

NEPAL

CIVIL SOCIETY SUPPLEMENTARY REPORT ON THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD (6TH AND 7TH PERIODIC)

CRC Reporting Coalition Nepal

Secretariat:

CRC Committee Human Rights Treaty Monitoring Coordination Center, HRTMCC

March, 2025

ABBREVIATIONS

CBS	: Central Bureau of Statistics
CCWB	: Central Child Welfare Board
CDOs	: Chief District Officers
CFLG	: Child Friendly Local Governance
CNet	: Child Rights Net
CONSORTIUM	: Consortium of Organizations Working for Child Participation
CRC	: Convention on the Rights of the Child
CSSP	: Child Sensitive Social Protection Programmes
CZOPP	: National Coalition for Children as Zones of Peace and Child Protection
GoN	: Government of Nepal
HRTMCC	: Human Rights Treaty Monitoring Coordination Centre
IDPs	: Internally Displaced Persons
ICDP	: International Child Development Programme
ILO	: International Labour Organization
LCRC	: Local level child rights committees
MOLESS	: Ministry of Labour, Employment and Social Security
MoWCSC	: The Ministry of Women, Children and Senior Citizens
MSNP	: Multi-sector Nutrition Plan
NACRO	: National Alliance of Child Rights Organizations
NAOSC	: National Alliance of Organizations Working for Street Children
NCPA	: National Child Protection Alliance
NCRC	: National Child rights Council
NHRC	: National Human Rights Commission
NHRIs	: National Human Rights Institutions

NMP	: National Master plan
OPAC	: Optional Protocol on the Involvement of Children in Armed Conflict
PCRC	: Provincial Child Rights Committees
SSDP	: School Sector Development Plan
UNICEF	: United Nations Children's Fund
UNFPA	: United Nations Population Fund

EXECUTIVE SUMMARY

Progressive changes helped lay the groundwork for implementing children's rights in accordance with the Convention. The fact that children's rights are guaranteed in the constitution as a fundamental right, the subsequent creation of the Act Relating to Children, 2018, and other strategies and policies devoted to protecting children's rights are proof of this.

The establishment of the National Child Rights Committee (NCRC) and an increase in budgetary spending on expenses related to children's welfare are signs of the government's sensitivity to upholding children's rights. There are still a lot of legislative reforms and amendments needed, though. It still has to be done to fully institutionalize the Provincial Child Rights Committee (PCRC) and Local Child Rights Committee (LCRC) within the federal framework. Legislative, constitutional, and practical realizations still lag far behind each other.

Programs and policies controlled by various ministries are fragmented, and scattered protection plans are implemented without integration or cross-linking. Additionally, the distribution of funds for various overheads, particularly for social protection programs, is still done piecemeal or with the aim of appeasing.

It is noteworthy in the distribution of information as the NCRC publishes a monthly report on the state of children and published a daily update on Covid-19-related information on children in 2020 and 2021. A national database that contains disaggregated data on children is not yet available. In order to prevent NCRC from experiencing the same institutional weaknesses as then Central Child Welfare Board (CCWB), it could be strengthened with greater financial, technical, and human resources. The state apparatus should also give the National Human Rights Council (NHRC) extra assistance while yet respecting its independence. The language and context of awareness campaigns must be local, yet LCRCs have not yet been established at all local levels. Women still see law enforcement organizations as being "less gender friendly" due to persistent gender stereotypes in service delivery. In relation to children's rights, there is a lack of a transparent and comprehensive budget tracking and auditing system across all three tiers of government.

Caste and gender discrimination are prohibited by the Constitution and punishable offenses as per the laws of Nepal; nonetheless, they are widely practiced. Women and other excluded groups have not been able to benefit equally from Nepal's development growth, which has led to child vulnerabilities within the group. Under The Act Relating to Children, 2018, as well as numerous other plans and regulations, the best interests of children are now legally protected. The Social Protection Act of 2018 does not allow minors to participate in committees or the policy-making process at any level.

The effectiveness of the recently adopted Child Friendly Local Governance (CFLG) Implementation Guideline 2021 has yet to be determined. The government's implementation of Child-sensitive Social Protection (CSSP) programs in collaboration with civil society

organizations (CSOs) has been shown to be successful in protecting best interest of the child and their right to be heard more effectively in a familial setting, as well as providing assistance for their overall development. It is noteworthy that NCRC took the initiative to organize child assemblies, develop interactive programs with children and other stakeholders, assist in the establishment of child clubs, and provide technical and procedural help to children for birth registration, among other things. Their reach and frequency ought to be expanded. Children are still effectively denied the citizenship and right to birth registration in absence of paternity.

Studies show that the majority of children still experience physical and psychological punishment as part of harsh forms of discipline. Armed-conflict related allegations of child abuse and torture have not yet been resolved, and victims have not yet received adequate compensation. There are few plans and policies that support alternative disciplinary methods at the community level. The Act Relating to Children, 2018 is missing a definition of neglect that goes beyond categorizing it differently and making it illegal. Penalties for rape committed during a marriage are still not aligned with those committed outside of marriage. Furthermore, the statute of limitations in rape cases has only been extended rather than being eliminated. During the Covid-19 outbreak, there were a rise in rape and other violent crimes committed against women and young girls. Female children still experience the negative effects of child marriage, such as forced initiation into sex, deterioration of reproductive health, child labor, and denial of fundamental rights like education and employment opportunities. The gender stereotype is still present in law enforcement organizations and among key service delivery stakeholders.

The proper reintegration of *Kamalari* victims has not yet been accomplished, and discriminatory practices like *Chaupadi* are still commonplace and justified as tradition. There is no strategy for reintegrating child marriage victims into socioeconomic systems. Children's gender identity and sexual orientation are rarely discussed in Nepal, and the LGBTIQ population is still shunned. Practices like child intersex genital mutilation continue to be prevalent in Nepal. It is hard to find information about children who identify as sexual minorities.

Since the majority of children are enrolled in child care facilities and have at least one parent, the Act Relating to Children, 2018, which guarantees alternative care as a last resort, has yet to be implemented in reality. Children have been taken out of institutions in response to emergencies like COVID-19 and post-disaster scenarios. There is no social protection program in place for children with a focus on their safety during and after calamities and disasters. There is no actual monitoring system in place for parents who place their children with close relatives. Nepal has not yet ratified the Hague Convention on Inter-country Adoption for the Protection of Children.

Children with disabilities continue to face significant obstacles in accessing education, including a lack of inclusive teaching strategies, socio-economic circumstances, bullying, infrastructure barriers, demeaning behaviors from peers, families, and teachers, and ineffective means of identifying and screening disabilities. The definition of "refusal of reasonable accommodation as discrimination" under the Rights of Persons with Disabilities Act, 2017 is ambiguous. The

Inclusive Education Policy, 2017 calls for a non-discriminatory, inclusively integrated education but still permits separation. The goals and guidelines must clearly describe what inclusive education entails.

Initiatives taken by Nepal to reduce infant mortality and stunting were noteworthy. However, the Covid-19 crisis, which saw an increase in mortality, compounded the weaknesses in human, technological, and financial resources in health services. Reassessing policies and programs pertaining to children's mental health is necessary in light of the rise in mental health problems among adolescents. Children who are at risk due to urban poverty are not included in nutrition-related programs and initiatives. There is a lack of a strategic vision and guiding framework for local level child social protection. Due to disparities in access to technology education resources, Covid-19 has made class discrepancies in education worse. Children from marginalized communities and those from indigenous populations continue to have high dropout rates. A national teacher's competency framework and compulsory pre-service teacher education policy incorporating the principles of the CRC have not yet been adopted.

