

National Human Rights Commission

Annual Report

Synopsis

2020-2021 A.D.



National Human Rights Commission of Nepal

Harihar Bhawan, Lalitpur

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Remarks

National Human Rights Commission of Nepal (NHRCN) is an independent and autonomous constitutional body established as a national institution for the protection, promotion and fulfillment of human rights. Since its inception, the NHRCN has been working to ensure the respect, protection, promotion of human rights and developing human rights culture. It has been executing its programs within the framework of the Constitution, Act and strategic plan developed by the NHRCN. Article 249 (1) (3) of the Constitution and the National Human Rights Commission Act, 2012 outline the power, functions and duties of the NHRCN.

The State is regarded as the guardian and patron of human rights. Therefore, the first responsibility for respect, protection, promotion and fulfillment of human rights lies with the state. Nepal is a party to various international conventions on human rights and is currently a member of the UN Human Rights Council. In this sense, Nepal has national, regional and international obligations. The obligations of the State are also enshrined in international human rights instruments and national laws. In this regard, it is the duty of the NHRCN to hold the State accountable in case it fails in its duty. Constitutionally, the NHRCN has to fulfill this responsibility. Accordingly, the NHRCN has been collaborating with the government and working as a watchdog on human rights issues as required in pursuance to the Constitution, law and its strategic plan.

Article 294 (1) of the Constitution of Nepal stipulates that a constitutional body must submit its an annual report on its activities to the President. Accordingly, the report is being submitted by the NHRCN. There is a provision to include in the report the complaints received annually by the NHRCN, investigation on those complaints, investigation details, recommendations made to the government, etc. In addition, details of reforms to be made in the future for the protection and promotion of human rights should also be included. Likewise, efforts have been made to include in this year's annual report the situation of human rights in the country and the activities carried out by the NHRCN.

As in the previous years, various programs have been organized in the field of protection and promotion of human rights in the current fiscal year. In particular, complaints have been received, monitoring of human rights has been carried out and investigations into complaints have been completed. Decisions/recommendations have been made on the investigated complaints. In addition, training, seminars, interactions, discussions and other promotion related programs have been continued. Function to draft human rights-friendly laws, to review or amend the existing laws is underway. In addition to publishing various thematic reports, booklets and journals, attention and concerns have been expressed on various human rights issues through press notes and press releases. In addition to this, the work of disseminating the NHRCN's views through the media, publishing and disseminating informational materials of public concern related to human rights has been continued. Another important task carried out by the NHRCN this year is the formulation of the Sixth Strategic Plan.

For the respect, protection of Human Rights and development of human rights culture, this year too, the NHRCN worked in collaboration with the stakeholders at the national and international level on the basis of necessity and rationale. In particular, collaboration with Parliamentary Committees, Government of Nepal, constitutional bodies, political parties, civil society, NGOs working in the national and international sector, and national human rights organizations and donor agencies is ongoing.

At present, the country is governed according to the federal structure. Governments have been formed at the federal, province and local levels and the Constitution has been implemented. Laws on fundamental rights have been enacted. Office-bearers have been appointed in some thematic commissions related to human rights. The government has been already initiated implementation of the Fifth National Human Rights Action Plan. These various developments provide ground for some satisfaction.

Despite these positive initiatives, there are still significant challenges to the protection of human rights. The government's commitment to

concluding the peace process (transitional justice) has yet to materialize. Even after a long time, the victims have not been able to get justice. Even though laws related to fundamental rights have been made, the implementation is not favourable and satisfactory due to absence of regulations and other practical reasons. Laws have not been enacted on constitutionally mandated concurrent jurisdiction between the different tiers of governments.

The organizational structure of the NHRCN decided on 22 June by the NHRCN according to the federal set up 2018 is still under discussion at the office of Prime Minister and Council of Ministers. It has already been delayed to make timely reforms to the National Human Rights Commission Act, 2012 addressing the issues of independence and autonomy of the NHRCN.

The state of implementation of overall human rights, including civil and political rights, economic, social and cultural rights, has not been as satisfactory as expected. Due to the existence of caste-based discrimination in the society and lack of access to health care for all, an environment conducive to the exercise of constitutional rights has not yet been created. Public life has been affected due to labor exploitation of those who have gone for foreign employment and increasing domestic violence etc. The state has not been able to pay special attention to the protection of the rights of marginalized communities, indigenous people, and persons with disabilities, Dalits, women, minorities and senior citizens. As a result, the rights of these section and communities have not been protected in practice.

The scheduled programs could not be completed this fiscal year due to the Corona Virus pandemic. Some of the programs that should be completed physically have been completed virtually. Despite these various challenges, achievements have been made through activities carried out for the protection and promotion of human rights. During this fiscal year, a total of 186 complaints of human rights violations have been registered with the NHRCN. Investigation has been completed on 261 old and new complaints registered in the NHRCN. Altogether 212 monitoring of human rights situation and various other related

issues have been completed. A total of 188 decisions have been made on the investigated complaints. Furthermore, 138 programs related to the promotion of human rights have been held with special priority to realize the appeal of the NHRCN for "Human Rights for All at every household: Foundation for Peace and Development". During this period, the NHRCN has issued 24 publications, 48 press releases and 20 press notes.

Despite the aforementioned achievements, the NHRCN is still in the midst of challenges. The recommendations of the NHRCN have not been implemented and support from the government has not been received as much as expected. The organizational structure determined by the NHRCN remains stuck at the office of the Prime Minister and the Council of Ministers. Due to the inability to construct the central office building of the NHRCN damaged by the earthquake, offices have also been forced to be rented, thereby creating difficulties in execution of the assigned tasks. The NHRCN has been urging the government and stakeholders to address these challenges. In the midst of these achievements and challenges, the NHRCN is focused on the Constitution, the Act and the strategic plan, and moving its work forward in a timely manner by learning from the past.

Finally, I would like to express my gratitude to the Office of the President, Parliament, Government, political parties, civil society, human rights community, media and professionals for their support and goodwill towards the NHRCN. I would also like to express my gratitude to the international organizations, diplomatic agencies and donors. I am also grateful to my colleagues, the NHRCN Secretary, the Director, the Officers and all the staff of the NHRCN. I expect and believe that the NHRCN will continue to receive support from all quarters in the days to come.

Thank you!

8 December 2021

Top Bahadur Magar
Chairperson

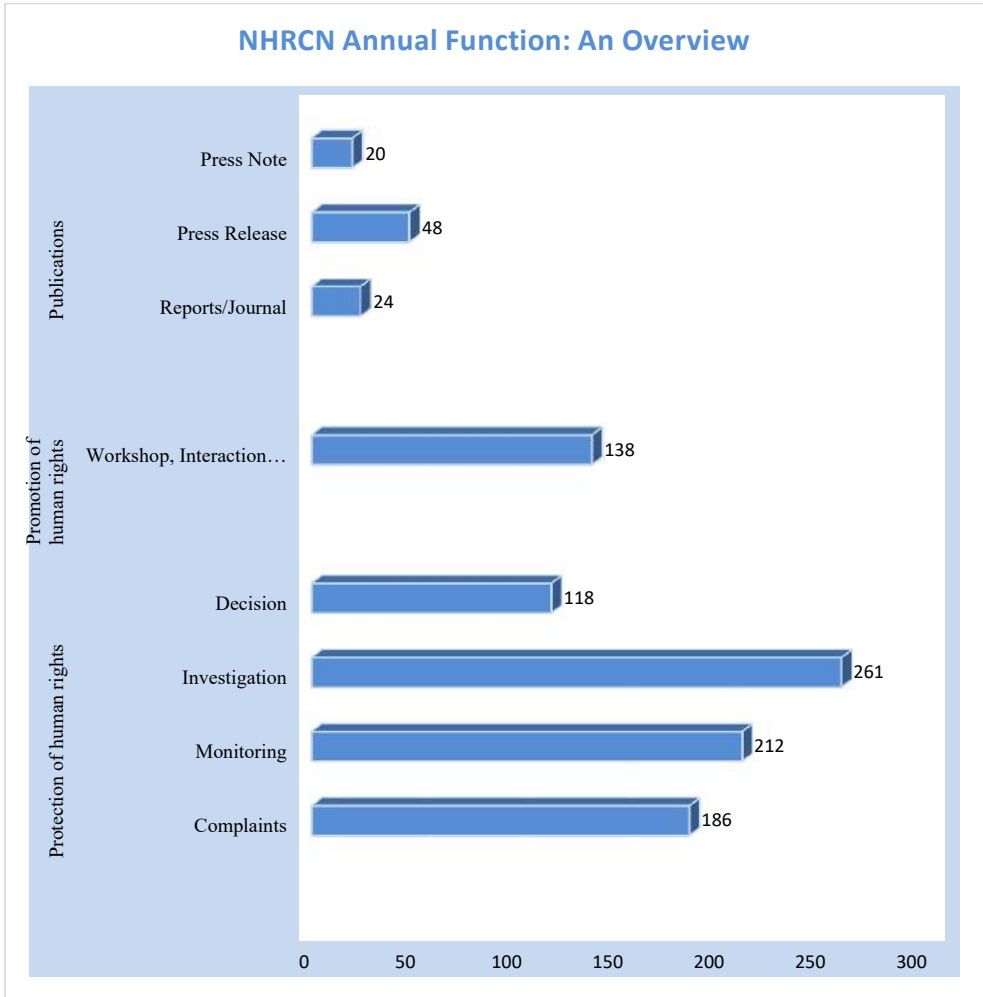
Abbreviations

CPA	Comprehensive Peace Accord
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
DCC	District Coordination Committee
FY	Fiscal Year
GANHRI	Global Alliance of National Human Rights Institutions
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
NGOs	Non-governmental Organisations
NC	Nepali Congress
NCP-UML	Nepal Communist Party (UML)
NHRI	National Human Rights Institutions
NHRCN	National Human Rights Commission of Nepal
UDHR	Universal Declaration of Human Rights
UN	United Nations

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NHRCN Annual Function: An Overview



S. No.	Nature of the function	Number	Theme	Remarks
1. Protection of human rights				
1.1	Complaints	186	<ul style="list-style-type: none"> • Civil and political rights • Economic, social and cultural rights • Right against torture • Women's rights • Child rights • The right against caste-based discrimination • The rights of persons with disabilities • Right against the act of enforced disappearance • The rights of migrant workers and their families 	
1.2	Monitoring	212	<ul style="list-style-type: none"> • Civil and political: overall human rights situation, rights of prisoners, administration of justice, etc. • Economic, social and cultural rights: right to health, right to environment, rights of consumers, rights of those displaced by natural disaster (floods and landslides), etc. • Rights of Senior Citizens, Women, Children, Caste-based Discrimination / Marginalized Communities, Rights of Persons with Disabilities, Rights of Migrant Workers, Status of Human Trafficking etc. 	
1.3	Investigation	261	<p>Civil and Political Rights: Right to Life, Torture, Enforced Disappearance, Rape</p> <p>Economic, Social and Cultural Rights: Displacement, Rehabilitation, Property Looting, Compensation, Women's rights, child rights, rights against caste-based discrimination etc.</p>	

1.4	Decision	188	Civil and political rights, administration of justice, abduction, economic, social and cultural rights, torture, caste-based discrimination, women's rights, etc.	
2. Promotion of human rights				
2.1	Workshop, Interaction, Discussion, Seminar, Training, Awareness, Monitoring Rally, Exhibition, etc.	138	Human rights situation, law and order, rights of the enforced disappeared persons, transitional justice, right to food, dispute resolution at the local level, civil and political rights, economic, social and cultural Rights, Child Rights, Women's Rights, Rights of Persons with Disabilities, COVID-19 and Right to health, Rights of Senior Citizens, Rights of Minorities, Rights of Consumers, Rights of Migrant Workers, Collective Rights, etc.	
3. Publications				
3.1	Reports/ Journal	24	Reports, booklets, journals, etc.	
3.2	Press Release /Press Note	48 /20	Various issues of human rights	
4. Human Resource				
4.1	Chairperson / Member	1 /4		
4.2	Staff	227	Working in all the offices of the NHRCN	

Chapter- 1

NHRCN, its organizational structure, power, functions, and duties

1.1 Introduction to NHRCN

Although the development of human rights globally took place after the Second World War, its development at the national and regional levels predates that. Human rights issues in Nepal have been and are being raised in one form or another from the past. Constitutionally, it can be said that the Government of Nepal addressed this from the Statutory Law 2004 BS. The Interim Constitution of Nepal, 2007 BS, the Constitution of the Kingdom of Nepal, 2015 BS and the Constitution of Nepal have recognized some issues directly or indirectly related to human rights as fundamental rights. King Mahendra Bir Bikram Shah Dev overthrew the government elected with a two-thirds majority on 15 December 1960. It was only natural that human rights issues would be overshadowed by the introduction of active monarchical Panchayat system. Although the constitution promulgated in 1962 made provision for fundamental rights, party independence had no place in it. Even in that adverse situation, the judiciary made a number of special verdicts to protect and promote human rights, which has helped in the protection and promotion of human rights to some extent. In the meantime, various efforts were made in different forms by various political parties, their sister organizations and professional associations for the cause of democracy and human rights.

The term "human rights" was included for the first time in the preamble of the Constitution of the Kingdom of Nepal, 1990 issued after the end of the *Panchayat* system from the people's movement of 1989-90. The Interim Constitution of Nepal, 2007 and the present Constitution have also given continuity to it. In addition to the political rights enshrined in the previous Constitution, economic, social and cultural rights have been given priority in the fundamental rights section of the present Constitution of Nepal. In case of obstruction in the exercise of fundamental rights, clear provisions have been made in the Constitution

for obtaining judicial remedy through the extraordinary jurisdiction of the court. In addition, the duties of the citizens have been defined in the Constitution itself.

Since 1946, the need for national human rights institutions was discussed at various levels and stages in the United Nations Economic and Social Council. Finally, after much effort, the international conference held in Paris in 1993 at the call of the United Nations materialized this issue. The conference made a special call on the member states to establish human rights institutions at the national level. Institutions of that nature were to be characterized as independent, autonomous, competent, and based on plurality, which are established in accordance with the Paris Principles. The National Human Rights Commission of Nepal is an independent and autonomous body established on the foundation of this principle.

Despite discussions on various aspects of human rights after the restoration of multi-party system in 1990, the issue of establishment of national institution at the state level could not get priority. In particular, human rights activists, legal practitioners, the media, civil society, the intellectual community and professional organizations became active on this issue. Debates, discussions, interactions as well as pressure-exerting programs were organized focusing on the issue. Finally, the Human Rights Commission Act, 1997 was enacted after a private bill was introduced by the then Hon'ble Member of the House of Representatives came into force. However, due to the indifference of the government, the NHRCN could not be formed even after four years of the introduction of the Act. Peaceful agitation, media vigilance, interest and concern of the international community continued. Meanwhile, a writ petition was filed at the esteemed Supreme Court demanding the formation of the NHRCN after it could not be established despite various efforts. Hearing the writ, the apex court issued a mandamus order in the name of the defendant. Finally, the National Human Rights Commission was established on 26 May 2000.

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 given continuity to that provision. Articles 248 and 249 of the Constitution specify the appointment of the office-bearers and mandate of the National Human Rights Commission. As per the mandate, Article 294 stipulates the obligation of the NHRCN to submit an annual report including the functions concluded during the year to the Rt. Hon. President.¹

This annual report has been prepared according to the Constitution, the Act and strategic plan of the NHRCN. The report basically includes details of human rights situation, complaints received by the NHRCN, investigation of complaints, monitoring, promotion, decisions of the NHRCN, recommendations, etc. In addition, the inter-relations, achievements, challenges and future steps of the NHRCN are discussed. Constitutionally, the report has been prepared for the purpose of discussion in the federal parliament after being submitted to the Rt. Hon. President.

