementation of the action plan for the implementation of the recommendations of the universal periodic review (UPR) and the International Convention on the Elimination of All Forms of Discrimination against Women by Government of Nepal.

Emphasizing the issue of women's reproductive health rights, the NHRCN has conducted various researches, monitoring and evaluation for the promotion of the human rights of women who are victims of gender-based discrimination, sexual and gender minorities, single women

who are discriminated against on the basis of marriage, ethnic and class inequality, indigenous, Dalit, Madhesi, and Muslim women. It has been drawing the attention of all three levels of government through studies, seminars and training. For this, a strategy is being formulated with the coordination and cooperation of the civil society at the local level.

5.2. Challenges

- a. Some cases of human rights violations that have taken place during the conflict have not been resolved due to various reasons, and the collection of evidence is becoming more challenging. It seems that the recommendations of the Human Rights Commission on some complaints related to the conflict have not been implemented. Because of this, the victims have started to feel that justice is fading away.
- b. Since its inception, the NHRCN has been going through a difficult situation in terms of physical resources. Even reconstruction of the central office building, which was damaged by the earthquake in May 2015, has not yet started in the current FY. The central office of the NHRCN is currently being operated from a rented building of the Employees' Provident Fund, so it has not been able to become victim-friendly. Although land has been acquired for the Provincial Branch Office in Khotang and Provincial Offices in Dhangadhi and Biratnagar respectively, the construction work has not started yet. On the one hand, there are problems such as the need to move rented offices, breaking down of physical materials, and on the other hand, there is an increase in financial expenses. Due to the lack of own building, it has become difficult to build and develop sustainable physical structures and infrastructures according to the needs of the organization. Difficulty in arranging separate rooms for complaints, counseling, records, etc. has directly affected the victims or their families. For this, despite written and verbal information given to the relevant authorities by the NHRCN, no positive results have been obtained.
- c. It is the responsibility of the state to provide necessary support to national human rights institutions. Due to the lack of adequate budget allocation from the government for the NHRCN to work in the field of human rights protection and promotion, it is difficult for the NHRCN to work in the important areas of human rights. In some cases, the NHRCN has not been able to receive the expected support from the government.
- d. The organizational structure decided by the NHRCN as per the federal structure and

sent to the government for approval could not be approved this year as well. As a result, challenges have added to the organizational development of the NHRCN.

- e. In the changed context, the National Human Rights Commission Act 2012 is not being amended. The government was not able to act on amending the bill that was brought forward by the previous government to reduce the independence and autonomy of the NHRCN. This has directly and indirectly affected the functioning of the NHRCN.
- f. Most of the recommendations that have been made to take legal action against those involved in human rights violations and investigate the incident and take legal action are not being implemented. There is still a situation where some government officials recommended for action are rewarded instead of being punished. Even the recommendations that are said to have been implemented are often only related to compensation. Due to the government's indifference to conflict-related cases, the transitional mechanisms that have been built are frequently without officials and the issues cannot be addressed, thereby a situation of impunity has been developed. Although the Act was supposed to be amended in accordance with the order of the Supreme Court and the recommendation of the NHRCN by adopting the concept of transitional justice, it is yet to be done. On the one hand, the issues are not being addressed by the transitional mechanisms and on the other hand, the NHRCN's recommendations are not implemented, so the victims are forced to suffer more. Since this issue is not a priority of the government and political parties it has directly and indirectly affected the functioning of the NHRCN.
- g. Expected results have not been achieved due to the lack of mutual coordination between the state agencies and the lack of collaboration and cooperation. There is still lack of coordination and cooperation between some concerned agencies on the issue of human rights protection and promotion. This problem has been seen more among government-government, government-non-government and non-government-non-government organizations. As a result, duplication of work continues to exist. There is no sign of diminishing or ending the attitude of taking credit for good outcome and taking a step back or blaming others if the results are negative or the job is not done. Though dozens of organizations are working for the same purpose, problems continue to exist.
- j. A large section of the Nepali society is still influenced stereotyped mentality and behavior. No matter how many issues of rights, justice, freedom, equality etc. are raised, in practice, the society is not freed from harmful practices like caste-based