It continues to be difficult to register children born to refugees and asylum seekers. Children born to refugees and asylum seekers are at risk since their parents lack proper identification, registration, and documentation. Nepal does not have any domestic legislation specifically pertaining to refugees and is not a party to either the 1951 Refugee Convention or the 1967 Protocol. Children and women who have been internally displaced are still at risk since there are not enough basic water, sanitation and health (WASH) facilities. Numerous clauses in the Act Relating to Children, 2018, both tacitly and explicitly recognize that children have the right to access information. There is no particular clause addressing the availability of such material in a native language. The majority of secondary education is still unavailable in local language.

There is no national database open to stakeholders or updated disaggregated data on child labor in Nepal. 2008 saw the last thorough round of data collection on child labor. The formal sector is mostly subject to regulation and oversight regarding child labor, leaving out the unofficial sector. Children are still heavily involved in hazardous working circumstances. Child labor is observed to be more common when a family's net income and educational level are lower.

Most of the districts still lack juvenile reform homes with child correctional facilities and separate cells for young people. Legal agreements guarantee the prohibition of handcuffing, confidentiality; hearings on a separate juvenile bench, etc. but psychologists and/or social workers are largely excluded from juvenile court benches, which are run on an as-needed basis. A functioning juvenile justice system apart from the criminal justice system for adults has not yet been put into practice. It is necessary to develop and evaluate for execution a successful policy for the rehabilitation and reintegration of children who have run afoul of the law.

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1. INTRODUCTION

1.1. Background

This report has been prepared by the CRC Sub-committee of the Human Rights Treaty Monitoring Coordination Center (HRTMCC), Children as Zones of Peace National Campaign (CZOP), Nepali civil society organizations, and stakeholders on the implementation of the Convention on the Rights of the Child (CRC) in Nepal.

The report examines the constitutional and legal framework, government initiatives, programs, policies, processes, and activities as they relate to the enjoyment of the child rights outlined in the CRC in Nepal from July 2014 to February, 2025. The recommendations from CRC Reporting Coalition to the Government of Nepal are presented at the end of each segment (GoN).

1.2. Methods of Study

Review of national legal framework

In order to ensure consistency with the CRC and other pertinent international norms, a review of the current national legal system and other agreements pertaining to children was done. Additionally, a study of Nepal's national plans, policies, commitments, and actions to uphold children's rights was conducted.

Review of government programs and activities

The effectiveness of government initiatives and programs to address child rights issues was evaluated for compliance with international responsibilities. Interaction with stakeholders during consultation meetings enabled us to confirm that these programs were actually implemented.

Collection and analysis of primary and secondary data

Both primary and secondary data were gathered in accordance with the requirements of the study. To collect primary data, focused group discussions, consultations with stakeholders, child rights advocates and children were held. Consultation meetings were conducted in all seven provinces of Nepal and an additional consultation was held exclusively with children. All together 292 adults, including stakeholders and 39 children were consulted.

In order to finalize the report, a national level validation consultation workshop with adult and stakeholders was organized. Experts and representatives of numerous human rights and children's organizations with experience in the area participated in consultations at the national level.

2. GENERAL MEASURES TAKEN FOR THE IMPLEMENTATION OF CRC (Articles 4, 42 44.6)

A. Implementing Children's Right (Art.4 and 41)

Concluding Observations of the CRC Committee in 2016 on Legislative Reform

The *Committee* applauded Nepal's 2015 Constitution for recognizing children's rights and welcoming its adoption.¹ Children's rights have been recognized as fundamental rights by the Constitution for the first time in the history of Nepali constitution. It covers a wide range of rights and protections, such as the right to identity, birth registration, development, education, and participation, as well as protection against torture, hazardous work, trafficking, kidnapping, and other wrongdoings. The Constitution also recognizes the best interests of the child as an aspect under the state's policy.² To put these protections into law, the Act Relating to Children, 2018 was brought into effect. The CRC Reporting Coalition views this development as progressive in terms of laying the necessary groundwork for putting children's rights into practice in accordance with the Convention on the Rights of the Child. Legislative reforms are still needed to fully implement children's rights in accordance with the CRC. For example, the Social Security Act of 2018 has not yet fully included children into the social protection system.

The Act Relating to Children was passed in 2018. It recognizes thirteen fundamental rights of children and outlines how those rights interact with the state, parents, the media, and other factors.

Paragraph 15 of the State Report of Nepal (6th and 7th combined) states that the NCRC was established according to the Act Relating to Children-2018, as a specialized body to work for the rights of children.³ The paragraph further says that expert of the subject matter is appointed as Secretary General of the Council. But in practice, the Council has become the forum for the appointment of their people by political parties regardless of knowledge and expertise in child rights.

Even after the five years of enactment of the Act, as of 20 November, 2023, out of seven, only four provinces have formed Provincial Child Rights Committees. Out of 753 Local Levels, only 41 percent have formed Local Child Rights Committees, 23 percent have created Child Fund and only 40 percent of the Local Levels have appointed or assigned Child Welfare Authorities.⁴ The National Child Rights Council and these Committees are responsible for putting children's rights into effect within their respective jurisdiction. Many of these Committees require training to improve their capacities in child protection.

¹ Section 7, Concluding Observations on Nepal 2016 CRC/C15/Add.261.

² Constitution of Nepal, Article 51

³ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNPL%2F6-7&Lang=en

⁴ State of Children in Nepal National Report, 2023, National Child Rights Council, 20 November, 2023, p. xi.

Recommendation of the Committee on Coordination

In order to monitor, assess, and coordinate the implementation of the CRC, the Committee restated its earlier suggestion to establish a single inter-ministerial and inter-sectorial mechanism.⁵ The Ministry of Women, Children and Senior Citizen is the focal point of coordination with other ministries and institutions within the federal structure. The Act Relating to Children, 2018 provides for the establishment of the National Child Rights Council⁶, Provincial Child Rights Committees, Local Child Rights Committees⁷ and child welfare authorities in local level.⁸

To prevent institutional shortcomings similar to those of its predecessor, the CCWB, the NCRC should be substantially strengthened in terms of human, financial, and technical resources. There are gaps between the developed programs and policies, as well as various implementing arrangements made through several ministries and parallel programs that operate independently of one another.⁹ The implementation of various protection measures is dispersed and lacks integration.¹⁰ The government should implement a unified and integrated coordinating module to prevent these fragmentations. In certain cases, supplementary institutions in charge of implementing children's rights on the ground are not coordinated. In terms of child grants, institutions like ward offices might be made autonomously interconnected with birth registration centers, and schools that offer midday meals may be coordinated with health posts. This would improve the efficacy of present policies and aid in the assessment of potential grassroots issues.