1.2 Organizational structure

Article 283 of the Constitution states that appointments to the offices of constitutional organs and bodies shall be made in accordance with the inclusive principle .² Pursuant to Article 248 of the Constitution, there is a provision for five office bearers including one chairperson and four members in the NHRCN. In the past, the NHRCN had nine offices including one central office, five regional and three sub-regional offices. After the country adopted a federal system of governance, although the NHRCN has prepared the organizational structure accordingly and sent it to the Government of Nepal for approval, it has not been able to come into implementation as it has not been approved yet.³ At present,

1 Article 294, annual report of constitutional bodies: (1) the constitutional bodies as per this Constitution shall submit an annual report of its activities to the President and the President shall table the report to the Federal Parliament through the Prime Minister. (2) The details to be included in the annual report pursuant to Sub-article (1) shall be as per federal law. (3) Notwithstanding whatsoever is written in Sub-article (1), the Constitutional Bodies may develop and submit to the Chief of the Province separate reports on the activities carried out in every Province.

2 Article 283: Appointment to be made on the basis of principle of Inclusion: The appointments to the posts in constitutional bodies and agencies shall be made on the basis of principle of inclusion.

3 The meeting of the NHRCN held on 22 June 2018 changed the organizational structure of the NHRCN and sent it for approval to the Office of the Prime Minister and Council of Ministers. This organizational structure that

the NHRCN has provincial offices in Biratnagar, Janakpur, Sanepa, Pokhara, Butwal and Dhangadhi, and the central office in Lalitpur. The provincial office to be opened in Surkhet has not been come into operation. In addition, provincial branch offices are in operation in Khotang, Nepalgunj and Jumla. Out of the total 309 staff posts, the number of staff in the NHRCN this year is 227.

1.3. Functions, duties and powers of the NHRCN

Article 249 of the present constitution of Nepal states that "it shall be the duty of the National Human Rights Commission to ensure the respect, protect and promote human rights and ensure effective enforcement thereof. ." Promoting and protecting human rights is considered the primary responsibility of the state. In case the state does not fulfill this obligation satisfactorily, the NHRCN should make efforts to make the state aware and accountable as mandated by the Constitution and the Act. As a result, the NHRCN has been focusing on the protection / promotion of human rights and on matters related to the law. Under protection, complaints are received, monitored, complaints are investigated, and recommendations are made for action and for prosecution against the perpetrators of human rights violations. Programs related to the promotion of human rights are also conducted by the NHRCN unilaterally. In addition, programs of this nature are conducted at national, regional and international level based on the need and seriousness of the subject matter. This includes awareness raising, discussion, meeting, training, workshop, symposium and conference, visit / experience sharing, publication/ broadcasting and press release. The NHRCN also has a role to play in drafting human rights friendly laws. The NHRCN has the responsibility to carry out periodic reviews of the relevant laws relating to human rights and make recommendation to the Government of Nepal for necessary improvements in and amendments to such laws, and if Nepal has to become a party to any international treaty or agreement on human rights, to make recommendation, accompanied by the reasons therefor, to the Government of Nepal;

provides for provincial offices and provincial branch offices is not yet endorsed by the Government of Nepal.

Chapter 2

The Situation of Human Rights

Human rights are universal in nature. State Parties have national, regional and international obligations to respect, protect and fulfill human rights. As a member of the United Nations, a state party to various conventions on human rights, and as a democratic country, the responsibility for formulating, amending and implementing human rights friendly law lies primarily with the state / government. Efforts have been made here to briefly mention about the national and international obligations.

National obligation

The state/government is portrayed as the guardian of all citizens. It is also responsible for the protection, enforcement and fulfillment of human rights. As a result, respect, protection, promotion and fulfillment of human rights in a democratic system is the responsibility of the state. On the one hand, Constitution, Acts, Policies and Rules need to be human rights-friendly while on the other hand they need to be implemented effectively. Human rights need to be seen in practice rather than in principle or commitment. There can be no excuse on the basis of constitutional and legal system, and ratification of regional and international instruments related to human rights. The preamble of the Constitution gives a positive portrayal of human rights. In particular, emphasis has been laid on social and cultural unity by assimilating multi-ethnic, multi-lingual, multi-religious and geographically diverse characteristics, and ending all forms of discrimination and oppression. The principle of proportional inclusion has been adopted to address economic equality, prosperity and social justice. Competitive Democratic Governance, Fundamental Rights, Human Rights, Adult Suffrage, Complete Press Freedom, and Impartial and Competent Judiciary have been recognized. In this way, even though the legal aspect seems to be strong, in practice, looking at some of the actions of the government, human rights have become a topic that is talked about more but is not visible and cannot be felt.

Constitutionally, provision has been made for governance through elected representatives on the basis of adult suffrage. The House of Representatives was dissolved twice when the popular elected government, which was given the responsibility of governing the country for a term of five years, got entangled in its own internal problems. Although the House of Representatives has been re-instated by the decision of the Supreme Court, it has not been able to function smoothly. As a result, issues related to public interest have not been discussed and bills have not been passed. The tendency of governing through ordinances by overshadowing the parliament seems to be taking hold and this is like the judicial system falling in its own trap.

Nepal has been a member of the United Nations Human Rights Council since 2018. In between, the government side has been projecting that the human rights situation is positive, while presenting the example of the NHRCN being successfully categorized as an 'A' status institution since its establishment. The constitutional provision of thematic NHRIs on human rights (women, dalit, inclusion, and indigenous nationalities, Madhesi, Muslim and Tharu) has been implemented. Although the government has been active in addressing the issues of the victims of the conflict through transitional justice, it has not been seen as victim-oriented. These issues were also raised with priority for the second time in 2021, when voluntary pledges were made for membership of the Human Rights Council. The government then said that it was fully committed to the protection and promotion of human rights.

However, not all of the aforementioned commitments made to the international community have been fully implemented. Although law making is a matter within the purview of the parliament, the work of drafting the National Human Rights Commission Act has not been able to speed up as the government is not functioning as expected as per the spirit of independence, autonomy and federal structure. The organizational structure sent by the NHRCN to the Office of the Prime Minister and Council of Ministers for approval on 22 June 2018 is still under discussion. As a result, there have been difficulties in making the work of the NHRCN regular, systematic and effective as well as in the expansion of the office. When the function of the NHRCN is

not favourable for it, the reluctance of the government to implement the provisions of the Constitution on human rights issues cannot be considered positive. It cannot be said otherwise that the government's commitment to human rights will remain in question until there is a positive response in practice on these and similar issues.

Status of implementation of the Constitution

The government is not only the guardian of human rights, constitution and law, but also the enforcer. One of the criteria for measuring whether a government is democratic is the formulation of a human rights-friendly Constitution and its effective implementation. It is seen how liberal the government is towards human rights is especially seen through the preamble, fundamental rights and other provisions related to human rights. An attempt has been made here to see from this perspective as well.

Fundamental rights

Fundamental rights are generally applicable for the citizens of the country concerned. In general, fundamental rights seem to be oriented in favor of the citizen and against the government. Implementing fundamental rights is also the first responsibility of the state or government. The judiciary deserves the right to order remedy in case of violation of this right. From human rights perspective, there are ample grounds to consider the Constitution of Nepal, (2015) as a human rights friendly Constitution. The preamble reads, 'Protecting and promoting social and cultural solidarity, tolerance and harmony, and unity in diversity by recognizing the multi-ethnic, multi-lingual, multi-religious, multi-cultural and diverse regional characteristics, resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, eliminating discrimination based on class, caste, region, language, religion and gender and all forms of caste-based untouchability.'⁴ Similarly, it reads as 'Being committed to socialism based on democratic norms and values including the people's

4 Preamble of the Constitution of Nepal

competitive multiparty democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press, and independent, impartial and competent judiciary and concept of rule of law, and build a prosperous nation.'

⁵ In addition, it states about fulfilling the aspirations for sustainable peace, good governance, development and prosperity through the federal, democratic, republican system of governance. Articles 16 to 46 of the Constitution provide the fundamental rights. Article 47 deals with the implementation of fundamental rights and Article 48 provides the duties to the citizens. In particular, the right to live with dignity, freedom of expression and freedom of association have been ensured. The right against preventive detention, against torture, against discrimination on any basis has been recognized. The rights of women, children, dalits, consumers and senior citizens have been protected. Rights related to property, education, health, language and culture have been provided. The economic and social rights not mentioned in the previous Constitutions are included as fundamental rights in the present Constitution, which can be considered as distinct.

Despite these positive provisions, the state of implementation of fundamental rights is not satisfactory as expected. Fundamental rights are considered as a right to be implemented immediately, but the Constitution provided that a law would be enacted and implemented within three years. Although the law on fundamental rights has been formulated by the parliament, various challenges have been seen at the implementation level. The Act has not been able to provide clear guidelines for implementation. The use of phrases like, "... may be done may be specified may be applied. ... shall be as directed "⁶ in the acts points out the need to formulate thematic rules. Fundamental rights has not been fully implemented as regulations related to fundamental rights such as protection of victims of crime, persons with disabilities, consumers, right to housing have not been enacted and the existing provisions too have not been implemented. Even in practice, the provisions within the fundamental rights have not been implemented effectively.

⁵ Ibid

⁶ Environment Protection (first amendment) Act, 2018, Section 10 and 11

The Issue of citizenship

Depriving an eligible person of citizenship is a violation of the Constitutional rights. Not to be deprived of citizenship: (1) No Nepali citizen shall be deprived of the right to acquire citizenship. (2) In Nepal, there is provision of single federal citizenship with provincial identity.⁷ The bill to amend the Citizenship Act 2007 has not yet taken the form of an Act. The bill, which was introduced on 7 August 2018, was passed by a majority on 21 June 2020 after a long discussion by the State Affairs and Good Governance Committee of the Federal Parliament. Such a sensitive issue that needs to be passed by the parliament and become law has not come to a conclusion yet. This issue is still in limbo due to repeated dissolution of the House of Representatives and non-functioning of the re-instated parliament. As a result, some eligible citizens have been deprived of their fundamental rights due to various difficulties. Therefore, the government, parliament and political parties must be more sensitive in this regard.

Concurrent powers of the federation, the provinces and the local level

Constitutionally, the governance of the country is now based on the federal system. There is a three-tier structure of federal, province and local level. To give concrete form to this structure, Article 20 of the Constitution provides for the interrelationship between the federal, state and local levels. Article 231 states that the administrative interrelationship between the Federation and the Provinces and between the Federation, the province and the local level as per Article 232 (1) is based on the principles of cooperation, coexistence and coordination. Article 233 provides for an inter-provincial council chaired by the Prime Minister, with the Home Minister, the Finance Minister and the Chief Minister of the provinces to resolve any political dispute among the provinces and among the three levels in Article 234. Similarly, Article 235 provides for coordination between the federal, province and local levels. In this article, it is said that the federal parliament shall make laws to maintain

⁷ Constitution of Nepal, 2015, Article 10 (1 and 2)

coordination between the three levels.

Schedule 5, 6 and 8 of the Constitution includes a list of exclusive powers of the federation, province and local level respectively. Schedule 7 (related to Article 57 (3), Article 109, Article 162 (4), Article (197) lists the concurrent powers of the Federation and the Provinces. It covers 25 subjects including criminal and civil procedure and evidence and oaths (legal recognition, public functions and records and judicial process), interprovincial forests, mountains, forest conservation area, water consumption, land policy and related laws. Similarly, Schedule 9 (related to Article 57 (5), Article 109, Article 162 (4), Article 197, Article 214 (2), Article 221 (2) and Article 226 (1) outlines the concurrent list of powers of federal, province and local level. It covers 15 subjects including cooperatives, health, agriculture, electricity, drinking water, irrigation and natural resources.

Even though almost four years have passed since the formation of the government at the federal, province and local levels, no law has been enacted on the division of power between the federal, province and local level, and between province and local levels on concurrent issues. Problems at the implementation level have been faced due to lack of coordination among the provinces, between provinces and local levels, political (party) interests, political intolerance, untimely change of government, etc. Disputes between the three tiers over natural resources have begun to surface and some disputes have reached the stage where they have to be settled by the court. More disputes between the three levels of government are seen on issues like movable and immovable property, water, border, law and order, and revenue collection.

Implementation of these provisions of the Constitution has not been easy due to centralized mentality, tendency to use law to one's advantage, new practice of federalism, lack of coordination in staff management, double taxation, and lack of clear jurisdiction, legal vacuum and ambiguity and lack of visionary leadership. Looking at this overall situation, it is certain that in the coming days, there will be more complexity in law making and law implementation as per the Constitution. If these shortcomings / obstacles are not addressed, it seems that this problem

will get worse in the days to come. Therefore, especially the political parties, the government and the parliament have to focus on this.

International obligations

Nepal has been a member of the United Nations since 1955. It is also a party to the various human rights conventions adopted by the United Nations. As a democratic country, Nepal is currently a member of the United Nations Human Rights Council. In this sense, too, the responsibility to fulfill human rights obligations rests with the government. Under respect and protection of human rights, the state must fulfill its national, regional and international obligations. Nepal has become a party to 60 international and regional conventions and optional protocols on human rights and humanitarian law. These include 22 related to basic human rights (17 of the original conventions and 6 optional articles including 7 of the 9 conventions), 7 related humanitarian law, 14 related to environment, 12 related to labor and 4 of the regional (South Asian Association for Regional Cooperation (SAARC) conventions related to children, human trafficking and transportation, food and environment.⁸

The country has been developing national laws, policies, action plans and implementation mechanisms for the enforcement of the provisions of the UN Convention on Human Rights, which it has ratified. The esteemed Supreme Court has also played a positive role in domestication by recognizing international provisions on human rights. Although Nepal's steps appear to be progressive in terms of formulation of international human rights friendly legislation and mechanism, the implementation is not so satisfactory.

8 List of Multilateral Treaties to which Nepal is a party and A signatory; Government of Nepal, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs; July 2014

⁹Nepal ratified the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 16 June, 2020

Status of the report that Nepal has to submit and has been submitting

S. No.	Treaty Body	Preliminary Report	Periodic Report	Report submitted by Nepal
1.	Committee on the Elimination of Racial Discrimination	1 year	2 years	1972 (1 st), 1974 (2 nd), 1978 (3 rd), 1982 (4 th and 5 th), 1987 (6 th -8 th), 1998 (9 th -13 th), 2000 (14 th), 2004 (15 th and 16 th) and 2018 (17 th -23 rd)
2.	Human Rights Committee	1 year	4 years (as per requirement of the Committee and Article 41)	1994 and 2013
3.	Committee for the Elimination of Discrimination against Women	1 year	4 years	1999 (1 st), 2004 (2 nd and 3 rd), 2011 (4 th and 5 th), 2018 (6 th)
4.	Committee against Torture	1 year	4 years	1994 and 2005
5.	Committee on Economic, Social and Cultural Rights	2 years	5 years	2001, 2007 and 2014
6.	Child Rights Committee	2 years	5 years	1996, 2005 and 2016 (3 rd -5 th)
7.	Committee on the Rights of Persons with Disabilities	2 years	4 years	2017
8.	Optional Protocols	-	5 years	Two Optional protocols related to (a) Prostitution 2012 (b) Armed Conflict 2016 Related to death penalty: Not received
9.	Universal Periodic Review	4.5 (four and a half) years	4.5 (four and a half) years	2011, 2015 and 2020 (Third report was due in 2019, but due to COVID-19 submitted in 2020 and discussed and received recommendations in 2021)

The abovementioned table shows that Nepal has given room to question the commitments it has expressed towards human rights at the international forum. On the one hand, the periodic reports that have to be submitted regularly to the committees under the thematic conventions that have been ratified are not submitted. While on the other hand, the past tendency of compiling some reports together or submitting them in one go has not improved much. The commitments expressed whether it is during the universal periodic review or while filing candidacy for Human Rights Council membership, have not been fully implemented, which is an area that requires improvement.