discrimination, witchcraft, chaupadi, child marriage and dowry. The Dalits, women, children and economically disadvantaged communities are found to be more affected. There is a practice of people being respected and insulted on the basis of caste. Discrimination is still there because of the untouchability practiced among the people. The heinous acts of people being fed faeces and urine, cutting hair and parading, beating and even killing people on the accusation of witchcraft have not been eradicated yet. People are being beaten and burned alive for not bringing dowry or bringing fewer dowries. Women are losing their lives for being forced to stay outside the house in a shed when they are menstruating. In the cases of heinous crimes like rape, the trend of reconciliation and Panchayats continues to exist as the state of public awareness in such places is weak. As a result, it has a direct impact on the protection and promotion of human rights.

- k. Although economic, social and cultural rights are recognized as the fundamental rights, there is a challenge in ensuring these rights due to the lack of attention to the formulation and development of laws, structures and resources to implement those rights.
- l. The implementation of the Fifth Human Rights National Action Plan of the Government of Nepal has not been as expected. There is still a situation where the stakeholders do not get information about the action plan. It is sad to see from the NHRCN's monitoring that the stakeholders who have been given the responsibility of implementation are ignorant about the action plan. All three levels of government have an important responsibility in the implementation of the action plan. Hence, it is necessary for the government to pay attention to its publicity for the implementation of this action plan, which has a structure consisting of various committees including civil society and local non-governmental organizations under the leadership of all three levels of government. The main challenge in the implementation of the action plan is the inability to coordinate and collaborate between the responsible agencies and the agencies assigned with supporting roles and not including human rights issues in their action plans, as well as not being able to report after the monitoring, coordination and cooperation the committees as specified.
- m. As the law regarding the terms and conditions of service of the employees of the NHRCN has not been able to get priority of the government there is a continuous negative impact on the career development of the employees and receiving due benefits.

5.3. Possible solutions to the challenges and future steps

5.3.1. Solutions

In order to address the aforementioned challenges, the concerned parties should act as follows.

A. The Government of Nepal

- (a) Develop and implement a suitable environment for the effective implementation of the Constitution, Acts and Rules,
- (b) Create an environment necessary for the formulation of the remaining laws related to the constitution, the federal, the province and the local government,
- (c) Adopt the inherent norms and values of human rights while formulating or revising laws, regulations,
- (d) Take measures against impunity more effectively while respecting the rule of law and human rights;
- (e) Create an environment (amendment of laws, availability of necessary resources and skilled human resource, etc.) for the transitional mechanisms (Commission of Investigation on Enforced Disappeared Persons and Truth and Reconciliation Commission) to function in an independent manner.
- (f) Effectively implement the recommendations of the NHRCN without delay,
- (g) Provide the NHRCN with necessary and adequate resources including buildings,
- (h) Submit the NHRCN's annual report to the Legislature-Parliament to create an environment for continued deliberations,
- (h) Maintain the independence and autonomy of the NHRCN, amend the law in accordance with the Paris Principles, 1993 ('Principles Relating to the Status of National Human Rights Institutions') and make timely arrangements for the immediate passage of the Human Rights Service Bill by the Parliament,
- (j) Give immediate approval to the organizational structure of the NHRCN,
- (k) Effectively implement the national action plan on human rights in accordance with the federal structure,
- (l) Work on coordination and collaboration on matters relating to human rights or relating to the NHRCN,
- (m) Prosecute those who have been recommended as guilty by the NHRCN and those who have been found guilty by the court.

B. Legislature-Parliament

- (a) Make timely amendments to the National Human Rights Commission Act, 2012, recognizing the independence and autonomy of the NHRCN in accordance with the Paris Principles;
- (b) Enact laws regarding concurrent rights related to human rights among the three levels of government and,
- (c) Amend the prevalent Act in accordance with international standards to address transitional justice.
- d. Promulgate an Act related to the terms and conditions of service of the employees of the NHRCN.