Recommendation of the Committee on Allocation of Resources

The Committee maintained its earlier suggestion to give financial allocation top priority in order to maximize the realization of children's rights within the constraints of available funds. The fiscal year 2077–2078 budget statement allocated funds primarily for initiatives related to children's rights in the fields of education, health, and reconstruction.¹¹ The scope of child protection grants has been widened. It includes children from the Terai and Karnali regions who come from low-income families.¹²

The Committee also proposed that, as part of international collaboration, funds be publicly allocated for the restoration of infrastructure necessary for child services. Since the 2015 earthquake, Nepal has collaborated on reconstruction projects with a number of foreign partners. Lack of openness and inefficient resource mobilization are ongoing concerns. For the rebuilding of the earthquake-damaged schools, it received USD 1500,000. Additionally, funds have been

⁵ Section 11, Concluding Observations, para.23,

⁶ The Act Relating to Children, 2018, Section 59.

⁷ Ibid, 2018, Section 60.

⁸ Id, 2018, Section 61(1).

⁹ Bishwa Ratna Pun & Gyanendra Kumar Shrestha, Assessment of Child sensitive Social Programmes in Nepal, *Journal of Social protection*, Social Protection Civil Society Network, 2020, p.64

¹⁰ Ibid.

¹¹ State of Children in Nepal 2020, National Child Right's Council, 2020.

¹² Bishwa Ratna Pun & Gyanendra Kumar Shrestha, Assessment of Child sensitive Social Programmes in Nepal, *Journal of Social Protection*, Social Protection Civil Society Network, 2020, p.63.

explicitly allotted in the fiscal years 2020/2021 and 2021/2022's budget statement for the repair of various educational facilities.¹³ Difficulty in the part of government in mobilizing resources in an effective, efficient, and transparent manner is seen. The Act Relating to Children, 2018 establishes a "child fund" for the effective allocation of funds for child protection.¹⁴ The creation of a transparent, integrated budget tracking and auditing system across the three tiers of government may help ensure efficient resource allocation. It would also enable a more impartial evaluation of requirements for resource allocation in the future.

Increased resource allocation demonstrates the government's concern for safeguarding the rights of children. However, the distribution of funds across many overheads, particularly with regard to numerous social protection programs, is fragmented or appeased. The provincial government's role in carrying out social protection programs supported by the federal government is unclear. For effective resource allocation, a thorough research that takes into account target group needs, cultural values, implementation gaps, etc. should be conducted.

Recommendation of the Committee on Data Collection

The *Committee* referred back to its earlier recommendation about the creation of a data collection system that is conformant with the Convention and is broken down by sex, age, parish, and dependency.¹⁵ The Act Relating to Children 2018 posits the responsibility of managing and strengthening national information system related to children on the NCRC.¹⁶ The State of Children Report, which the NCRC publishes every year, also includes research from sector studies that produce data. The Act also assigns Local Levels and Provincial Child Rights Committees administration and data gathering tasks within the federal system. The child rights committees at the local and provincial levels have not yet been completely established and put into operation. The NCRC's Annual Report 2021 shows that steps are being gradually taken to build a disaggregated system of data collection.

Paragraph 17 of the State Report claimed of developing *Child Rights Information Management System (CRIMS)* and *Child Protection Information Management System (CPIMS)* but it is not yet functional. Despite forward progress, the Committee's recommendation to create a comprehensive data gathering mechanism or system is still in progress.

Recommendation of the Committee on Independent Monitoring

The *Committee* recommended changing the NHRC Act in order to guarantee national institutions' independence and efficient adherence to the promotion and protection of human rights.¹⁷ A December 2020 executive ordinance altered the Constitutional Council Act by lowering the quorum threshold. Without the consent of the parliament, later appointments were made to many constitutional bodies, including the NHRC. It was claimed that the action undermined the

¹³ State of Children in Nepal 2020, National Child Right's Council, 2020, p.118

¹⁴ The Act Relating to Children, 2018, Section 63.

¹⁵ Section 14, Concluding Observations on Nepal 2016 CRC/C15/Add.261

¹⁶ The Act Relating to Children, Section 59; See also, <http://ncrc.gov.np/page/document/introduction>

¹⁷ Section 16, Concluding Observations on Nepal 2016 CRC/C15/Add.261

independence of constitutional bodies.¹⁸ The Constitutional Court is now hearing a writ suit challenging the appointment of Commissioners at the NHRC.

Despite the claim made by the State Report in paragraph 20 about the full compliance of Nepali NHRIs as per the Paris Principle, they are not independent. On November 8, 2022, the Global Alliance of National Human Rights Institutions (GANHRI) recommended downgrading the status of the National Human Rights Commission of Nepal (NHRC) from A to B.¹⁹ Though the NHRC has retained its 'A' status, there is a fear that it may be downgraded due to a flawed process of appointment of office-bearers.

Although there is a NCRC as the apex organization working for children's rights, it is a part of the Ministry of Women, Children, and Senior Citizens and is not an independent entity that monitors children's rights. The NHRC still lacks an exclusive and independent system for monitoring child rights violations and processing complaints.

Recommendation of the Committee on Dissemination, Awareness-raising and Training

The *Committee* made reference to its earlier recommendation to step up efforts to raise awareness of the CRC's principles and provisions among all pertinent stakeholders. Information is disseminated by the government and NCRC in either English or Nepali language. Information distribution and awareness in the local context through local language might be practically implemented with greater efficacies with the functional institutionalization of PCRC and LCRC.

The government has launched some projects to increase public awareness. However, community-based awareness campaigns inclusive of victims of child abuse and a relevant stakeholder is minimal. Women not finding law enforcement agencies as gender friendly²⁰ and children being unaware of minimum legal age of marriage²¹ are examples of ineffective awareness strategy. The promotion of the CRC principle is still lacking in children's curricula, and education is still mostly available in English and Nepali, leaving out non-Nepali speakers.

The CRC Reporting Coalition recommends the Committee call for GoN to:

- Establish effective connections between the local and provincial child rights committees, as well as other relevant federal agencies, in order to spread CRC principles throughout Nepal.
- Invest sufficient technical, financial, and human resources in the NCRC to prevent institutional weaknesses and enhance its ability to protect and advance children's rights.
- Create and put into effect to integrate fragmented policies, programs, and methods for carrying them out.

¹⁸ Nepal: Human Rights Commission's Integrity in Jeopardy, Human Rights Watch, 2021, available at, <https://www.hrw.org/news/2021/03/01/nepal-human-rights-commissions-integrity-jeopardy>

¹⁹ <https://www.peoplesreview.com.np/2023/01/11/why-the-status-of-nhrc-went-from-a-to-b/>

²⁰ UNFPA, Ending impunity for Child Marriage, 2017, p.21.

²¹ Ibid, pp.8-9.

- Establish an open and transparent integrated budget tracking and auditing system to make sure that funds allocated for the promotion and protection of children's rights are used effectively and fairly at all three levels of government.
- Conduct a thorough investigation to take into account target group needs, cultural norms, implementation gaps, etc. to evaluate the effectiveness of current policies and outline future policy needs.
- Clearly define the province's responsibility in executing child protection programs that are supported by the federal government.
- Establish a system for thorough data gathering, disaggregated presentation, and easy access for all stakeholders.
- Establish a system within NHRC to independently track child-specific HR violations in coordination with NCRC. Make such a mechanism appropriate in terms of people, money, and technology.
- Adapt awareness campaigns to the accessibility of key stakeholders, taking into account barriers related to language, geography, culture, etc.