The human rights situation

The situation of civil and political rights

The right to life

It is the inherent right of every person to live a dignified and respected life. The right to life is considered as a fundamental human right. Only after the protection of this right it is possible to enjoy other rights. As a result, this human rights is mentioned with priority in international human rights instruments and also in the national law. In particular, while guaranteeing the right to life of every person, no one's life can be taken away arbitrarily. Article 3 of the Universal Declaration of Human Rights, 1948, and Article 6 of the International Covenant on Civil and Political Rights, 1966, address this provision under the Right to Life. The second optional protocol of this Convention, 1989, abolished the provision on the death penalty. Article 16 of the Constitution of Nepal has protected the right to live with dignity and recognizes the provision of not giving death penalty as a fundamental right.

Although the right to life is accepted as a fundamental right in principle, the situation is different in practice. Many people have lost their lives due to various reasons. Even in this FY, the right to live with dignity has been found to have been affected in one way or another. In particular, it includes the reasons of COVID-19 pandemic, floods, road accidents, suicides, lack of medical treatment and medicine, and diarrhea. It is

unfortunate that even the people in foreign employment have been deprived of their right to life.

This fiscal year, public life was affected by COVID-19. As a result, Nepalese at home and abroad lost their lives. The infection that was seen in one of the Nepali nationals who returned from Huawei province of China last year due to COVID-19 was later confirmed in hundreds of thousands people. The first death from COVID-19 was of a pregnant woman from Sindhupalchowk in May 2020. Following this, the death toll continued to rise. The death toll from COVID-19 has risen to 9,424 this fiscal year. Suicide is seen as another challenge to the right to life. According to the Nepal Police, the number of those committing suicides this FY is 7,117.

No. of deaths due to COVID-19 this FY	
Province No. 1	1,276
Province No. 2	732
Bagmati province	4,030
Gandaki	987
Lumbini	1,558
Karnali	406
Sudur Paschim	445
Total	9,424

Source: Based on the report of the Ministry of Health and Population

Due to COVID-19, patients with cancer, heart disease, high blood pressure, pneumonia, diabetes, etc., the pregnant and lactating women could not get easy access to health care. There are no reliable statistics on the number of deaths caused due to these and similar diseases for lack of treatment and medicine.

According to the traffic police, 166 people have lost their lives in road accidents this FY, this number was 153 in the previous year. The number of seriously injured this year is 229. Similarly, 42 people have lost their

lives due to floods, 302 due to landslides, 97 due to fire, eight due to storm and 15 due to heavy rains.

This fiscal year, Rajendra Kumar Shrestha, the Head Teacher of Saraswati Basic Secondary School was murdered by the Biplav group on December 7, 2020 in Miklajung Rural Municipality- 1 of Morang. Buddhiraj Neupane alias Sanjay of Bardibas Municipality of Mahottari was shot dead by the police. Sumitra BK, a 12-year-old girl from Barbardia Municipality-3 of Bardiya was murdered after being gang-raped in Kunduwa, Chainpur, Champaran near the Nepal-India border on 21 January 2021 while media reported that Bhagarathi Bhatt, a 17-year-old student of Grade 12 at Sanatan Dharma Higher Secondary School, Khochlek, Baitadi Dogadakedar Rural Municipality-7 was also murdered after rape on 2 February 2021. It was reported that 13-year-old Padma Bahadur Budha of Guthichaur Rural Municipality-3 of Jumla district died after being beaten and tortured by the police. These representative incidents have also shown violation of the right to life of the people. On July 25, 2021, the Kantipur Daily had published the news under the headline "Tears pour over coffins" that 24 corpses and the remains of 3 persons arrived from Malaysia on the same day while more than 10 corpses are still there.

Looking at the above facts, it becomes clear in practice that even now the right to life has been affected. In this, especially the political, economic, social, cultural and development aspects seem to be responsible for it. Lack of health care, negligence, arson, insensitivity to the likelihood of floods and landslides have resulted in the violation of the right to life unexpectedly. With these aspects in mind, the state or government and stakeholders need to be more sensitive towards that end.

The rights of prisoners detainees

Committing an act that is prohibited by the law and not doing what the law says is regarded a crime. On the one hand, legally one should face punishment as prescribed by law for committing a crime; while on the other hand, their rights as detainees/prisoners should be respected. Behaving arbitrarily against a prisoner, detainee, inmate or offender

is against human rights norms and values. These are provided for in the United Nations General Assembly's Basic **Principles** for the Treatment of Prisoners., 1990. In particular, every detainee, prisoner, inmate should be treated with respect according to human values and dignity. There should be no discrimination on the basis of gender, caste, language, religion, political or other opinion, national or social origin, property, birth or any other status. It emphasizes that the religious beliefs or cultural practices of their community should be respected. The Universal Declaration of Human Rights, 1948 guarantees the right against torture. It states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and no one shall be subjected to arbitrary arrest, detention or exile.

The Constitution of Nepal (2015) guarantees freedom, equality, right to justice and right against torture as fundamental rights. It states that no person shall be deprived of personal liberty except in accordance with the law (Article 17). No person shall be detained in custody without informing him or her of the ground for his or her arrest . Any person who is arrested shall be produced before the adjudicating authority within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to such authority; and any such person shall not be detained in custody except on the order of such authority. . The rights of any person who is arrested is secured his/ her right to consult a legal practitioner of his or her choice from the time of such arrest and to be defended by such legal practitioner . (Article 20) Provision has been made not to subject physical or mental torture or to cruel, inhuman or degrading treatment on the arrested or detained person (Article 22). Similarly, the Police Act, 1955, Compensation Relating to Torture Act, 1996, Criminal Code 2017 and other laws provide for their rights and the minimum humane treatment to be meted out to them. Similarly, various orders, directives and verdicts have been issued by the Supreme Court from time to time, where emphasis is given to implement the above mentioned aspects.

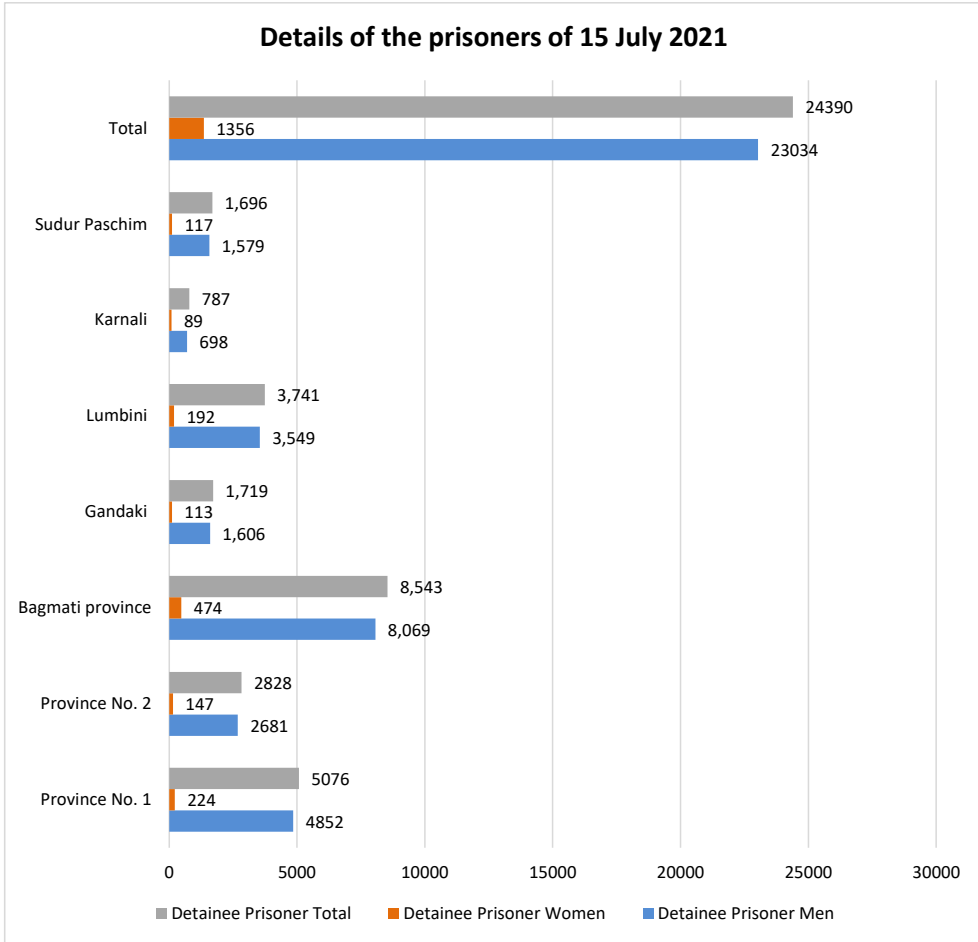
According to the Prisons Act 1963, men and women should be kept in separate houses as much as possible and if that is not possible, they should be kept in different parts of the house so that they cannot meet

or talk to each other. Where there is a provision to keep detainees and prisoners in the same jail, detainees and prisoners under 21 years of age and prisoners or detainees above 21 years of age should be kept as separate as far as possible. Similarly, prisoners of civil and criminal cases, sick detainees or prisoners, detainees or prisoners with mental health problems should be kept in separate rooms and prisoners convicted in criminal cases should be kept in separate rooms as required.

Looking at the history of prisons in Nepal, in 1914, the first prison (Sadar Jail) was established at Jagannath Dewal in Kathmandu. Currently, the prison is also known as the Central Jail. The Prison Act was formulated in 1963 and the Prisons Regulations were enacted in 1964 to manage the prison. As of late, there has been a growing belief that prisons should be developed as correctional facilities, not as penitentiaries.⁹

Details of the prisoners of 15 July 2021					
S. No.	Province	Detainee Prisoner		Total	Capacity for prisoners
		Men	Women		
1	Province No. 1	4852	224	5076	3056
2	Province No. 2	2681	147	2828	1705
3	Bagmati province	8,069	474	8,543	3,206
4	Gandaki	1,606	113	1,719	561
5	Lumbini	3,549	192	3,741	1,155
6	Karnali	698	89	787	265
7	Sudur Paschim	1,579	117	1,696	485
Total		23,032	1,358	24,390	10,433
		Men	Women	Total	
1.	Detainee	10,351	567	10,918	
2.	Prisoner	12681	791	13472	

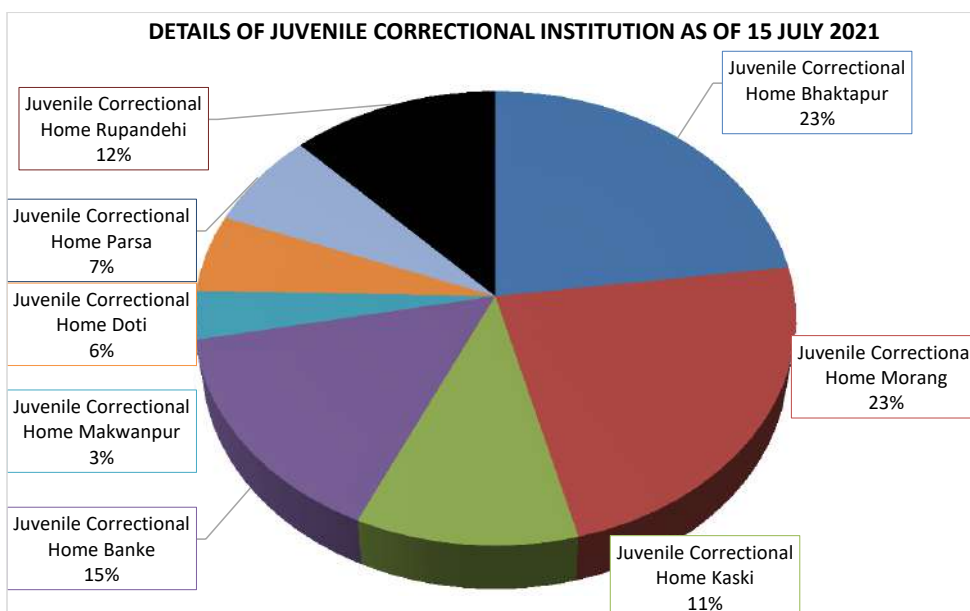
⁹ http://www.nhrcnepal.org/NHRCN_new/doc/newsletter/Karagar_Hirasat_Anguman_Report_Kartik_2074_Compressed.pdf



The monitoring conducted by the NHRCN this FY also found that most of the problems pointed out in the past in prisons and police custody still existed. In addition to the central prison, the NHRCN has monitored the prisons and police custody in the districts.

The district prison in Taplejung has a capacity of 25 inmates but holds 140 inmates, which is six times higher. The district prison in Jumla has no health worker for the past one year even though there are vacant positions for it. There is a problem of drinking water and electricity. There are 295 inmates in the district prison in Surkhet which is almost three times more than its capacity for 100 inmates. There are 91 inmates in Lamjung Prison in a place for 35 inmates. There are 1,200 women prisoners in one hall of Central Prison, Sundhara.

The above facts are representative.¹⁰ Despite some improvements, problems continue to remain as in the past. The state of physical infrastructure of most prisons is appalling. Prisons have been operating with insufficient physical resources. There are problems such as overcrowding, lack of water, toilet, electricity, etc., and inmates being forced to sleep on the floor. In addition, most of the prisons are dilapidated, unsafe and leaking due to old buildings, making it difficult during the rainy season for security personnel who need to work round the clock. Similarly, the right to privacy has been violated as there is no separate room for relatives, visitors and lawyers. There is lack of vehicles for transporting prisoners to and from the hospital for treatment and for court proceedings.



¹⁰ The detail information is outlined in the Monitoring the Situation of Prisons of Nepal in the context of COVID-19, 2020

Details of Juvenile Correctional Institution as of 15 July 2021

S. No.	Juvenile Correctional Home	Prisoner/detainee			Capacity of Juvenile Correction Home
		Male	Female	Total	
1.	Juvenile Correctional Home Bhaktapur	162	25	187	75
2.	Juvenile Correctional Home Morang	188	0	188	50
3.	Juvenile Correctional Home Kaski	89	0	89	50
4.	Juvenile Correctional Home Banke	123	0	123	
5.	Juvenile Correctional Home Makwanpur	28	0	28	
6.	Juvenile Correctional Home Doti	45	0	45	
7.	Juvenile Correctional Home Parsa	56	0	56	
8.	Juvenile Correctional Home Rupandehi	100	0	100	
Total		791	25	816	

Prisoners and detainees, adults, children, sexual and gender minorities, senior citizens, the sick, etc. should be kept separately, but it is not practiced. Those involved in serious and minor crimes, those whose cases have been decided, those who have been convicted and those who have been remanded in custody for trial are all kept in the same place. Necessary and regular examinations have not been conducted and in some cases lives have been lost due to unfulfilled posts of health workers, lack of medicines and inadequate budget for medical treatment. There is a shortage of health related staffs as the health worker positions are vacant. Offices are run by assistants and helpers in some situations and locations. Similarly, adequate arrangements have not been made for the skill development of the prisoners and the existing skills have not been

fully utilized. Another irony is that the prisoners and inmates are forced to survive in the prison with daily 700 grams of rice and Rs. 60 only. Prisoners have been deprived of their rights provided by the law due to the ignorance of the staff about the legal system and lack of timely information about the court decision.

These problems have been made public through the reports of the NHRCN, the Court, the Office of the Attorney General, and the Study Committees formed at different times. In particular, the NHRCN has been recommending the government to take action based on the facts and evidence obtained after the monitoring. It is particularly pointed out the need for immediate maintenance of dilapidated prisons or construction of new buildings, regular monitoring of the prisons by the responsible authorities to identify and diagnose the problem.