C. Political parties

- (a) Implement the constitution inform the members of the political parties on human rights issues and to increase the sensitivity to human rights issues by increasing human rights awareness from their respective places,
- (b) Provide special assistance to the government in respect of human rights, protection, development, etc.
- (c) Prepare the environment for amendment of existing laws in line with international standards to address transitional justice;
- (d) Work in coordination and collaboration on matters relating to human rights and the NHRCN;

D. Others

Stakeholders (civil society, organizations working in the field of human rights, professional associations, media workers, civil activists) to collaborate and coordinate with the government and the NHRCN on human rights issues as needed, to monitor and whistle blow.

5.3.2. Future steps

As a national institution related to human rights, the NHRCN has been working to ensure the respect, protection, promotion and fulfillment of human rights. This is helping the society for the development of human rights culture. The NHRCN has been conducting its activities based on the Constitution, laws, regulations and the strategic plan.

There is a need to review the implementation of the fundamental rights, review timely legislations

and make the necessary amendments or reforms. In addition, there is a need to further discuss the aspects of institutional reforms, opportunities and challenges in the NHRCN' and move forward accordingly. There is a need to collaboration and coordination between the NHRCN and constitutional commission related to human rights, the NHRCN and victims, the NHRCN and NGOs/civil society, professional associations, the NHRCN and the government, the NHRCN and international organizations related to human rights, donor agencies, etc. effective. For this, the NHRCN's strategic plan should be taken to the effective implementation level in consultation with stakeholders through continuous dialogue, discussions, meetings and interactions.

At present, the country is functioning in a federal structure of governance including three levels (federal, provincial and local) and the act of formation of the government and other specific activities are being carried out accordingly. Since human rights are things that need to be felt and internalized, it depends on the effectiveness of the NHRCN and the commitment of the government and implementation. For this, there is a need to move ahead in collaboration and coordination with the local, provincial and federal governments. Collaboration and coordination with parliament, government, constitutional bodies, political parties, civil society, NGOs and stakeholders should be made more effective and successful. In addition, the relationship with national, regional and international organizations/donor agencies etc. related to human rights should also be moved towards making it more up-to-date and stronger according to the changed context.

Looking at the above-mentioned aspects, there are opportunities as well as challenges before the NHRCN. For this, the NHRCN should take necessary steps as follows:

- (a) Take the initiative for the timely reforms of the National Human Rights Act and other laws related to human rights, as well as to take further initiatives to introduce the Act related to the terms and conditions of service of the employees of the NHRCN,
- (b) Conclude the organizational structure of the NHRCN,
- (c) Provide expert services in the formulation of human rights-friendly laws at the federal, provincial and local levels.
- (d) Create an effective implementation mechanism of the NHRCN's recommendations to bring effectiveness in the implementation.
- (e) Support the state in building an environment where it can fulfill its obligations as mentioned in the various conventions to which Nepal is a state party, and human rights action plans.
- (e) Carry out planning work to address the issues identified as priority human rights challenges.

- (f) In the event that the transitional mechanism to deal with conflict-related issues is not functioning as expected, develop strategy to be adopted by the NHRCN in the future and move forward accordingly.
- (g) Develop relations with government bodies at national, regional and international level according to changing circumstances.

It is the NHRCN's responsibility to create an environment for the implementation of the provisions contained in the constitution, laws and strategic plans. In the coming days, the NHRCN needs to take more steps to ensure the economic, social and cultural rights and to ensure the rights of the underprivileged, sexual and gender minorities, marginalized groups, community rights, gender-based violence survivors. Apart from this, equal attention needs to be paid to the latest dimensions of human rights, including business and human rights and building the environment for implementing of the NHRCN recommendations. There is a need to move forward keeping in mind the fact that expansion of the NHRCN's scope and institutional strengthening, and the optimum use of information technology are also priority issues.

(The End)