3. DEFINITION OF CHILD (Article 1)

The Committee had raised concerns over the age of majority being set as 16 in the then Draft Children's Bill. The Act Relating to Children of 2018 defines children as individuals who are under the age of 18. According to the Foreign Employment Act (2007), anybody who has reached the age of 18 is also eligible to work abroad.²²

In some non-hazardous sectors, children above the age of 14 are permitted to work during set working hours.²³ Criminal liability starts from the age of 10. Human Trafficking and Transportation Control Act (2007) considers person below 18 as children.²⁴

The Coalition recommends the Committee call for GoN to:

- Increase criminal liability from the age of 10.
- Recognize children as defenders of human rights, ensuring their access to information and participation in public affairs.

4. GENERAL PRINCIPLES (Articles 2,3,6,12)

A. Non-Discrimination (Article 2)

Non-discrimination based on identification, such as gender²⁵ or caste²⁶, is guaranteed under the Nepali Constitution and the Act Relating to Children, 2018. The initiatives and the distribution of

²² Foreign Employment Act 2007, Section 7.

²³ Child Labour (Prohibition and Regulation Act) 1999, Section 3.

²⁴, Human Trafficking and Transportation Act 2007, Section 2(d).

funds for scholarships for young women, members of the *Dalit* community, those freed from *Kamalari*, those impacted by armed violence, etc., are progressive.²⁷ Caste-based discrimination is a criminal offense under the National Criminal Code and carries a severe penalty. Caste- and gender-based discrimination is nevertheless pervasive in practice notwithstanding these improvements and the Committee's advice to ensure the implementation of current laws to guarantee non-discrimination. Across all sectors, including those related to education, health, and employment possibilities, gender discrimination is rampant. Caste-based social exclusion still exists in public settings and daily interactions/engagements.²⁸ According to the National Dalit Social Welfare Organization, there is a dearth of detailed statistics on incidences of exclusion and abuse based on discrimination.²⁹ Additionally, *Dalits*, indigenous people, and other oppressed communities have low health and education indicators.³⁰ Women and excluded groups have not been able to equally benefit from Nepal's socioeconomic growth.³¹

Despite the provisions and activities of the government mentioned in its report from paragraph 29 to 30³², there are still harmful traditional customs like *Chaupadi* that reinforce discrimination as a custom. The government has started several initiatives to promote non-discrimination norms and raise public awareness, but they have not been enough.

B. Best Interests of the Child (Article 3)

The best interests of children must come first for organizations, institutions, or officials engaged in activities pertaining to children, according to Section 16 of the Act Relating to Children, 2018.³³ Additionally, there are implied provisions about the best interests of children in both the Constitution and the Act. As guaranteed by the constitution and recognized by law, provisions are made for basic requirements such as health, education, and special safeguards.³⁴

The Committee suggested that legislation, policies, and procedures take into account what is in the best interests of children. In order to ensure the best interests of children, it was also advised to provide relevant authorities with guidelines on criteria and procedure. There are no criteria or mechanisms in Nepali laws, policies, or procedures to ensure the best interests of children. For instance, the Social Protection Act (2075) prohibits children from serving on any level of committee or influencing policy. There is a lack of a working, logical system and criteria to direct

²⁵ Act Relating to Children 2018, Section 5(2), (3), (4) provides for non-discrimination in terms of maintenance, healthcare, family relationship in terms of gender identity.

²⁶ Constitution of Nepal (2015), Art.24

²⁷ State of Children in Nepal 2020, National Child Right's Council, 2020, p.4.

²⁸ See, <https://news.un.org/en/story/2020/05/1065102>

²⁹ US Government, Nepal 2020: Human Rights Report, 2020, p.35.

³⁰ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal, 2020.

³¹ World Bank, Reanalysis of NLSS 2011 and NDHS 2016 data for the GESI Diagnostic Paper, 2018. (The data was prepared to inform World Bank's country partnership framework).

³² Paragraph 29-39, 6th and 7th combined periodic report of Nepal on the implementation of the CRC.

³³ The Act Relating to Children 2018, Section 16.

³⁴ Constitution of Nepal, Art. 39, Act Relating to Children 2018, Section 18.

the pertinent authorities in securing the best interests of the child. Child Friendly Local Governance Implementation Guideline 2021 has been recently adopted aiming to close this gap.

Children with disabilities wanted to go to school regardless of different difficulties they would face if they had friends.³⁵ This shows that it is important to consider children's socio-psychological interests in order to fulfill their best interests through inclusive education. Wide-ranging initiatives could be created to support a family environment supportive of protecting the child's best interests.

C. Views of Children (Article 12)

The constitution protects children's right to participation. Numerous measures, both implicit and explicit, related to respecting children's opinions are included in the 2018 Act Relating to Children. Children have the right to freedom of expression³⁶, which guarantees both their ability to voice their thoughts and access to information that is pertinent to their interests. The Act also recognizes a provision that incorporates a child's viewpoint in juvenile justice matters, including custody disputes, as recommended by the *Committee*.³⁷ Since the structural change in the governance system of Nepal in 2015, a Child-Friendly Local Governance Implementation Guideline, 2021 has been approved. The Civil Society Organizations have started Parental Education (PE) projects to promote respect for children's opinions.³⁸ The Child Grants Project under the International Child Development Program, which the government of Nepal undertook with its own financial resources, emphasizes the growing concern of the government with making sure that the voices of children are heard. The Social Protection Act (2018) does not regard children as important stakeholders and has no clauses requiring their involvement at any level.³⁹

The NCRC's efforts to organize children's assemblies, assist in the creation of child's clubs, and create participatory children's programs with other stakeholders are progressive. Despite these efforts, child participation in a systematic way is still a challenge in Nepal.

The Coalition recommends that the Committee call for GoN to:

- Gather and evaluate thorough data on occurrences of exclusion and abuse based on discrimination in order to create more effective policies and initiatives to combat child discrimination.
- Expand the audience, frequency, and accessibility of awareness programs that target the issue of prejudice and include children from disadvantaged neighborhoods and girls.
- Create policies to make sure that women and communities with low socioeconomic status benefit equitably from Nepal's development gains.

³⁵ Disability Inclusive Development, Institute of Development Studies, 2020.

³⁶ The Act Relating to Children 2018, Section 9.

³⁷ Act Relating to Children, 2018, Section 12.

³⁸ Bishwa Ratna Pun and Gyanendra Kumar Shrestha, Assessment of Child sensitive social protection programmes in Nepal, Journal of Social protection, 2020,p.64

³⁹ Ibid.

- Modify guidelines, recommendations, and practices to better reflect children's best interests.
- Amend the Social Protection Act (2018) to allow children to participate as stakeholders in pertinent committees and the policy-making process.
- Launch initiatives that address children's socio-psychological needs in ways that not only include them but also help them feel included.
- Create and implement parent-participation programs that are more accessible and inclusive.
- Put into practice the 2021 child-friendly local governance implementation guidelines as a set of functionally coherent standards to direct the pertinent authorities in safeguarding the best interests of children and their active participation.
- Include a specific framework for children, such as a child parliament or a council of child rights advocates, in the process of formulating policy.