Emphasis has been laid on adequate provision of sewerage and water in the prisons, regular health check-up, medical treatment, and management of health personnel as per the assigned posts. It has recommended that proper arrangements have been made to keep the prison environment clean and to hear the cases of the detainees as a matter of priority. Emphasis has been placed on skill-based training, maintaining records with photographs of prisoners, suggestions or complaint boxes and making arrangements to paste the code of conduct to be followed by the prisoners in a clear and visible location.

In view of the COVID-19, the NHRCN has recommended issuing integrated guidelines for all prisons for pre-preparedness and response to keep the inmates safe, to manage the budget immediately for the provision of essential supplies (isolation ward, mask, sanitizer, gloves, face shield, soap, fever measuring tool, PPE sets etc.). Therefore, the government cannot deviate from its responsibility to protect the rights of the prisoners by developing the prison as a correctional facility.

Transitional justice

Nepal underwent an armed conflict for almost a decade. The decade-long armed conflict that started on 13 February 1996 was formally

ended on 21 November 2006 after a comprehensive peace accord was signed between the government and the then CPN (Maoist). The peace accord stated that among other issues, human rights and crimes against humanity during the armed conflict would be addressed with priority. In particular, they agreed to make public information about their captives and release all of them within 15 days¹¹ and release the real names, surnames and addresses of those who have been made to disappear and those killed during the war by both sides within 60 days of the agreement.¹² It was mentioned that in order to bring these issues to a conclusion, point 5.2.5 of the CPA and Article 33 (d) of the Interim Constitution of Nepal 2007 provided for the formation of a High Level Truth and Reconciliation Commission.¹³ However, the Act could not be drafted for a long time due to manipulation between the political parties, their respective understanding of transitional justice, fear of being punished etc. In particular, the differences in the provisions of the Act between the government and parties, the emphasis on the appointment of pro-government officials in the commissions, and the frequent change of government have led to complications in addressing the issue. At the same time, there was no consensus on how to address this issue, given the interests and concerns of victims, national and international sector (including the United Nations).

It was also not easy to get rid of the cases due to national and international pressure. Despite long debates and discussions, it did not lead to a common and victim-oriented view in the drafting of the Act. Finally, the Act related to the Commission on Investigation of Enforced Disappeared Persons, Truth and Reconciliation Commission, 2014 was issued on 11 May 2014. The Acts could not be free from criticism on the issue of serious violations of human rights, conscience of the attorney general, punishment, amnesty, etc. Ignoring the shortcomings pointed out in the Act, two Commissions with five-members each including the chairperson was formed on February 10, 2015. Section 38 of the Act

11 Comprehensive Peace Agreement, 2006, point no. 5.2.2

12 Ibid, point no. 5.2.3

13 To constitute a high-level Truth and Reconciliation Commission to find the truth about the persons involved in serious violation of human rights and crime against humanity during the armed conflict and to build an atmosphere of reconciliation in the society.

provided that the term of office of the commissions shall be two years from the date of formation and with possibility of extension by one year in special condition where the work is not completed. However, the work could not be completed even in the extended term as per the same provision. The work could not be accelerated due to shortcomings in the Act, internal dispute within the commissions and distrust of the victims, etc. Finally, the government decided to continue both the Commissions but not to repeat the office bearers, and accordingly the Ministry of Law, Justice and Parliamentary Affairs registered a bill at the National Assembly Secretariat on 29 January 2019. The bill was passed by suspending the 72-hour rule provided for amendment. On the basis of the Act, a recommendation committee was formed under the coordination of the former Chief Justice for the appointment of officials in the commissions. As a result, after the committee recommended the office bearers in January 2020, the office bearers have been currently appointed in both the commissions. However, due to the lack of amendment in the Act, it has been difficult for the appointed office-bearers to carry out their work.

Some positive steps have been taken in the field of transitional justice to address this issue. Defusing of the landmines have been completed to some extent. Similarly, the resettlement of the displaced, the returned of the seized house and land has been accomplished. Reconstruction of government structures destroyed during the armed conflict is moving ahead.

Status of Complaints

Altogether 58,052 complaints were received by the commissions in the first phase from 17 April to 10 August 2016. Similarly, 1,263 complaints were added after remaining complaints were collected from 9 July-8 August 2017. A total of 61,615 complaints were registered in two phases.

Source: Press Release issued by the Truth and Reconciliation Commission, Nepal on 9 February 2018

Details of the work of the Commissions on Investigation of Enforced Disappeared Persons

S.No.	Details	Number
1.	The total number of complaints registered with the NHRCN	3197
2.	Complaints sent to Truth and Reconciliation Commission	277
3.	Complaints decided to be kept under consideration	289
4.	In the case of a double complaint of enforced disappearance of the same person, number of file where the corrections were made	125
5.	Complaints decided to be investigated in detail	2506
6.	No of case files assigned to the Investigating Officer to complete the work of taking statement of the complainants and witnesses, filling up the anti-mortem data form and filling up the reparation form under the first phase of detailed investigation.	2169
7.	No of case files assigned to the Investigating Officer to complete the work of taking statement of the complainants and witnesses, filling up the anti-mortem data form and filling up the reparation form under the first phase of detailed investigation, and submitted report	2008
8.	No of case files where the work could not be completed after the investigation officer could not contact the complainant mentioned in the complaint, after the investigation officer has been assigned	161
9.	The number of enforced disappeared persons whose status have come to light so far on the basis of complaints	2558
10.	No of districts where the commission went to the field for detailed investigation	64
11.	People who came in contact during the investigation <i>Source: Satya ko Khoji (seeking Truth), Year 1, Issue 1, Asar 2076 (mid-July 2019)</i>	24

The Commission has received 3,197 complaints of enforced disappearances during the armed conflict. Of the complaints, 2008 complaints of 64 districts were investigated, where it was found through the reparation form completed by victims in 1,753 complaints that 999 victims had received cash interim relief of Rs. 25,000 to Rs. 1 million. Of them, 754 did not receive any interim

relief. One person was found to not have demanded material reparation. Of the completed forms studied, only about half of the victims appear to have received relief of Rs. 1 million.

Source: http://ciedp.gov.np/downloadfile/Antarim%20Pratibedan%202075_1554654724.pdf

Police posts have been re-established. Most of the conflict victims have received interim relief and the families of the deceased have received relief support of Rs 1 million as per the decision of the government. The Truth and Reconciliation Commission and the Commission for the Investigation of the Enforced Disappeared Persons have conducted public hearings, collected complaints, settled complaints, and made recommendations for compensation.

Nevertheless, even though some actions have forwarded in a positive way, the tendency of dilly dallying and practically ignoring the major concerning issues has become predominant. This is also evident in the statement of the National Human Rights Commission: Of the 1,195 recommendations made by the NHRCN during its 20 years of existence, 940 recommendations were related to past conflicts but their implementation was not satisfactory. Conflict victims have not been able to get justice due to non-implementation of the recommendations, lack of adequate legal provisions for the NHRCN to take action in cases of enforced disappearances, and some conflict victims receiving interim relief and compensation despite failure to prosecute perpetrators of serious human rights violations, leading to impunity. This shows that the commitments made by the Government of Nepal in the international forums have not been implemented effectively.¹⁴

The demands of victims of incidents of killings, mutilation, enforced disappearances, abductions, torture and beatings, sexual violence, seizure of property and destruction and forced displacement during the armed conflict have not yet been addressed. In particular, there is no guarantee that the truth will be known, that serious crimes will be prosecuted and that such incidents will not be repeated in the future.

¹⁴ Position made public through a press statement released by the NHRCN in November, 2020

Questions were raised at the national and international levels on some of the provisions of the Commission on Investigation of Enforced Disappeared Persons and Truth and Reconciliation Act 2014. Orders and directives issued by the Supreme Court and the National Human Rights Commission to amend the law in accordance with international standards, the government's commitment expressed nationally and internationally, the demands of the victims, international interests and concerns have not yet been addressed.

The reparation and economic and social rehabilitation of the victims has not yet gained momentum. The problem of minor child soldiers has not been addressed. It is already late to address this issue. The National Human Rights Commission has also been raising these issues seriously. The NHRCN urges the Government of Nepal and all parties concerned to end impunity by amending the laws relating to transitional justice mechanisms as enshrined in the Comprehensive Peace Accord in accordance with the international human rights standards, the recommendations of NHRCN and the Supreme Court's decision, ensuring the victims right to justice on time and bringing to justice the human rights violators found guilty by the NHRCN.¹⁵

Looking at the above statistics, the work being done, the time spent, the activities of the government and political parties, etc., the chances of the victim getting justice seem very low. The government and the political parties are confined only in continuing the Commissions, extending the term of office bearers and bringing in new office bearers. Even now, attention has not been paid to taking necessary steps after conducting a serious review on why both the commissions could not work. The commissions and the government do not seem to have made adequate efforts to take the victims into confidence.

It is unfortunate that even after such a long time, transitional justice has not been addressed. In the current context, the corona virus pandemic has become a good excuse. As this is not only an issue of national concern but of international interest and concern, there is no way out without addressing it no matter how late it is. Reconciliation between the perpetrator and the victim, punishment for serious offenses, public

¹⁵ Ibid

apology by the perpetrators and ensuring non-recurrence of the incident, compensation to the victim have already been delayed. Therefore, the first step should be to review the functions done so far, and the amendment of the Act as per the recommendation of the NHRCN and verdict of the Supreme Court. It is necessary to establish lasting peace by addressing the legitimate concerns of the victims and stakeholders.

Rights of Women

In general, women's rights are the rights associated with the overall personality development as a woman. These rights are mentioned in national, 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 and freedom shall be achieved equally without any gender-based discrimination. Article 2 the Convention on the Political Rights of Women, 1953, guarantees women the same political rights as men, including the right to vote, to be elected, and to hold public office. International Covenant on Civil and Political Rights, 1966 and International Covenant on Economic, Social and Cultural Rights, 1966 Articles 2 and 3 direct the States Parties to respect and ensure the rights enshrined in the Convention without gender-based discrimination. The International Convention on the Elimination of All Forms of Discrimination against Women, 1978, determines as the obligation of the member states for the abolition of gender-based discrimination, the protection of women's rights in national law, the repeal of discriminatory provisions in national law, and the enactment of new laws to protect and promote women's rights and build national mechanism for effective protection of the rights of women.

Under Rights of Women, the Constitution of Nepal states that women shall not be discriminated against in any way just because they are women, and that women's right to reproductive health and reproduction is a fundamental right. No acts of physical, mental or any other kind of violence against women shall be committed and such acts shall be punishable by law, and sons and daughters shall have equal right to

parental property. Similarly, in the case of social justice, women have been given the right to participate in the structure of the state on the basis of the principle of proportional inclusion. The Domestic Violence (Offenses, Punishment) Act, the Human Trafficking and Transportation (Control) Act, and its Rules etc. also have direct / indirect provisions on women's rights. Various mechanisms have been set up at the state and government level for the implementation of these provisions. In particular, there is the National Women Commission established as a constitutional body. Similarly, there are National Human Rights Commission, National Dalit Commission, Muslim and Tharu Commission. The Ministry of Women, Children and Senior Citizens is also functioning.

Age group	women	men	Total
0-5	12,53,006	13,14,957	25,67,963
5-14	32,80,477	33,99,806	66,80,283
15-24	28,02,879	24,87,172	52,90,051
25-34	21,26,839	16,87,820	38,14,659
35-44	15,89,950	14,00,490	29,90,440
45-54	10,97,470	10,97,470 10,80,965	21,78,435
55-64	7,93,747	7,93,747 81,343	15,75,090
65 plus	7,01,095	6,96,488	13,97,583

Source: National Census, 2068 Central Bureau of Statistics

According to the 2011 census, the total population is 2,64,94,504, of which 1,36,45,463 (51.50 percent) are female and 1,28,49,049 (48.50) are male. Out of a total population of 239,26,541 of above 5 years in the country, 65.9 per cent are literate, with 75.1 per cent male and 57.4 per cent female literate in this age group. Likewise, in the age group of 6 years and above, 66.5 percent of the total population and 75.9 percent and 57.7 percent of men and women respectively are literate.

By adopting the policy of inclusion, the increasing participation of women in state organs can be taken positively. Political representation of women seems to be gradually increasing. In the election of the House of Representatives held in 2017, there were 7,651,143 women voters. As the country adopted federalism, three-tier election has been held. Elections have increased the number of women people's representatives. A total of 14,352 women have been elected to various posts at the local level. In the provincial assembly, there are 17 directly elected and 172 elected through proportional representation. The number of women directly elected to the House of Representatives is 6 while 84 were elected through the proportional representation system. The total representation of 90 women parliamentarians is 32.73 percent. Similarly, 22 women are represented in the National Assembly, which is 37.29 percent. Out of the total 334 members in the House of Representatives and National Assembly, 112 or 33.53 percent are women members. A woman leader has been elected to a respected position like the President. Under the federal parliament, vice chair of the National Assembly is a woman. For the first time in the parliamentary committees, women lead six of the 10 committees. At present, Shashi Shrestha, chairperson of the State Affairs and Good Governance Committee, has been appointed as a minister, hence the post remains vacant. Bandana Rana represents Nepal as a member of the Committee under the Convention on the Elimination of All Forms of Discrimination against Women.

The 33 percent criteria envisaged constitutionally has not been implemented in the Council of Ministers and at the central level of political parties. The post of Deputy Speaker in the House of Representatives remains vacant for a long time. Despite increasing political participation of women, the situation in the economic and social spheres is not satisfactory. Even today, women are largely dependent on men financially. Society is still plagued by problems such as harmful practices, discrimination, oppression, exploitation, injustice, and exclusion. As its impact is felt in the political, economic, social, cultural and educational spheres, women have to suffer more. Social ill-practices like Jhuma, Deuki, Chhaupadi are still prevalent.

Although the promotion of women's rights has been positive in legal

and policy terms, in practice, gender-based discrimination still persists. Financially, women are still largely dependent on men. Domestic work is not valued as work. Due to anti-social norms and discrimination, oppression, exploitation, injustice, and exclusion in practice, the condition of Nepali women has not been good in compared to that of men in all spheres of national life including political, economic, social, cultural and educational sectors. Social harmful practices like Jhuma, Deuki, Chhaupadi, Kumari have not yet been completely abolished. Women are being discriminated in Nepali society due to reasons of dowry and tilak, child marriage, marriage without consent, violence by some family members on the charge of witchcraft and physical assault to even murder for not bringing dowry.

With the passage of time and development, the nature and forms of violence against women are also changing. There is a practice of identifying the fetus through video X-ray and having an abortion in case of a daughter. Women are victims of rape, sexual abuse, and acid attacks. Women are forced to suffer due to dowry and tilak practice, child marriage, marriage without consent and accusation of witchcraft. Violence by family members, beatings, burnings, evictions, and even deaths for not bringing dowry continued to exist in one form or another. COVID-19 appears to have increased the incidence of domestic violence.

Human trafficking continues to exist in different forms since the past. According to the Nepal Police, 528 cases related to human trafficking have been registered the following Fiscal Years.

FY	Number of cases	Arrested		Absconding	
		Male	Female	Male	Female
2018-2019	258	249	84	157	34
2019-2020	136	127	71	106	36
2020-21	134	111	51	91	44
Total	528	487	206	354	114

Source: <https://old.nepalpolice.gov.np/index.php/anti-human-trafficking-bureau-1?start=6>

FY	Number of cases	Victim		Accused	
		Male	Female	Male	Female
2018-2019	258	71	316	407	117
2019-2020	136	14	119	233	107
2020-21	134	4	183	202	95
Total	528	89	618	842	319

Source: <https://old.nepalpolice.gov.np/index.php/anti-human-trafficking-bureau-1?start=6>

Nepal Police data shows that the number of incidents of rape against women has increased this FY.