5. CIVIL RIGHTS AND FREEDOM (Article 7,8,13,14,15,16,17,19,37A)

A. Birth Registration

Children's rights regarding birth registration and identity are expressly recognized by both the Nepali Constitution and the Act Relating to Children, 2018.⁴⁰ The Act guarantees that the child welfare authority might suggest birth registration and a government ID card in cases where maternity or paternity cannot be established.⁴¹ In Nepal, just 58% of children have birth registration.⁴² Contrary to the *Committee's* suggestion, there are still certain practical barriers to effective local authority birth registration of children. In actuality, it is quite challenging to prove the paternity of infants born without a legal guardian.⁴³ The same is true for children who have been abandoned, orphans, have fathers from other countries, etc. Despite the fact that authorities are required by law to provide proof of paternity, it has been discovered that they are refusing to register births for children.⁴⁴ The low number of overall newborn registrations indicates that families are not aware that birth registration is a child's constitutional entitlement. NCRC provided technical and administrative support for birth registration in the year 2021⁴⁵ but these supports are no match to the huge demand for such services. To guarantee children's constitutionally protected right to birth registration, this kind of support should be increased.

B. Nationality

The Citizenship Act of 2007 has been amended a new Chitizenship Act (first amendment) 2022 has been enacted, which makes it possible for mothers to grant citizenship to their children. Despite the legal provisions, women's independent power to pass citizenship to their children is

⁴⁰ Constitution of Nepal, Art. 39(1); The Act Relating to Children, Section 4(1)

⁴¹ Act Relating to Children, 2018, Section 50(9)

⁴² UNICEF, Status of Civil Registration and Vital Statistics in South Asia Countries 2018, 2018.

⁴³ US Government Report, Human Rights Report Nepal, 2020.

⁴⁴ *Ibid.*

⁴⁵ NCRC Annual Report 2021.

challenging. Despite numerous Supreme Court interventions to confer citizenship through the mother when the father's whereabouts are unknown, procedural challenges have remained as hurdle.⁴⁶

The Coalition recommends the Committee call for GoN to:

- Put into practice mandatory birth registration and guarantee children's entitlement to birth registration by removing all administrative obstacles.
- Ensure that birth registration is carried out both with and without paternity.
- Raise awareness among families about the advantages, requirements, and value of birth registration.
- Expand the institutional reach of NCRC in supporting children with technical and procedural questions about citizenship and birth registration.

6. VIOLENCE AGAINST CHILDREN (Article 19,24(3),28(2),34,37(a) and 39)

A. Torture and Other Cruel or Degrading Treatment or Punishment

The Committee advised stepping up efforts to end torture and cruel treatment in all contexts. The right to be protected against torture and other cruel treatment in any form is included in the Constitution of Nepal (2015)⁴⁷ and the Act Relating to Children, 2018, under a number of clauses.⁴⁸ The offence is now criminalized as recommended by the *Committee*.⁴⁹ The Fifteenth National Plan (2076/77-2080/81) and the National Child Policy 2012⁵⁰ both have goals to eradicate all forms of violence, discrimination, negligence, and exploitation.

The Act Relating to Children of 2018 and the Juvenile Justice (Procedure) Regulation of 2019 both formally recognize the Committee's suggestion that children should only be imprisoned as a last resort. Additionally, there is a choice for children to reform by staying with their parents rather than going to child reform homes. Despite the legislative requirements, the appropriate authorities may not always recognize the right of children to be detained solely as a last option.

Violence of any kind is forbidden by the Act Relating to Children. The fact that 8 out of 10 children experience physical or psychological punishment as a form of discipline, however, shows that there is a disconnect between legislative intent and actual implementation when it comes to putting an end to all forms of violence and torture.⁵¹

⁴⁶ US Government, Nepal 2020 Human Rights Report, 2020, p.24.

⁴⁷ Article 22 and 39(7), Constitution of Nepal (2015).

⁴⁸ The Act Relating to Children, 2018 Section 7(5) , Section 66 , Section 72

⁴⁹ Section 29 (c), Concluding Observations on Nepal 2016 CRC/C15/Add.261; Criminal Code 2017, Section 167, 168; The Act Relating to Children, 2018, Section 72.

⁵⁰ National Child Policy, 2012 states the objective of protecting children from all type of physical or mental violence, damage, mistreatment, sexual harassment etc. in all settings.

⁵¹ Information available at: <https://www.unicef.org/nepal/press-releases/eight-out-10-children-nepal-experience-violent-discipline-unicef>

The *Committee's* recommendation to establish an independent mechanism for investigating claims of child abuse and torture during armed conflicts, prosecuting offenders, and providing fair compensation to victims has not been carried out. The process of justice has not been effectively facilitated by the Truth and Reconciliation Commission, which was established with this goal in mind. Political actors frequently employ political influence over the commission and work to protect the perpetrators from punishment.⁵² The situation has not changed despite numerous rulings by the Supreme Court of Nepal affirming victims' rights to redress and invalidating compromise and amnesty provisions.⁵³

B. Corporal Punishment

The *Committee* proposed that laws explicitly forbid corporal punishment. The Nepali legal and policy framework forbids the abuse of children, whether at home, in schools, or anywhere else.⁵⁴ The National Criminal Code, 2017 and Act Relating to Children, 2018 prescribes corporal punishment to children as punishable offence.⁵⁵ A functional policy that aims to entirely forbid corporal punishment in schools is part of the Fifteenth National Plan.

Despite these safeguards and claims made by the government in its report⁵⁶, as well as current rules and regulations, schools continue to victimize children by using corporal punishment.⁵⁷ According to a research conducted in Koshi Province, eight out of every ten children are subjected to physical punishment by their caregivers.⁵⁸ The ideals outlined in Article 19 of the CRC are included in the Act Relating to Children 2018 as recommended by the *Committee*; however their implementation is still ineffective. A national campaign was started in 2014 by the Ministry of Women, Children, and Senior Citizens to raise awareness among stakeholders and encourage alternative disciplinary measures.⁵⁹ Since then, the government has not launched any big awareness initiatives to support the use of other disciplinary methods as opposed to corporal punishment.

⁵² Available at: <https://www.amnesty.org/en/latest/news/2020/01/nepal-recent-steps-undermine-transitional-justice/>

⁵³ In the case of Madhav Kumar Basnet v. Nepal government, NKP 2070(2014) and Suman Adhikari v. Nepal Government, NKP 2071(2015), the court ascertained the right of victim to remedy and reparation, and invalidated the provision of permitting amnesties according to the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act, 2014.

⁵⁴ Constitution of Nepal, Art. 22 (No person to be subjected to torture), Art. 39(7) Right of Children; Act Relating to Children, Section 7(5); National Child Policy 2012, Fifteenth National Plan.

⁵⁵ Section 167 and 168 Muluki Criminal Code, Section 66 and section 72(3)a

⁵⁶ Paragraph 76-82, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

⁵⁷ In FY 2076/77, a total of 56 (41 boys and 15 girls) were victimized from physical punishment inflicted by school (principal and teachers). In one of the schools of Kathmandu, the teachers asked the students of class 6 and 7 to cut their hands with blade as punishment. (National Child Rights Council. State of Children in Nepal 2020, National Child Right's Council, 2020, p.60)

⁵⁸ *Ibid.*

⁵⁹ It was launched by releasing a booklet named "National Campaign Against Corporal Punishment of Children in Nepal, 2014"

C. Abuse and Neglect

According to the Civil Code 2017, parents must make the required arrangements to meet their children's basic necessities.⁶⁰ The Act Relating to Children, 2018 tacitly classifies and forbids several forms of maltreatment.⁶¹ The Act's provisions forbid neglect and abuse as well. However, there is no explicit definition of abuse and neglect that goes beyond varying classifications and prohibitions.