S No.	Province	FY 2018-2019	FY 2019-2020	FY 2020-2021	Total
		Rape/attempt to rape	Rape/attempt to rape	Rape/attempt to rape	
1.	Province no. 1	544 /237	485/160	557/ 151	1970/743
2.	Province no. 2	300/103	288/96	339/ 107	1102/411
3.	Bagmati	230/58	256/86	271/ 80	948 / 322
4.	Gandaki	181/79	161/62	190/ 54	651 / 255
5.	Lumbini	369/127	384/99	399/ 116	1422/ 473
6.	Karnali	140/45	139/57	143/43	481 / 178
7.	Sudur Paschim	170/76	200/67	213/ 82	676 /276
8.	Kathmandu valley	266/52	209/33	959/209	959/ 209
9.	Bureau	0/0	1/0	0/0	2/0
Total		2230/786	2144 / 687	2321/666	8211/ 2867

Not all incidents are registered with the police. And this shows that the number would be higher.

The aforementioned incidents show that the condition of women is still pitiable. Incidents of rape, trafficking, polygamy and child marriage are on the rise. Domestic violence is on the rise rapidly. The nature and forms of violence against women are also changing with time and development, Violence against women has also been perpetrated by

misusing modern technology. The practice of having an abortion after identifying the fetus through video X-ray can be taken as one of its form. Women are suffering from incidents like rape, sexual abuse, acid attack, arson and beatings.

Even though the overall human life has been affected by COVID- 19, the impact has been more on women. Hospitals do not take admission due to fear of COVID-19 infection, and even if admitted harassment has to be faced. A large number of pregnant and lactating women and their children have suffered due to inconvenience of transportation, lack of effective air service, deprivation of air service and facilities in districts connected by road network. Excessive bleeding, uterine rupture, and death due to lack of medicine and supplies have become common as women are reached to the hospital in the last stage. Lack of vitamins, calcium and nutritious food for pregnant women has seriously affected the health of mother and child.

Looking at the overall situation, although the aspect of political rights looks positive, the life of women in the rural level is still miserable. Although the Constitution and laws are women-friendly, women's rights have not been fully implemented. Therefore, the state and stakeholders need to be more sensitive in the areas of effective implementation of the law, public awareness and employment.

Child rights

Issues concerning the protection, participation, development and other aspects of children are considered as child rights. The International Convention on the Rights of the Child, 1989, defines children as persons under the age of 18. However, under national laws there is a provision to be as determined by the country concerned. The International Convention on Rights of the Child, optional protocol and National Laws mention about child rights. Considering the various aspects of children, the International Convention on the Rights of the Child and other instruments include the right to child protection, child development and child participation.

Article 39 of the Constitution of Nepal, (2015) provides for the rights of children. In particular, emphasis is placed on their right to identity and name, upbringing, basic health and social security, and protection against physical, mental or any other form of exploitation. Similarly, provision has been made for the helpless, orphans, persons with intellectual disability, conflict victims, displaced and vulnerable and street children to be given special facilities by the state, not to be employed in factories, mines or other such hazardous work or to be used in army, police or conflict. Even in the Act Relating to Children, 2018, outlines various kinds of child rights. Similarly, Child Labor (Prohibition and Regulation) Act, 2000, Bonded Labor (Prohibition) Act, 2002, Act designed to Amend Some Nepali Acts to Maintain Gender Equality, 2006, Foreign Employment Act and Rules, 2008, Domestic Violence (Offence and Punishment) Act, 2009 contains provisions relating to the rights of the child. Workplace based Sexual Harassment Prevention Act 2014 and Rules, Juvenile Justice Procedural Rules 2006, Domestic Violence (offence and punishment) Rules, 2010, Gender-based Violence Prevention Fund (operation) Rules 2011, Emergency Child Rescue Fund (Operations) Rules, 2010, etc., address various aspects of children. The thematic ministries, central and district child welfare board, agencies under police etc. are working for the implementation of child rights.

According to the National Census 2011, the total population of the country is 2,64,94,504 (male 1,28,49,041 (48.5 percent) and female 1,36,45,463 (51.5 percent). The number of children below 18 years is 1,10,84,311 which is 41.83 percent of the total population, while the percentage of children under 16 years is 37.37 percent and children under 14 years is 32.35 percent. At present, the population growth rate is 1.35 percent.

Looking at the condition of children, there is room for satisfaction. According to UNICEF, significant progress has been made in improving the health of women and children. Improvements in primary health care have led to a reduction in under-five mortality. The declaration of a polio-free country, the commitment and progress shown in improving maternal health, and success in reducing child mortality are noteworthy.

The mortality rate for every 1,000 live births is 21. Nepal has a very high infant mortality rate (within the first 28 days after birth). In addition, the under-five mortality rate is 39 per 1,000. Compared to the rich group, the infant mortality rate is almost double for those living in poverty and it is higher among under age mothers.

According to the report on the status of children in Nepal 2020 by the National Council for the Rights of the Child, in the process of protection and promotion of child rights, there has been significant improvement in qualitative and quantitative indicators related to children through the Constitution, law, policy, plan, action plan, programs, institutional measures, collaboration and coordination, and other measures. Statistically, the net enrollment rate of primary level has increased from 64 percent to 97.1 percent from the fiscal year 1900/91 to 2019/2020. The ratio of male to female students in basic and secondary education has increased from 0.43 to 0.98 and from 0.43 to 1.01 per cent respectively. Overall, access to school education has increased in terms of equality, quality and effectiveness. Similarly, the new born, infant and child mortality rate has significantly improved from 50 to 16 per thousand, from 108 to 25 and from 162 to 28 per thousand respectively.

Although the enrollment rate at primary level has increased to 97 percent, challenges do remain. Problems such as low quality and unequal access to education, geographical remoteness, gender, economic, social and ethnic differences exist. Due to poverty, social exclusion, disability, migration, child labor, 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. Only half of the students in Grade 3, 5 and 8 pass the Nepali and Mathematics examinations. Looking at the inequality in the education sector, 65 percent of the students from the affluent group and only 12 percent of the poor students are literate. The number of child friendly schools is very low.

Despite the positive provisions and some achievements, the overall situation of child rights is not satisfactory. The education sector, which has gone through various challenges even under normal circumstances,

has become even more miserable due to COVID-19. Similarly, challenges have been added to the health sector. The education sector, which has not been able to make the required leap in quality, has suffered from teaching-learning to holding examinations. The inability to conduct regular classes, confusion on whether exams should be taken, wasting the academic year, etc., seems to have had a direct impact on children and parents. An online classroom that is not accessible to all on the one hand and which has been carried out without study/research on the other cannot be considered as an achievement.

The children have been deprived of the right to education as schools were used as quarantine while they were forced to stay at home/room for a long time. The alternative education system has not been able to gain momentum due to policy ambiguity; lack of decision making capacity, limited resources, geographical remoteness, economic deprivation, etc. From a health point of view, this FY has become even more painful for children. Due to the lockdown, not all children had access to the necessary and regular BCG vaccines. This will definitely reduce their immunity.

This FY too, the NHRCN monitored the situation of child rights adopting health safety protocol. Monitoring was carried out in children's homes operated in Kathmandu Valley and Kavrepalanchok district. From the monitoring, it was found that the Nepal Children's Organization, which is home to helpless and orphaned children, is itself looking for resources. With the available resources, additional problems have been seen in the provision of food, shelter, clothing, health and education after the lockdown. One room was found to have been divided into two to accommodate 31 children under the age of 4. The building dilapidated due to the earthquake has not been rebuilt yet.

Some local levels were found to have made efforts to take important action on the issue of child rights. According to the NHRCN Provincial Branch Office in Khotang, all the monitored local levels had allocated budget for the distribution of sanitary pads to the students of Grade 6 and above once a year. Under the nurse in school program, the school in Dibrung Chuichumba Rural Municipality has been conducting

awareness program on child marriage and reproductive health, and providing Rs. 1,000 per month for children up to 2 years (up to 24 months for second child birth).

These representative examples highlight the fact that children have not been ensured their full rights. Monitoring in Sakela, Diprung Chuichumma, Khotelang, Jantedhunga and Barahpokhari Rural Municipality of Khotang district found that children get married prematurely, resulting in early pregnancy of girls thereby endangering the lives of child and mothers. Meanwhile, 14-year-old Rejina Magar of Sakela Rural Municipality died this month after failing to give birth to her child. According to the monitoring, 22 out of 259 abortions performed in Khotang were of underage girls while 22 and 16 new mothers in Barahpokhari and Jantedhunga Rural Municipality respectively gave birth before reaching the age of 20. In Okhaldhunga, 16 percent of the women who gave birth in the last four months have given birth before the age of 20. The report on the situation of children in Nepal, 2020 by the National Council for the Rights of the Child also confirms this fact. According to the report, as per the Nepal Multi-Index Cluster Survey, 2019, 5.2 percent of the married in the age group of 20-24 years were married before the age of 15 (1.5% men and 7.9% women) while 22 percent (9% male and 32.8% female) married before reaching 18 years of age. Similarly, 12.8 percent (5.3% male and 19.3% female) of those in 15 to 19 age group are married.

During this fiscal year, the NHRCN had monitored the education status of the students with disabilities studying in the resource class in Province No. 2. During the monitoring, face-to-face meetings, discussions and interviews (oral and written) were adopted. It was attended by 30 students, 26 head teachers, 26 resource teachers, six audit center coordinators, chairpersons and members of some school management committees and resource class management committees. Similarly, thematic staff / officials of the district education unit, some local level people's representatives, some parents and some students who dropped out from the school, some locals were also involved. The monitoring found that the financial condition of the students is very weak, 13 of them are receiving their scholarships on time while the remaining 17 are

facing delays. A total of 14 students did not have supporting materials and out of 16 students, three did not use them. Even though education is free, it has been found fee is collected in the name of registration and other headings for Grade 9 to 12, and that 18 students are dissatisfied with the teaching-learning activities while the rest are satisfied. Even if the textbooks are said to be free, there is compulsion for students to make photocopies one their own. It has been found that the electricity bill of the accommodation of a head teacher in Sarlahi district was paid from the student's allowance, and if the tariff crossed four thousand rupees monthly then pressure is exerted in the students' home.

In some resource class and model schools in rural areas of Mahottari and Parsa districts, gender-based discrimination was found to be in a socially alarming state. As a result, the number of female students has been found to be very low due to early marriage. Due to lack of awareness towards education among the parents, it was found that the daughters are not given equal opportunity as the sons and are not treated equally. As a result, some resource classes and special schools are without girl students. The lack of security in the resource class seems to be a factor in this. There is a need to pay more attention to food and hygiene, make effective provision of interpreters, and to focus on extracurricular activities.

The constitution, laws, policies are progressive on the rights of the child and an implementation mechanism has also been formed. Increasing child awareness, increasing access to education, health, etc. has improved school enrollment, child health (mortality, vaccination, nutrition, etc.). Despite these positive aspects, there needs to be effective implementation of the law and the implementation mechanism needs to be efficient, sound and resourceful. There is need to be more sensitive to the issues of trafficking, violence, sexual abuse, rape, child marriage, child labor, discrimination and street children.

Rights of senior citizens

In general terms, a person above the adult or average age is called a senior citizen. Generally, this age is considered as physically or

mentally weak or less active condition. They are seen as a source of experience, a storehouse of knowledge, a guide for families, society and the nation. The rights of senior citizens are directly or indirectly mentioned in international and national human rights instruments. Article 25 (1) of the Universal Declaration of Human Rights (UDHR) guarantees the right to social security for livelihood even in old age. Article 10 of the International Covenant on Economic, Social and Cultural Rights, 1966 provides that the state should recognize the right of every person to social security. Article 6 of the International Covenant on Civil and Political Rights, 1966, states that every person shall have the inherent right to life and the right to live. It is mentioned that no one's life shall be taken away arbitrarily and everyone's right to life shall be protected by law. Article 11 (1) (e) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 states that there shall be no discrimination in the social security of women senior citizens. Article 25 (b) of the Convention on the Rights of Persons with Disabilities, 2006 provides that health services should be provided to senior citizens to reduce or prevent further disability. Article 28 (b) of the same Convention provides to ensure access by persons with disabilities in particular older persons with disabilities, to social protection programmes and poverty reduction programmes. Similarly, the Vienna International Action Plan on Aging, 1982, the United Nations Principles for older persons, adopted by the United Nations General Assembly on 16 December 1991, and the Guidelines on the implementation of the Macao Plan of Action on Ageing for Asia and the Pacific , 1998, addresses various issues of senior citizens' rights.

Under the right to equality in the Constitution of Nepal (2015), the proviso phrase of sub-section (3) of Article 18 provides that special provision may be made by law for the protection, empowerment or development of children, the elderly and the persons with physical or psychosocial or intellectual disabilities. Right to social security as provided in the law shall be ensured for the women, workers, elderly, persons with physical or psychosocial or intellectual disabilities and helpless citizens. Under the directive principle it is mentioned that the state shall adopt policy of special provision of social security for the

protection and advancement of the helpless, the elderly, etc. 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, 2006 has provided for the formation of Central Senior Citizens Welfare Committee and provision of Senior Citizens Welfare Fund for the care and social security of senior citizens. Similarly, Section 19 of the Civil Code 2017 has made provision for positive discrimination; Section 122 of the Act has made provision for children's duty towards their parents while the Social Security Act, 2018 has made provision for social security allowance etc.

According to the 2011 census, the total population of Nepal is 2,64,94,504 and the number of senior citizens is 21,54,003 (8.13%).

Number of senior citizens on basis of province

S. No.	Province	Total population		Number of senior citizens		Number of senior citizens		Sex ratio
		Total	Senior	Ratio (Provinces)	(Total Population Ratio) (Total)	female	male	
1.	Province no. 1	4,834,943	393,031	8.1	18.2	196,513	196,518	100.0
2.	Province no. 2	5,404,145	405,698	7.5	18.8	194,515	211,183	108.6
3.	Bagmati	5,529,452	455,987	8.2	21.2	235,920	220,067	93.3
4.	Gandaki	2,403,657	282,981	11.8	13.1	147,042	135,939	92.4
5.	Lumbini	4,499,272	336,351	7.5	15.6	166,677	169,674	101.8
6.	Karnali	1,570,418	87,636	5.6	4.1	44,369	43,267	97.5
7.	Sudurpaschim	2,252,517	192,766	8.6	8.9	104,475	88,291	84.5
Total		26,494,504	2,154,003	8.1	100.0	1,089,511	1,064,939	97.7

Source: https://probiologists.com/Uploads/Articles/18_637296255056801440.pdf

It shows (the number of female as 10,89,511 and of male as 10,64,939).

In this FY, monitoring / interaction on the status of rights of senior citizens from the NHRCN were carried out in 39 old age homes in 12 districts of province no. 1, five of province no. 2 and 21 districts of Bagmati province. The team had followed the method of direct communication, discussion, observation etc. with the senior citizens / stakeholders regarding the physical condition of the old age home and health condition of the occupants. During the monitoring, it was learned

that some of the senior citizens in the old age home were deprived of citizenship and persons with disabilities were deprived of the allowances and benefits provided by the state due to lack of identity card. Some senior citizens have to go to the old age home after they are neglected by their son, daughter-in-law and husband in the family. It was found that some affluent and educated families were involved in leaving their parents to the old age home. It was found that some parents were forced to go to the old age home due to their financial situation, and some children were receiving the old age allowance of their parents. There is a situation where family members do not look after them while some do not know about the family. It has been found that the behavior and manners of some old age home operators are not humane and they do not pay attention to food and hygiene. There were up to 6 beds in one dark room.