According to a research, between the ages of 1 and 14 in Nepal, more than 80% of children experienced violence. The majority of youngsters in Nepal also endure some type of severe punishment from adults.⁶² The National Child Rights Council provided assistance to 7488 children through their child hotline number up until mid-May 2021. Numerous children in care settings frequently experience abuse and neglect.⁶³ These facts show that current rules are not being followed, and that abuse and neglect are commonplace in daily life.

There are not many community-based initiatives that focus on preventing child abuse and neglect and engage relevant parties as well as former abuse victims. Despite the government's claim of its efforts, neglect of children goes unnoticed.⁶⁴ As suggested by the *Committee*, there is no extensive national database on all incidents of violence against minors. There are few statistics on domestic violence and other forms of child abuse. The NCRC has not yet maintained comprehensive and disaggregated data. The assessment of the type and severity of violence against children is challenging due to the lack of disaggregated data.

D. Sexual Exploitation and Abuse

The National Criminal Code (2017) stipulates severe punishments for rape in light of the victim's age and the circumstances.⁶⁵ Intercourse with a minor has been classified as rape, even if it was "consensual." Marital rape offenders are subject to less severe punishment; the maximum sentence is five years in prison.⁶⁶ Contrary to the *Committee's* suggestion, this depicts a lack of consistency between the penalties for rape that occurs during a marriage and those for rape that occurs outside of marriage.

1393 incidents of female child rape in total were reported to the Nepal Police in 2019–20. Due to victim stigmatization in Nepali society, rape incidents are underreported, which obscures the true severity of the problem for all pertinent studies.⁶⁷ Sexual abuse of women and girls with disabilities is high in number.⁶⁸ During COVID-19, there have been a number of recorded

⁶⁰ The Civil Code, 2017, Section 114

⁶¹ The Act Relating to Children, 2018, Section 66(2)

⁶² See <https://www.unicef.org/nepal/press-releases/eight-out-10-children-nepal-experience-violent-discipline-unicef>

⁶³ NCRC Public Information Tabloid- April-May, 2021 available at http://childrights.gov.np/_uploads/publication/4/667f39fee93f13644ee79f661727824e.pdf

⁶⁴ Paragraph 76-82, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

⁶⁵ Criminal Code 2017, Section 219

⁶⁶ Maximum imprisonment for committing marital rape is now 5 years.

⁶⁷ See <https://www.icj.org/break-the-cycle-of-impunity-for-rape-in-nepal/>

⁶⁸ Disability Inclusive Development, Institute of Development Studies, Nepal, 2020.

occurrences of child rape.⁶⁹ The Act Relating to Children, 2018 establishes children's right to receive free psychosocial counseling both during and after legal proceedings. Contrary to the *Committee's* recommendation,, there is not much practical access to and availability of such counseling. The *Committee's* suggestion to remove the statute of limitations in rape cases was not implemented. The National Criminal Code of 2017 increased the statute of limitations for rape cases to one year.⁷⁰ According to the Act Relating to Children, 2018, if the crime against children was not reported, the statute of limitations for launching a case on the crime against the child would still apply until one year after the child had become 18 years old.⁷¹

The Truth and Reconciliation Commission established in 2014 is the only mechanism available to decide to compensate anyone who suffered sexual assault during the Nepali armed conflict but it has not been able to bring any results.

E. Gender-based Violence

The 2012 National Child Policy's main goal is to eradicate all sex-based discrimination against children. The National Human Rights Action Plan (2020-2025), the National Plans of Actions against Trafficking of Women and Children (2011-2021), the Fifteenth National Plan (2019-2024) also anticipate a child-friendly society free from all types of violence and exploitation.

Despite the fact that there are laws and procedures in place to stop it, gender-based violence is still a major problem. During the Covid-19 shutdown, reports of an increase in rape cases surfaced.⁷² Many people with disabilities, including children, have been sexually abused.⁷³ There have also been reports of sexual assault and harassment in schools, with school staff members being held responsible.⁷⁴

Due to issues like child labor, female children are more likely to be denied access to school and other essentials.⁷⁵ In addition, traditions like child marriage have a greater negative impact on female children. Female children were more likely to experience forced sexual initiation, poor reproductive health, child labor, domestic violence, and restriction of rights like schooling.⁷⁶ According to a research, over 22% of Nepalese women over the age of 15 had experienced various types of violence.⁷⁷ 66 % of victims of violence resisted it with passivity indicating

⁶⁹ National Human Rights Commission of Nepal (NHRC), Annual Report 2020.

⁷⁰ Criminal Code, 2017, Section 229.

⁷¹ The Act Relating to Children, 2018, Section 74(2).

⁷² National Human Rights Commission of Nepal, Annual Report 2020, pp.37-38.

⁷³ Disability Inclusive Development Nepal: Situational Analysis, Institute of Development Studies, 2020, p.17

⁷⁴ *Ibid.*

⁷⁵ ILO, Nepal Child Labour Report 2021, p.30.

⁷⁶ UNFPA, Ending impunity for Child Marriage, 2017.

⁷⁷ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal, p.7

silence or non-expression.⁷⁸ According to a different survey, women who experienced violence claimed that law enforcement organizations were unwelcoming to women.⁷⁹

The Coalition recommends the *Committee* call for GoN to:

- Make sure that any allegations of torture, cruel treatment, or sexual assaults against minors during an armed conflict are resolved with fair compensation for the victims.
- Raise awareness of physical punishment in educational institutions. Develop and put into action a thorough plan for implementing alternate disciplinary methods in schools.
- Create a comprehensive strategy that includes children and victims of child abuse as well as the relevant stakeholders at the community level.
- Create and improve complete and aggregated data that ensures privacy at all levels of government.
- Provide mandatory psychosocial counseling provision for the victim or accused child before, during, and after the judicial process.

7. HARMFUL PRACTICES

According to the Nepalese Constitution, protecting children from harmful cultural and religious practices is a fundamental right.⁸⁰ The National Criminal Code, 2017 has criminalized harmful practices such as *Chaupadi*.⁸¹ The National Child Policy contains a number of overhauls devoted to raising awareness of, rescuing from, eliminating, and reintegrating victims of harmful practices. Nevertheless, the 2019 Nepal Multiple Indicator Cluster Survey showed that 2.5% of women (mainly from the *Karnali* region) remained in *Chaupadi* during menstruation. Contrary to the *Committee's* advice, detrimental customs like *Chaupadi* and the effects of *Kamalari* are still common in Nepal. The victims of *Kamalari* practice have not yet properly rehabilitated and reintegrated.⁸² Their rights to fundamental services like employment, healthcare, and education have not yet been secured. The National Free Bond Laborer Rehabilitation Issues Resolution Commission and the District Level Committees were ineffective. All needy children, including those who have been the victims of harmful practices, are now under the care of the local government; nonetheless, *Kamalari* and *Chhaupadi* practices still exist.

Nepali laws and constitution forbid child marriage.⁸³ According to the *Committee's* recommendation, the legal age for marriage is 20 and any marriage that occurs before this age is considered null and void.⁸⁴ The 2019 Nepal Multiple Indicator Cluster Survey shows

⁷⁸ ADB (Note 77)

⁷⁹ UNFPA, Ending impunity for Child Marriage, 2017, p.21.

⁸⁰ Constitution of Nepal, Art. 39(6).

⁸¹ National Criminal Code, Section 168

⁸² INSEC, Nepal Human Rights Year Book 2020, p.90.