The Old Age homes do not comply with government standards, buildings, toilets and building premises and the surrounding environment are not senior citizen friendly. It has been found that not only the District Senior Citizens Welfare Committee has not been monitoring, but the officials and directors of the committee are not aware of this. It has been found that the hospitals do not have separate senior citizen treatment room (geriatric ward) and necessary human resources for the senior citizens were not managed.

The facts obtained from the monitoring show that family quarrels and disintegration, loss of moral education in the society, lack of consciousness, lack of sense of responsibility, inter-generation conflict, search for secluded and religious places, voluntary choice etc. were reasons leading senior citizens to the old age home. Most of the senior citizens in the old age home suffer from some kind of family, psychological and social problems and physical ailments. Disabilities due to old age, lack of proper food and water, health problems, lack of family and humanitarian treatment, deprivation of citizenship, compulsion to live a lonely life without society, rude behavior etc. are the problems faced by the senior citizens in the old age home. Reasons for going to the old age home include lack of family, lack of family affection and respect, lack of time from the family members,

widowhood, and financial constraints. In order to make a living, they are forced to do work like breaking stones and filtering sand.

The increasing number of old age homes and care centers means that the senior citizens are being neglected by their families. Based on the facts obtained from the monitoring by the NHRCN, the government's decision to give waiver in public transport and health sector has not been implemented. Even now they are facing economic, social, health and family problems. The government's investment has not reached the target group (senior citizens). There is a lack of effective and concrete policies and programs in this regard. Due to non-transparency of government grants, investment in some day care centers has not been utilized. The recommendations made by the NHRCN on timely amendment of the Senior Citizens Act and criminalization of the act of abandonment of senior citizens have not been implemented yet.

As per the concept of social security, the government is currently providing allowance at the rate of Rs. 3,000 per month to senior citizens who have completed 70 years of age under social security. The government has adopted a policy to motivate service providers to provide special discounts in entertainment and designated areas for senior citizens. Similarly, the esteemed Supreme Court has also issued a mandamus order in the name of the government to give 50 percent discount in public and other services to the senior citizens as per the law. The government has adopted a policy of providing 50 percent discount on fares by arranging senior citizen reservation seats in public transport. Despite these special provisions, the condition of senior citizens is not satisfactory.

Even today, some senior citizens are forced to go to the old age home due to lack of love, affection and respect from their families. As the family begins to weaken financially, physically and mentally, there is a growing tendency for families to feel burdened and putting the senior family members in old age homes. Due to modernization and the growing influence of Western culture, the disintegration of the ancient tradition/ culture seems to have given way to distortion. At the same time, the gap between generations is widening. As Nepali society moves

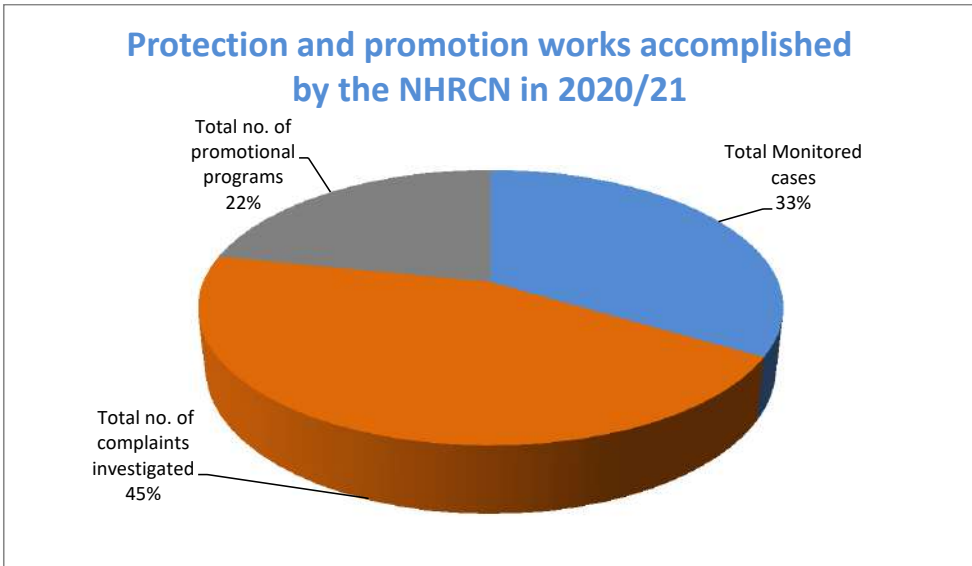
from a joint family to a nuclear family, it has had an impact on senior citizens. There is a situation where one has to live alone, be neglected due to lack of property, endure abuse and finally be evicted from one's home. Family disintegration is intensifying due to growing influence of western culture, migration and foreign employment. And the senior citizens are most affected by this. Due to serious mental and physical problems due to old age, there are serious problems seen in their care. Therefore, it is already late for the concerned stakeholders to focus on addressing the human rights of senior citizens.

Looking at the above mentioned aspects, on the one hand, positive efforts are being made for the rights of senior citizens. Discussions are underway to make a law with the provision of imprisonment for the people who neglects and hurts their parents. But these are methods of a temporary nature. In particular, it is necessary to move forward by assimilating the basic essence of *Matrudevo Bhavah Pitrudevo Bhavah* or Mother is God, Father is God. It is necessary for the state to translate into practice the belief that senior citizens are a source of experience. At the same time, respect, protection and promotion of the rights of senior citizens is possible if the offspring are able to fulfill their responsibilities towards their parents as a family.

Chapter- 3

Protection and promotion functions accomplished by the NHRCN

Receiving complaints, monitoring, investigating and recommending are important functions of the NHRCN for the protection of human rights. This FY too, the NHRCN has completed these tasks with priority. The works accomplished are as follows:



Functions related to complaint

For the protection and promotion of human rights, the NHRCN has been receiving complaints of human rights violations or incitement within the scope of the Constitution, Acts and Rules on a suo moto basis and through other means. Such complaints are received from the victim, the victim's family, organizations, individuals or on the basis of the news reported by the media. Based on the complaints received by the NHRCN, monitoring, investigation is carried out and recommendation is made to the government or stakeholder agencies for compensation and necessary legal action.

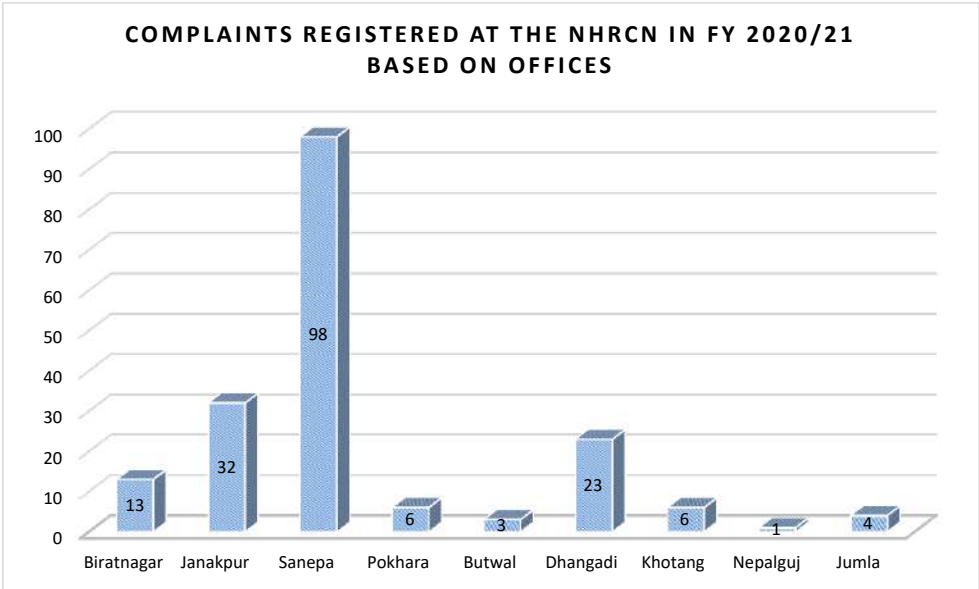
A total of 186 complaints have been registered in the central, provincial and provincial branch offices of the NHRCN in this fiscal year. The

complaints received by the NHRCN are related to political and civil rights, economic, social and cultural rights, and rights against torture. Similarly, complaints related to women's rights, children's rights, rights of persons with disabilities, rights against caste-based discrimination, rights of senior citizens, etc. have been registered.

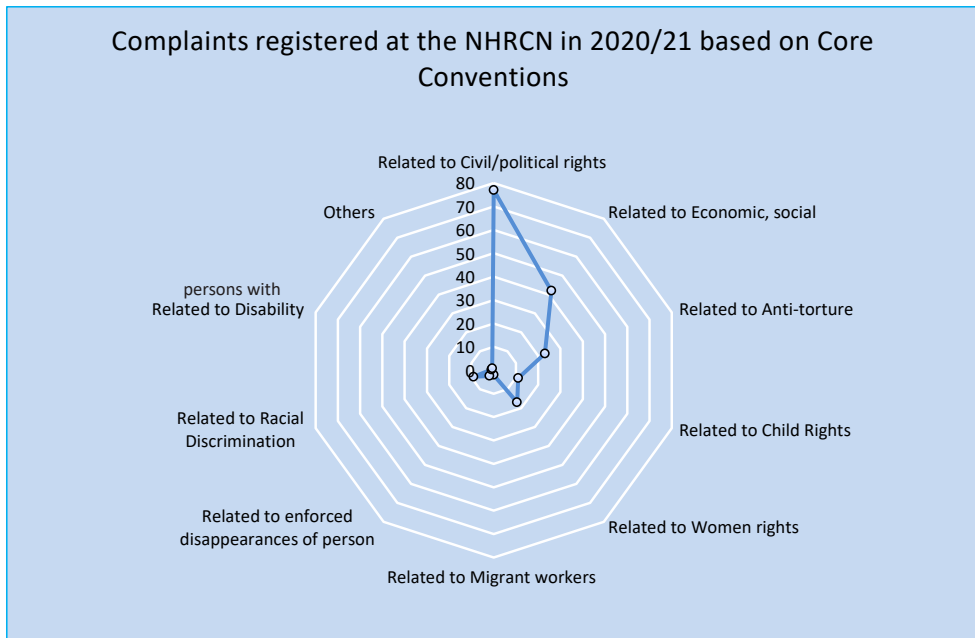
Complaints based on provinces

Out of the total 186 complaints registered this fiscal year, the highest number of complaints has been registered in Bagmati province Office, Sanepa which is 98 and followed by 32 in Janakpur, 23 in Dhangadhi, 13 in Biratnagar, six in Pokhara and three in Butwal . Similarly, 6 complaints were lodged at the province branch office Khotang, four in Jumla and one in Nepalgunj respectively.

Complaints registered at the NHRCN in FY 2020/21 based on offices

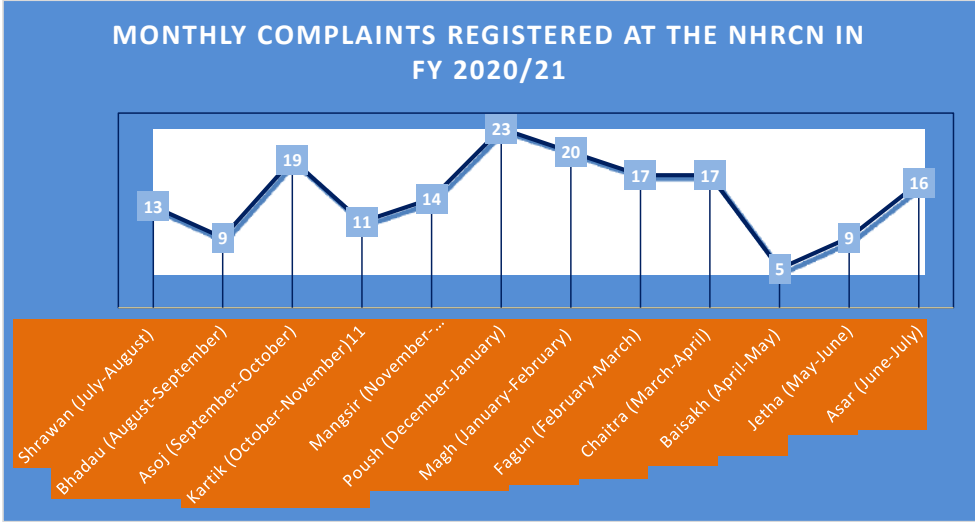


Complaints registered at the NHRCN in 2020/21 based on Core Conventions



Considering the nature of the complaints based on the core Conventions, 77 complaints of civil and political rights and 42 complaints of violation of economic, social and cultural rights have been registered in the NHRCN in this fiscal year. There are 23 complaints related to the right against torture, 17 of violation of women's rights, 11 of child rights violation, 9 related to rights against discrimination, three concerning right against enforced disappearances, two related to violation of the rights of migrant workers and their families, and one each on violation of rights of persons with disabilities and rights of senior citizens. Among the registered complaints, the highest number of complaints i.e. 28 have been registered in the administration of justice and the lowest number of complaints have been registered in violation of the right to privacy, rights of senior citizens and rights of indigenous nationalities.

Monthly complaints registered at the NHRCN in FY 2020/21



The NHRCN has been providing consultation on behalf of individuals, groups and organizations on complaints of alleged human rights violations. Complaints that do not fall within the jurisdiction of the NHRCN are being forwarded to the concerned bodies for necessary action.

Monitoring of Human rights

The NHRCN has been conducting regular and emergency monitoring for the protection of human rights unilaterally and in coordination and cooperation with stakeholders. Monitoring is done individually and in coordination from the NHRCN offices as well as by the thematic divisions, branches and units. The monitoring is being carried out focusing on the overall human rights situation, issues or case-wise rights. Monitoring has been carried out in view of the implementation status of rights ensured by international human rights conventions and national law, state policy, guidelines, human rights national action plan, etc. Regular and emergency monitoring is done on the basis of need, situation, seriousness of the subject etc.

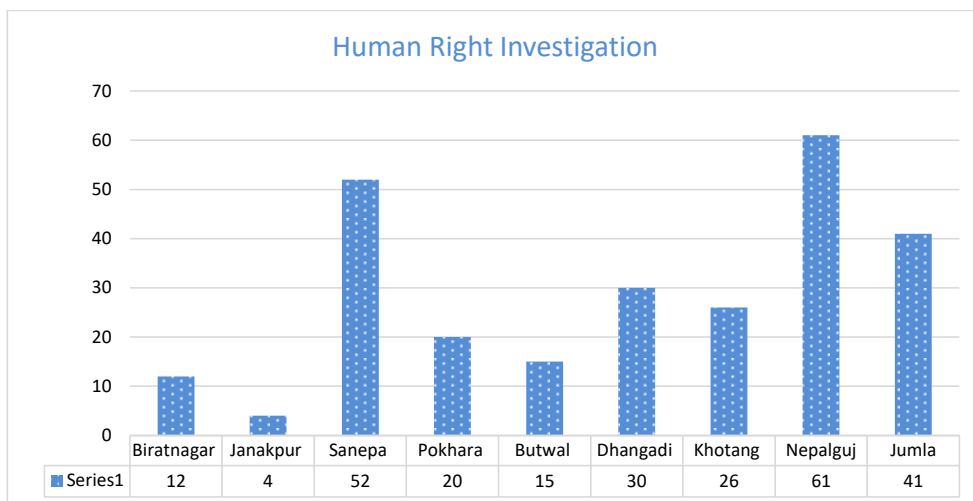
In addition, the NHRCN has formed a "Rapid Response Team" to

expedite the monitoring/investigation of serious incidents of human rights violations across the country and to make the facts public. Depending on the seriousness of the issue and the need, monitoring is also carried out by a team of experts.