⁸³ Constitution of Nepal, Art. 39 (5); The Act Relating to Children, 2018, Section 6(o).

⁸⁴ National Criminal Code, 2017, Section 40, Section 14, Concluding Observations on Nepal 2016 CRC/C15/Add.261.

improvement as the percentage of child marriages declines.⁸⁵ Even if the percentage has gone down, it is still incredibly common.⁸⁶ Many times, even in court, accusers have defended child marriage as a "cultural practice."⁸⁷ The stereotype of a woman's sexuality and gender responsibilities as a "domestic helper" has also been linked to child marriage.⁸⁸ Female students between the ages of 15 and 18 who drop out of school are often attributed on child marriage as one of the main causes.⁸⁹

Nepal still has one of the highest rates of child marriage in Asia.⁹⁰ 140 child marriage incidents were reported in 2019-20.⁹¹ According to the Civil Code, marriages performed before the age of 20 are null and void, and those responsible can be held accountable. It takes time before the cases reach court, despite the fact that it is illegal and void, as the victims cross the age of 18 years.⁹² Additionally, the statute of limitations, which is strict and ought to be expanded, is set at three months for filing such a suit. Contrary to the *Committee's* suggestion, there are no special protection and assistance programs for children who want to dissolve such marriages.⁹³ One of the key factors contributing to women's low levels of education and employment has been identified as child marriage.⁹⁴ The victims should be helped to become employable and integrated into socioeconomic systems through training. Their right to continue their education should also be protected. Girls who are coerced into child marriage are exposed to underage labor and human trafficking, as well as forced initiation into sex.⁹⁵ According to reports, it may be difficult to obtain citizenship after child marriage because the government demands the husband's presence.⁹⁶ Another obstacle to ending child marriage is the improper implementation of birth registration and marriage registration, as victims find it difficult to demonstrate their age. The legal minimum age for marriage was only known by 28% of girls and 24% of boys.⁹⁷

There is no readily available information on children who identify as sexual minorities, and the state has not conducted any meaningful research in this area. Children's gender identity and sexual orientation are rarely discussed in Nepal, and the LGBTIQ population is stigmatized. The government has begun providing citizenship cards with the option to indicate one's gender

⁸⁵ Nepal Multiple Indicator Cluster Survey 2014 indicated 15.5 %, see what is the exact percentage for 2019

⁸⁶ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal, 2020, p.54. With 18 % of women aged 20 to 49 married before the age of 15 and 49% women aged 20-49 married before the age of 18.

⁸⁷ UNFPA, Ending impunity for Child Marriage, 2017.

⁸⁸ *Ibid.*

⁸⁹ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal, 2020, p.54

⁹⁰ UNICEF & UNFPA, Ending Child Marriage in Nepal, 2017 Available at: <https://www.unicef.org/nepal/reports/ending-child-marriage-nepal>

⁹¹ State of Children Report,

⁹² INSEC Human Rights Report, 2020, p.41

⁹³ Section 40(c), Concluding Observations on Nepal 2016 CRC/C15/Add.261.

⁹⁴ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal p.54.

⁹⁵ UNFPA, Ending impunity for Child Marriage, 2017, pp.8-9.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

identity as "other," and the foreign ministry has already made the decision to issue machine-readable passports that specifically identify "X" as the gender of members of the community.⁹⁸

There are still a number of obstacles, and not all citizenships and passports are granted without facing formal and practical restraints. Identity in its distinctiveness is still not acknowledged; instead, it is described as existing outside of conventional orientations and denoted in the documents by the symbols "other" or "X." Parents would rather not discuss their children's sexual orientation and gender identity due to stigma.⁹⁹ Thus, the parents would have already prepared identity documents as either male or female before the child reached adulthood and was allowed to decide the SOGI. Despite the fact that the Act Relating to Children, 2018 clearly designates such medical and surgical treatment as criminal¹⁰⁰, intersex genital mutilation is still a practice in Nepal regardless of government's claim of their initiatives.¹⁰¹

The Coalition recommends the Committee call for GoN to:

- Create regionally focused programs and policies to raise awareness among the people and banish detrimental customs like *Chaupadi*.
- Rehabilitate and reintegrate *Kamalari* victims through enhancing the effectiveness and accountability of relevant authorities. Make a survey on *Kamalari* victim rehabilitation issues.
- Increase the statute of limitations for victims of child marriage from the present three-month limit to a suitable length of time.
- Develop a specific protection and support plan for those who have been married as children to make it easier for them to annul and after the annulment of the marriage.
- Create and implement a system for integrating child marriage victims into socioeconomic channels through trainings and assistance with employability. Ensure that they have access to education.
- Step up efforts to raise awareness about harmful practices like child marriage and *Chaupadi*. Raise awareness amongst all relevant stakeholders including children and families that child marriage is a crime rather and not just a social evil.
- Facilitate and ensure the right to citizenship for victims of child marriage by removing barriers created by relevant authorities requiring presence of husband.
- Put into operation the law's obligation for marriage and birth registration.

⁹⁸ Blue Diamond Society, Discrimination and Violence against Lesbian and Bisexual Women and Transgender person in Nepal, OHCHR, 2018, p.3, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NPL/INT_CEDAW_NGO_NPL_30008_E.pdf

⁹⁹ Human Rights for Hermaphrodites Too, Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Reproductive Anatomy, OHCHR, 2018, p.13, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NPL/INT_CEDAW_CSS_NPL_32600_E.pdf

¹⁰⁰ The Act Relating to Children, 2018, Section 66(2) (h).

¹⁰¹ Paragraph 93, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

- Eliminate the practical barriers that LGBTIQ populations encounter in obtaining their citizenship passports and other pertinent documents that recognize their sexual orientation and gender identity.
- Gather information and perform studies to learn more about children's sexual minorities. Increase efforts to educate people against the LGBTIQ community's stigmatization.
- Use a consultative approach when creating policies by incorporating those who have been subjected to harmful behaviors and stigmatization in the creation and implementation of policies.

8. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (Articles 5,9,10,11,18(1), 18(2),20,23,25 and 27(4))

A. Children Deprived of a Family Environment

In order to identify children who require alternative care, the Act Relating to Children, 2018, provides for particular categorization. Institutionalization of children is viewed as a last resort as it prioritizes their protection.¹⁰² The NCRC and LCRC, along with the child welfare authorities, decide on alternative care while taking into account the best interests of the children. There are several other policies and plans for the protection on similar grounds.¹⁰³

Along with LCRCs, NCRC is required to inspect and track the overall condition of children. 14 of the 216 CCHs that NCRC monitored in the year 2019–2020—located in different districts—were deemed unsatisfactory. If and when CCHs are not in accordance with the necessary standards, NCRC offers suggestions. Despite what the state report asserts¹⁰⁴, quality of service is compromised in many CCHs. To effectively monitor, supervise, and investigate CCHs, functional institutionalization of the LCRC, PCRC, and child welfare is essential.

CCHs should be able to secure funding in at least three years, but many of them are underfunded and dependent on money from outside the state. In contrast to the *Committee's* recommendation, a survey indicates that 85% of children in Nepal's CCHs do indeed have at least one living parent.¹⁰⁵ This contradicts the provision of considering alternative care as last resort in practice.¹⁰⁶ Children are at the risk of trafficking, sexual, emotional abuse and denial of rightful incentives.¹⁰⁷

¹⁰² The Act Relating to Children, 2018, Section 48,49.