Due to COVID-19, it was not possible for the NHRCN to conduct monitoring as expected in this fiscal year. Despite this, monitoring has been carried out with a focus on COVID-19 and the overall situation that followed. The monitoring covered issues of civil and political rights; economic, social and cultural rights; and women's and children's rights. Similarly, elimination of all kinds of caste-based discrimination, rights of persons with disabilities and senior citizens were covered. These include the overall human rights situation, the administration of justice, the rights of prisoners, conditions of prisons and detention centres, and illegal detention. It also covered issues such as beatings, the right to information, the right to privacy, and the right to freedom of movement. Under economic, social and cultural rights, monitoring was carried out considering the impact of COVID-19. This includes the right to housing, the right to property, and the right to health etc.

During this Fiscal Year, the NHRCN has monitored covering a total of 212 issues related to human rights. The highest number of monitoring has been carried out from provincial office in Janakpur with 33 following by 25 in Biratnagar, 23 in Dhangadhi, 21 in Butwal and 12 in Pokhara. Among the provincial branch offices, 28 was carried out from the office in Jumla, 15 in Khotang and eight in Nepalgunj. Under the central office, 24 monitoring has been carried out from different divisions.

Human rights investigation



The NHRCN has been giving priority to the investigation function on the incidents of human rights violations and incitement within the framework of the Constitution, Acts and Rules. During this period also, investigation has been carried out on the complaints received in the past years and this fiscal year. This FY, the NHRCN investigated a total of 281 complaints, both recent and backlog. Among the provincial offices, Sanepa office carried out investigation of 52, Dhangadhi 30, Pokhara 20, Butwal 15, Biratnagar 12 and Janakpur office four complaints. Among the provincial branch offices Nepalgunj investigated 61, Jumla 41 and Khotang 26 complaints.

The investigations thus completed are related to the armed conflict and subsequent complaints received by the NHRCN. Complaints of the right to life, torture and enforced disappearances are more prevalent, especially under civil and political rights. Similarly, economic, social and cultural rights are related to the issues of displacement, looting of property, compensation, rights of women and children.

Promotional activities

The role of promotional function is special in increasing the education and awareness about human rights as well as advocacy and dissemination of information related to human rights. The NHRCN has been conducting such activities under its constitutional and legal obligations. In order to make the NHRCN activities related to promotion more systematic and effective, the NHRCN has introduced and implemented the Human Rights Collaboration and Coordination Guidelines 2013.

In this fiscal year, the NHRCN has been working with priority to implement the slogan of 'Human Rights for all at Every Household: Foundation for Peace and Development'. In order to make the slogan of the NHRCN meaningful, the Promotion Division, thematic branch, section, unit and the provinces and branch offices of the NHRCN have carried out various programmes in the field of promotion of human rights in individual capacity and in coordination and collaboration. The activities thus implemented include interactions, discussions, meetings, seminars, workshops and trainings.

A total of 138 promotional programs have been completed by the NHRCN this fiscal year. In statistics, the completed programmes include 20 in Janakpur, 16 in Dhangadhi, 14 in Pokhara, eight in Butwal and six each in Sanepa and Biratnagar. Among the provincial branch offices, 16 programs were held in Jumla, 13 in Nepalgunj and 19 in Khotang. Similarly, 29 programs have been carried out from the central office. Due to COVID-19, the program of collaboration and coordination could not be completed as expected this year. Some important programs and events were held virtually as well.

Chapter- 4

Inter-relation between the NHRCN and the stakeholders

The role of stakeholders in the protection, promotion and fulfillment of human rights is considered special and important. This is also mentioned with priority in the Constitution, the Act and the Strategic Plan. The NHRCN has given continuity to the relations it has been maintaining at the national, regional and international levels this fiscal year. This aspect is briefly mentioned in this section.

NHRCN and the Office of the President

The NHRCN is constitutionally considered independent and autonomous on the basis of its nature of work. This body should also be especially accountable to the victims for its actions. The actions of the NHRCN should be the subject of debate and discussion. The Constitution has also provides that the annual report including the functions performed in every fiscal year should be submitted to the President. The President submits the report to the Federal Parliament for discussion through the Prime Minister. Pursuant to the same provision, the NHRCN has been submitting a report to the President every year compiling the functions concluded by the NHRCN in the particular fiscal year. The annual report, which was submitted to the President in person every year, was tabled last year to the President Office due to COVID-19. In the report, the NHRCN has covered issues such as protection, promotion, achievements and challenges.

The NHRCN and the Office of the President have been holding discussion on human rights issues periodically. In this regard, a team of the NHRCN including the newly appointed chairperson and members of the NHRCN had a courtesy meeting with the Rt. Hon. President on 10 Feb, 2021. During the meeting, discussions were held on the functions concluded by the NHRCN and the challenges faced by the NHRCN. In particular, the President was briefed on the functions accomplished by the NHRCN. It was also raised that the function of the NHRCN was affected due to non-approval of the organizational

structure of the NHRCN sent to the Office of the Prime Minister and the Council of Ministers. Similarly, the issue of failure to enact the National Human Rights Commission Act, 2012 with timely amendment was also discussed. On behalf of the NHRCN, a request was made for the initiative of the President on these matters. The President in turn also thanked the NHRCN for fulfilling its constitutional obligation and urged the NHRCN to continue working ahead for the protection, promotion and development of human rights culture.

NHRCN and the Government of Nepal

Basically, the responsibility of respect, protection, promotion and fulfillment of human rights lies with the government. Although the NHRCN is a constitutional, independent and autonomous body, it is directly linked to the government in its economic affairs. The government has the responsibility to implement the recommendations of the NHRCN as well as to make human rights enjoyed. For all these reasons, it is possible only through a good relationship between the two. In the case of human rights, the NHRCN has been focusing on the strategic plan to implement the provisions of the Constitution and the Act and has been holding meetings, discussions, deliberations, consultations and interactions between the government bodies on the basis of necessity, subject or seriousness of the issue. The NHRCN has been inviting the Prime Minister, Ministers, high-ranking or concerned officials of the Government of Nepal in the programs related to human rights and government. Similarly, the NHRCN has been participating in the programs of government bodies as the chief guest, guest, resource person, etc. and has been making public the institutional opinion.

Some representative discussions held this FY

S. No.	Theme of Discussion	Date	Stakeholder
1.	Rule of Law, Security, and human rights	24 July 2020	Newly appointed IGP Shailesh Thapa, Nepal Police
2.	Saving the Life of Gangamaya	14 February 2021	Law Secretary, Home Secretary, I.G.P. and the NHRCN
3.	Reconstruction of the NHRCN building	21 February 2021	Chief Secretary to the Government of Nepal Shankar Das Bairagi
4.	Health situation created by COVID19/Vaccine/ Management	22 March 2021	Spokesperson of the Ministry of Health Dr. Jageshwar Gautam and with Dr. Suman Adhikari, Ministry of Health
5.	Current situation and various issues of human rights	25 March 2021	Prime Minister
6.	21 st Anniversary and 22 nd Establishment Day of the National Human Rights Commission of Nepal	27 May 2021	Virtual address by the Prime Minister

The topic of the discussions held with governmental bodies include the situation of human rights in the country, implementation of the recommendations of the NHRCN, the impact of COVID-19 on human rights, transitional justice, rule of law and security. Discussions and interactions have also been held on burning issues including rights of migrant workers and their families, rights of women, children, and senior citizens, rights of consumers, health, business and human rights. The NHRCN has been making recommendations, advice, drawing attention and issuing necessary instructions based on the findings of the monitoring, investigation and promotion programs. In particular, the NHRCN has been holding meetings and discussions with the federal, provincial and local governments on thematic issues, as well as carrying out promotional programs in collaboration and coordination with them. The NHRCN has been working with the government with a focus on human rights issues, and also as a watchdog.

NHRCN and thematic commissions on Human Rights, Civil Society / NGOs/ Professional Associations

With the sole efforts of the NHRCN, the protection and promotion of human rights is almost impossible. Hence, the role of stakeholders including civil society is considered important in this regard. Keeping this aspect in mind, the provision that the NHRCN can work in collaboration and coordination with other stakeholders has been mentioned in the Constitution, the Act as well as in the strategic plan. In order to make these provisions more systematic and implemented, the NHRCN has been working by formulating guidelines on collaboration. Activities of this nature are mainly carried out with thematic NHRCNs on human rights, civil society, organizations working in the field of human rights, NGOs and professional organizations, religious institutions and private sector, etc. Due to COVID-19, it was not possible for the NHRCN to move ahead with the function related to the promotion in collaboration and coordination with other stakeholders this year physically. However, discussion and interaction on COVID-19 and its impact on human rights were held virtually. In particular, the issues covered during these events included the overall human rights situation, education, health, environment, consumer rights, and the rights of various communities and target groups.

A network has been formed between the NHRCN, Nepal Bar Association, Federation of Nepali Journalists and NGO Federation of Nepal to monitor the human rights situation in the current complex situation arising out of COVID-19. At the central level, high-level human rights monitoring and coordination committee, provincial-level committee and district-level committees have been formed. Similarly, rehabilitation of people with mental health problems and people living on the streets, provision of food, shelter, clothing, health, and education were also carried out.

The NHRCN has also been working in collaboration and coordination with international organizations. Such organizations include, in particular, the Global Alliance of National Human Rights Institutions (GANHRI) and the Asia-Pacific Forum (APF) of NHRIs. Similarly,

programmes were also held in collaboration and cooperation with national human rights institutions of the respective countries and the United Nations organizations and its agencies related to human rights and diplomatic missions. In addition, partnership and inter-relations have been established at the international level with national human rights institutions, international NGOs, donor agencies and foreign embassies on the basis of need and rationale. Due to COVID-19, works of this nature have been accomplished virtually.

NHRCN and project

The NHRCN has carried out human rights programs in support of and coordination with various projects. Such projects include the Strategic Plan Support Project (SPSP) and the Enhancing the Capacity of National Human Rights Commission (ECNHRC) Project.

Strategic Plan Support Project

The NHRCN has been advancing its work in collaboration with the UNDP. In particular, this project has been providing financial and technical support for capacity building of NHRNC, outreach, coordination and collaboration, promoting and protecting human rights of vulnerable communities, human rights response during COVID-19 pandemic in addition to conducting human rights related trainings, workshops, orientations, publications and monitoring of human rights situation addressing the need of NHRCN.

Enhancing the Capacity of National Human Rights Commission project

The NHRCN has been carrying out capacity building programs for governmental and non-governmental organizations working in the field of human rights with the support of this project. The function of implementing and monitoring the recommendations of the Universal Periodic Review is being carried out in collaboration and coordination with NGOs and human rights defenders. The NHRCN has been working to materialize the slogan of "Human Rights at for all at every household: Foundation for peace and development " .

Chapter- 5

Achievements, challenges, possible solutions and way forward

Achievements

As in the previous years, the NHRCN moved ahead with the function related to the protection and promotion of human rights this fiscal year as well. The adverse situation created by COVID-19 became unfavorable for the performance of the NHRCN and the functions could not be carried out as expected. As a result, the expected results have not been achieved. Despite the dire situation, the NHRCN has carried out its functions related to human rights on the basis of its slogan of "Human Rights for all at Every Household: Foundation for Peace and Development ". In the midst of the COVID-19 pandemic, the NHRCN has continued to monitor the human rights situation, investigate human rights violations, and make recommendations, by following health protocol. Some of the programs like discussion / interaction that have been taking place physically were carried out virtually. Overall, programs such as protection and promotion of human rights, publication, press release and review of laws have been accomplished. Looking at the implemented task, various achievements have been made, which can be mentioned as follows:

Complaint registration, monitoring and investigation and recommendation

A total of 186 complaints have been registered at the NHRCN during this period. Monitoring of issues related to human rights was carried out for 212 times. The NHRCN has investigated 261 backlog and recent complaints. A total of 188 complaints were resolved during this fiscal year.

Promotional activities

Towards promotion of human rights, various achievements have been made. A total of 138 programs related with promotion have been

completed by the NHRCN in this fiscal year. The role of the state is especially important in relation to formulation of human rights friendly legislation and providing government services. The NHRCN has been working with the three tiers of governments since the country adopted a federal structure of governance. At the province level, discussions, interactions, seminars, trainings, etc. have been held with the Speaker, Chief Ministers, Ministers, provincial assembly members, secretaries, attorneys and other stakeholders to further strengthen the human rights situation in the provinces. Debates, discussions, interactions, trainings, etc. have been held at the local level on how to look at issues related to education, health, development and thematic rights from the perspective of human rights. In particular, priority has been given to ways of collaboration and coordination in the protection, promotion and fulfillment of human rights.

Collaboration and coordination, power sharing, formulation of concurrent law, etc. are burning issues with the federal, provincial and local levels. At the local level, the functions, duties and powers of the Judicial Committee are directly linked to law and human rights. With the belief that these issues should be resolved from the perspective of human rights, the NHRCN has given continuity to the programs to the local judicial committees' and have been carried out unilaterally and in collaboration with others. Similarly, it has been organizing programmes in coordination and collaboration with the NGOs, civil society and professional organizations.

The NHRCN has been participating the programs organized by various organizations as a resource person, chief guest and guest and has been sharing its institutional views on various topics. Radio programs focusing on various thematic issues related to human rights are being produced and broadcasted on various FM radios inside and outside the Kathmandu valley.

Publications

During this period, a total of 24 publications including reports, journals (human rights monitoring) and brochures have been published,

which also include thematic reports and annual reports. Published reports include 20 years of the NHRCN: implementation status of the recommendations, 6 years of the NHRCN: Achievements and Challenges, Migrant Workers Rights, Rights of Dalits, Persons with Disabilities, and Senior Citizens, Important Decisions related to Human Rights (English), Things need to Know about Human Rights, etc.

Press release/press note

This FY, 48 press releases and 20 press notes on contemporary human rights issues have been issued. The press releases are related to civil and political rights, economic, social and cultural rights, rights against torture, women, children and transitional justice.

Development of strategic plan

Strategic planning is considered to be of special importance for achieving the objectives of the organization. The NHRCN has been working by developing strategic plan since its inception. In this context, as the term of the NHRCN's Fifth Strategic Plan (FY 2015-2020) has come to an end, the 6-year Sixth Strategic Plan (FY 2021-2026) has been formulated in this Fiscal Year and initiated implementation . During the formulation of the strategic plan, discussions were held with the Parliamentary Committee, the three tiers of government and the thematic constitutional bodies including NHRCN itself. Similarly, discussions / interactions were also held with governmental / non-governmental bodies, organizations working in the field of human rights, civil society, media persons, the NHRCN itself and other stakeholders. The strategic plan was formulated keeping in view the suggestions received from the discussions / interactions and consultation meetings held at the central, provincial and local levels.

Coordination and Collaboration

At the national level

Due to COVID- 19, it was not possible for the NHRCN to carry out functions physically related to the promotion in collaboration and coordination with other stakeholders this year. However, discussion / interaction about COVID-19 and its impact on human rights were held virtually. In particular, it covered issues related to overall human rights situation, education, health, environment, consumer rights, and rights of various communities and target groups.

At international level

The NHRCN has also been working in collaboration and coordination with international organizations. Such organizations include, in particular, the Global Alliance of National Human Rights Institutions (GANHRI) and the Asia-Pacific Forum of NHRIs (APF). Similarly, programmes were also held in collaboration and cooperation with national human rights institutions of the respective countries and the United Nation organizations and its agencies related to human rights and diplomatic missions. In addition, partnership and inter-relations have been established at the international level with national human rights institutions, international NGOs, donor agencies and foreign embassies on the basis of need and rationale.

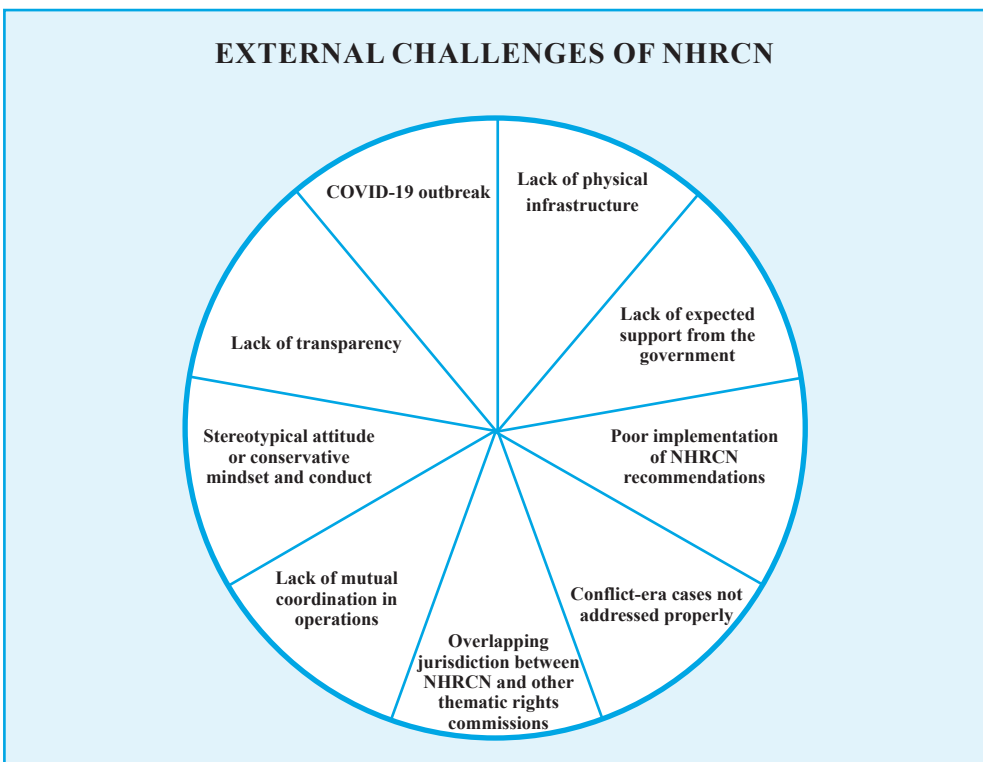
Challenges

The NHRCN has been moving forward amidst internal and external challenges since its inception. It is natural for challenges to change over time and situation. In this FY, some of the challenges of the past continue to remain. Even this year, the NHRCN could not stay out of the challenges. The challenges can be mentioned as follows:

Internal challenge

This fiscal year also could not be free of internal challenges. In particular, internal coordination on the performance of the NHRCN has not been fully effective. Due to the inefficiency of the internal information system, the progress details of the implemented tasks could not be brought out. The expected quality has not been maintained due to non-implementation of one-door policy in publication of reports.

External challenges



Lack of physical infrastructure

The NHRCN has been going through a difficult situation in terms of physical resources since its inception. Despite repeated efforts, the situation has not improved as much as expected. Even this FY, the NHRCN was forced to carry out its functions in a difficult manner

due to lack of necessary and adequate physical and other resources. The function of the NHRCN has been affected due to lack of proper and necessary infrastructure and resources in proportion to the human resource.

The construction work of the central office building, which was damaged by the earthquake in April 2015, has not started yet. The Central Office of the NHRCN is presently operating from a prefabricated building on the unoccupied land in front of the old building. During the rainy season, water intrusion inside the office has hampered the work and caused damage to the physical property. Due to leakage of rain water in the Human Resource Center (Library) of the NHRCN, it has become difficult to protect the books. The Provincial Offices and Provincial Branch Offices of the NHRCN are still operating from rented buildings. Although land has been acquired for the Provincial Branch Office, Khotang and the Provincial Office, Dhangadhi, necessary initiatives have not been taken in the construction of the building. This leads to problems such as having to relocate the office and breakage of goods on the one hand, while there is a situation of increasing financial burden on the other hand.

There are congested rooms where more human resources have to be accommodated in proportion. Lack of separate room for complaints, counseling, etc. and lack of skilled human resource (psycho-social counseling experts) has made it difficult for victims or their representatives to express their views clearly. It is unfortunate that the NHRCN has repeatedly requested the concerned body in writing and orally but no positive response is received.

Lack of expected support from the government

The role of the government in respect, protection, fulfillment of human rights and developing the human rights culture is considered special and important as the custodian, enforcer and implementer. It is the responsibility of the state to provide necessary assistance to national human rights institutions. Although the government and government agencies are found providing superficial and verbal support to the

NHRCN, in some cases their role has been non-cooperative as well. The country has entered into the federal structure but some of NHRCN functions have been affected due to non-approval of its organizational structure. As a result, the provincial office scheduled to open in Surkhet has not been established so far. The National Human Rights Commission Act 2012 has not been amended to address the changed context, and the functions have to be performed on the basis of the same Act. Despite repeated discussions in this regard, the expected results have not come.

Poor implementation of NHRCN recommendations

Under protection of human rights, the NHRCN monitors the human rights situation and investigates complaints of human rights violations. Based on the facts of the investigation, it has been recommending the government or the concerned body for necessary action. Although the implementation of the recommendations, decisions or orders of the NHRCN is legally binding, the implementation status is not satisfactory. Despite repeated discussions and debates on this issue, no conclusion has been reached.

The status of the NHRCN recommendations to the government for implementation is very weak. Looking at the situation from July 2000 to 2020, the implementation status of the recommendations is found to be very low. Of the 12,825 complaints registered with the NHRCN during the period, 6,617 were resolved and 1,195 were recommended for legal action against the perpetrators and provide compensation to the victims. Overall, the recommendations that are fully implemented is 13.64 percent, partially implemented is 37.23 percent and 50 percent of the recommendations have not been implemented. Recommendations that are implemented are often concerning providing monetary compensation. Recommendations that have been made to take legal action against those involved in human rights violations and to investigate the incident and take legal action are not implemented. Not only that, it is ironic that some government officials who have been recommended for action have been promoted instead of being punished.

Conflict-era cases not addressed properly

The armed conflict started by the then CPN (Maoist) on 13 February, 1996 formally ended on November 21, 2006. Then the government and the Maoist leadership had agreed to resolve issues related to the armed conflict through a transitional judicial mechanism. Even though the so called complex issues such as army integration have been resolved, but the issues of conflict victims have not been adequately addressed. The Truth and Reconciliation Commission and the Commission on Investigation of the Enforced Disappeared Persons were formed to address transitional justice. Even after amending the law and extending the term of the commissions and its office bearers time and again, and appointing new officials, no expected outcome has been received.

The fate of the current commissions is likely to be the same as in the past. The Act has not been amended as per the decision of the Supreme Court and the recommendation of the NHRCN to adopt the essence of transitional justice, while partisan interests of the political party are reflected from appointments to the activities. This issue has not been addressed as victims and the international community and stakeholders do not have trust over the commission, due to the lack of skilled and necessary human resources, lack of financial resources, internal strife, partisan interests, etc. Majority of the recommendations made by the National Human Rights Commission are also related to the armed conflict. Of the 1,195 recommendations made by the NHRCN, 940 are related to the armed conflict, in which recommendations except those related to monetary compensation have not been implemented. The recommendations of the NHRCN have not been implemented while the transitional justice commissions have not been able to address the issue, the direct impact of which is on the victims. As a result, this has directly and indirectly affected the functioning of the NHRCN.

Overlapping jurisdiction between NHRCN and other thematic rights commissions

In addition to the National Human Rights Commission, the current Constitution provides for seven thematic commissions directly

related to human rights. The commissions formed in this way include National Inclusion Commission, National Dalit Commission, National Women's Commission, Indigenous Nationalities Commission, Madhesi Commission, Tharu Commission and Muslim Commission. Although activities are carried out in collaboration and coordination function between NHRCN and these Commissions, there is a need for more clarity about the jurisdiction and nature of work. Even if the function of the Commissions is mentioned in the Constitution, the Act and strategic plan, there is possibility of overlapping in function and findings of the investigation report are likely to be different even if the issue of human rights violation is the same. As a result, complexity may arise in the implementation and there may be pressure in the relationship between the Commissions leading to various hurdles in access to justice for the victims.

Lack of mutual coordination in operations

Lack of coordination and cooperation in the function has become a common problem. Coordination and collaboration among the stakeholders on issues related to the protection and promotion of human rights is still lacking. This problem is more prevalent between government to government, government to non-government and among non-government organizations. This results in less work and more reports, and repetition of the same work. There is an attitude of taking credit when the outcome is good and avoiding or blaming others when things go wrong. Even though dozens of organizations are working with the same purpose in the same field the problem has not been reduced.

In government bodies, development works are seldom started and completed on time. The trend of not working on time and working overnight towards the end of the fiscal year has not improved as desired. It becomes surprising if any task is completed on time. Eventually, the money will run out, the cost will increase and there will be no outcome. On the one hand, resources are being exploited and on the other hand, the citizens are being deprived of their right to development. Problems of this nature seem to recur every year.

Stereotypical attitude or conservative mindset and conduct

A large part of Nepali society still suffers from stereotyped mentality. No matter how many issues like rights, justice, freedom, equality are raised, in practice, the society has not been able to get rid of the harmful practices like caste-based discrimination, witchcraft accusation, Chaupadi, child marriage and dowry. The worst-hit are the Dalits, women, children and economically disadvantaged communities. Depending on the caste, people are treated as superior and inferior. Untouchability is still in practice. Heinous acts of feeding people human excreta, shaving head and parading, beatings and even murdering on the charge of practicing witchcraft have yet to be eradicated. Women are being beaten up and burnt alive for not bringing dowry or enough dowries. The women are losing their lives due to the practice of Chhaupadi i.e. being forced to stay in the barn outside the house during menstruation. Political leadership is also found to be involved in such activities in one way or another. In cases of heinous crimes like rape, the situation is worrisome considering the tendency of mediation and resolving through a panchayat. As a result, this has had a direct impact on the protection and promotion of human rights.

Lack of transparency

Questions are still being raised from various angles regarding the transparency of national and international organizations working in the field of protection and promotion of human rights. Due to the inability to make the expenditure and activities transparent, the public image towards the organizations does not seem, positive. The tendency of organizations to make programs quantitative than results-oriented, and even for participants to think of short-term gains rather than knowledge and skills, seems to have a negative effect in the long run. Its direct impact has to be borne by the organizations working sincerely as per the objective. The reports of the organizations show that the objectives have been achieved but in practice the problem is still not resolved. This also has a direct /indirect effect on good governance.

COVID-19 outbreak

As the global community was affected by the impact of COVID-19 since the beginning of 2020, the NHRCN was no exception. Due to this, especially the investigation and promotion-related activities of the NHRCN could not be preceded as expected. Despite the completion of investigations into backlog and recent complaints of human rights violations and abuses, the goal has not been achieved. In addition, monitoring and promotion programs included in the annual plan did not take the expected pace. As a result, the NHRCN has not been able to meet its annual target.

Possible solutions to the challenge

Stakeholders need to be serious about addressing the aforementioned challenges in a holistic manner. For this, the following action needs to be carried out:

Government of Nepal

- (a) To establish a suitable environment for the effective implementation of the Constitution, Acts and Rules,
- (b) To take the necessary initiative for the enactment of the remaining laws relating to the federal, provincial and local governments as per the constitution,
- (c) To adopt values inherent in human rights while formulating and amending Acts and regulations.
- (d) To make the measures taken against impunity more effective while respecting the rule of law and human rights,
- (e) To create an environment (amendment of Act, availability of necessary resources and skilled human resources, etc.) where transitional mechanisms (Commission for Investigation of Enforced Disappeared Persons and Truth and Reconciliation Commission) can work independently,

- (f) To implement the recommendations of the NHRCN effectively without delay,
- (g) To provide necessary financial resources and other physical resources including building to the NHRCN,
- (h) To submit the annual report of the NHRCN to the Legislature-Parliament and create an environment for discussion on it.
- (i) To amend the Act in a manner consistent with the Paris Principles so as to maintain the independence and autonomy of the NHRCN, and to make provision for the immediate passage of the Human Rights Services Bill from the Parliament,
- (j) To immediately approve the organizational structure proposed by the NHRCN,
- (k) To implement the national action plan on human rights effectively according to the federal structure.
- (k) To move forward with coordination and collaboration on issues related to human rights or issues related to the NHRCN
- (l) To bring to justice those who have been involved in illegal activities or have been convicted by the court and are yet to be brought to justice.

Political parties

- (a) To take necessary initiative to implement the Constitution,
- (b) Not promote impunity, not interfere with the rule of law, and ensure respect and protection of human rights,
- (c) To provide special support to the government in respect and protection of human rights and development works.
- (d) To move forward with coordination and collaboration on issues related to human rights and the NHRCN by establishing human rights agencies to address human rights issues in a timely manner.

Others

Stakeholders (civil society, organizations working in the field of human rights, professional organizations, media persons, citizen campaigners, etc.) to collaborate, coordinate with and alert the government and the NHRCN on human rights issues as required.

Way forward



As a national institution, the NHRCN has been working for the protection, promotion, fulfillment of human rights and development of a human rights culture. In particular, the NHRCN has been carrying out its functions on the basis of Constitution, the Act, rules and the strategic plan.

It is necessary in particular to implement, make necessary amendments or modifications in a timely manner on the human rights provisions in the Constitution and the Act. In addition, there is a need to move forward

with further discussions on the areas of improvement, opportunities and challenges. The strategic plan prepared should be implemented effectively after discussing whether the expected results have been achieved in the cooperation and collaboration between the NHRCN and the victims, the NHRCN and NGOs / civil society, professional organizations, the NHRCN and the government, the NHRCN and international human rights organizations, donors etc..

At present, the country is within the three-tier (federal, provincial and local) federal structure and all the specified activities including the formation of the government are moving ahead accordingly. As human rights are something that needs to be felt, it depends on the active functioning of the NHRCN and the commitment and implementation of the government. For this, the way forward should be based on collaboration and coordination with the local, provincial and federal governments. Collaboration and coordination with the parliament, government, constitutional bodies, political parties, civil society, NGOs and stakeholders (citizens) should be made more effective and fruitful. In addition, there is a need to move towards strengthening and consolidating the relations with national, regional and international organizations / donors related to human rights in a timely manner.

Considering the aforementioned issues, there are also opportunities and challenges before the NHRCN. For this, the NHRCN should take necessary steps as follows:

- (a) To take further initiative for timely amendment in the National Human Rights Commission Act and other human rights related acts.
- (b) To put into practice the revised organizational structure of the NHRCN in the changed set up.
- (c) To provide expert services in drafting human rights friendly laws at the federal, provincial and local levels.
- (d) To bring effectiveness in the implementation of the recommendations of the NHRCN by making effective implementation mechanism.
- (e) To assist the state to create an environment in which it can discharge

its obligations as mentioned in the various conventions that Nepal is a party and in national human rights action plan.

- (f) To work in a planned manner to address the issues which have been identified as priorities regarding the challenges of human rights.
- (g) To move forward by preparing the strategy to be adopted by the NHRCN in the future in case the transitional mechanism is not functioning as expected to address the conflict-era issues.
- (h) To develop relations with the stakeholders nationally, regionally and internationally according to the changing circumstances.

It is the responsibility of the NHRCN to make the slogan "Human Rights for all at every household: Foundation for peace and development" meaningful. Human rights, regardless of religion, caste, gender, economic status, nationality or any other ground, are universally recognized. Without human rights, the concept of equality, justice and human dignity is not possible. The role of the NHRCN is special and important in putting such actions into practice. The NHRCN needs to move forward by learning from past experience. It needs to move forward in a timely manner with a focus on the Constitution, the Act and strategic plan, so that contemporary issues can be addressed.

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