¹⁰³ Standards for operation and management of residential child care homes, 2012 and the fifteenth plan are some examples of such policies.

¹⁰⁴ Paragraph 110-111, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

¹⁰⁵ Orphanage Trafficking and Child Protection in Emergencies in Nepal: A Comparative Analysis of the 2015 Earthquake and the 2020 COVID-19 Pandemic

¹⁰⁶ National Child Rights Council. State of Children in Nepal 2020, National Child Right's Council, 2020, p.50.

¹⁰⁷ Martin Punaks, Samjyor Lama, Orphanage Trafficking and Child Protection in Emergencies in Nepal: A Comparative Analysis of the 2015 Earthquake and the 2020 COVID-19 Pandemic, 2020, p.27-28

B. Adoption

The *Committee* restated its earlier advice to put laws and practices governing international adoption into effect. As advised by the *Committee*, Nepal has repealed old legislation that used parent's poverty as a justification for adoption.¹⁰⁸ The Act Relating to Children prohibits abandoning of children by their parents.¹⁰⁹ Children who are neglected because of their parents' severe physical, mental, or emotional impairments must get special protection, and alternative care should only be explored as a last resort. According to the legal structure, a child may only be taken away from their parents for special protection under specific conditions.¹¹⁰ Parenthood termination or their criterions per se are not included in any specific provisions. There are no monitoring mechanisms on practice of placing children with close relative as recommended by the *Committee*.¹¹¹

Inter-country Adoption Board is the central agency on recommendation for granting permission to a foreigner for adoption of children.¹¹² The Board includes professionals with expertise in child rights. There isn't a specific body of this kind for domestic adoption. In accordance with the *Committee's* recommendation, the function of other district-level organizations that are pertinent, such as the chief district office, should be reviewed. The *Committee's* proposal to ratify the Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption (Hague Inter-Country Adoption Convention) has not yet been implemented.¹¹³ and not a party to the Convention¹¹⁴.

The Coalition recommends the committee call for GoN to:

- Develop a thorough plan of action and a clear set of guidelines for the implementation by the appropriate authorities of an effective child protection response during emergencies.
- Expand the social protection system to include "children in need of special protection."
- Establish a system for tracking and evaluating the circumstances of children placed with their immediate family members.
- Ratify Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption.

¹⁰⁸ Section 45(a) Concluding Observations on Nepal 2016 CRC/C15/Add.261, The Act Relating to Children, 2018, Section 48.

¹⁰⁹ The Act Relating to Children, Section 7(3).

¹¹⁰ *Ibid*, Section 48(1)g

¹¹¹ *Id*, Section 45.

¹¹² National Civil Code, 2074, Section 193.

¹¹³ <https://www.hcch.net/es/news-archive/details/?varevent=166>

¹¹⁴ [https://travel.state.gov/content/travel/en/Intercountry-Adoption/Intercountry-Adoption-Country-Information/Nepal.html#:~:text=Nepal%20is%20not%20a%20party,Hague%20Adoption%20Convention%20or%20Convention\).](https://travel.state.gov/content/travel/en/Intercountry-Adoption/Intercountry-Adoption-Country-Information/Nepal.html#:~:text=Nepal%20is%20not%20a%20party,Hague%20Adoption%20Convention%20or%20Convention).)

9. DISABILITY, BASIC HEALTH AND WELFARE

A. Children and Disabilities

The *Committee* urged state parties to build up a comprehensive strategy to include children with disabilities and to adopt a human rights-based approach to disability. Children with disabilities are guaranteed special protection and facilities, including those for their educational needs, under the Nepalese Constitution, the Act Relating to Children of 2018, the Act Relating to Persons with Disabilities of 2017, and the Regulation Relating to Persons with Disabilities of 2020.

Objectives to provide inclusive and accessible education is incorporated into the National Education Policy (2020), the Inclusive Education Policy for Persons with Disabilities (2017), and the School Sector Development Plan (SSDP-2017). The SSDP particularly identifies increasing institutional capacity through strategic intervention as an objective for delivering inclusive education to children with disabilities. There are 14,589 students at the secondary level and 52,366 in the basic level having disabilities, according to the Education and Human Resource Department Center. The biggest obstacles to children with disabilities accessing education were a lack of inclusive teaching strategies, socioeconomic circumstances, and bullying, infrastructural barriers, demeaning behaviors of peers, family, and teachers, as well as effective identification and screening of disabilities.¹¹⁵ Children with disabilities were discovered to be segregated in numerous schools.¹¹⁶ Schools have been found to reject students on several occasions due to physical or mental disabilities.¹¹⁷ Recommendation of the *Committee* to develop inclusive education in practice has not been realized.¹¹⁸ These programs require government backing, and awareness-raising efforts must be intensified nationally. Denial of a "reasonable accommodation" is also considered discrimination under the Rights of Persons with Disabilities Act of 2017, but it is not explicitly defined. The 2017 Inclusive Education Policy guarantees students with disabilities an inclusive education without discrimination, but it also permits separation. The goals of inclusive education must be defined in detail in the policies.

The Act Relating to Persons with Disabilities, 2017 ensures availability and access of health facilities to children with disabilities. The number of children who have benefited from free healthcare and early disability identification is neither well-documented nor dependable. The *Committee's* recommendations for developing measures and future health care, early detection, and intervention programs are made difficult by this. The Directive on Physical Accessibility and Communication Services for Persons with Disabilities, 2013 includes rules to set up accessible infrastructure in public buildings for people with all different kinds of disabilities. Citizens with disabilities are guaranteed equal access to public services and facilities under Nepal's

¹¹⁵ Disability Inclusive Development: Nepal Situational Analysis, Institute of Development Studies, 2020.

¹¹⁶ *Ibid.*

¹¹⁷ *Id.*

¹¹⁸ National Federation of the Disabled-Nepal, Awareness Raising Activities, available at <https://nfdn.org.np/general-activities/awareness-raising/>,

constitution.¹¹⁹ Despite what the state report asserts, there are no universally accessible public facilities or infrastructures.¹²⁰

The definition and scope of the Act Relating to Persons with Disability, 2017, which was recommended by the *Committee*, do encompass mental and intellectual disabilities. While the Act defines "persons with disabilities" and "accessibility," it places a greater emphasis on physical impairments and functional limitations. The government lacks an effective system for identifying disabilities and disaggregated statistics on children with disabilities. The Act Relating to Persons with Disabilities, 2017, has a provision for the distribution of a disability identity card and assigns responsibility for data collection, requirements, and annual updates to the municipal level. According to a study, there are a number of reasons why people with disabilities (PWDs) do not have access to disability identity cards. These include a lack of awareness of the cards' benefits among PWDs, their lengthy application process, their proximity to the appropriate authorities, their financial situation, and the lack of support from family members.¹²¹ There is no updated or integrated data contrary to the recommendation made by the *Committee*.

B. Health and Health Services

In rural locations, there is a lack of human, technical, and financial resources for health services. In rural areas, both mother and child death rates are higher due to a shortage of medical personnel and well-equipped healthcare facilities.¹²² The vulnerabilities due to lack of human, technical and financial resources were exacerbated during the Covid-19 crisis leading to an increase in mortality rate.¹²³ To properly administer its immunization program, Nepal has a National Immunization Act (2015) and a Comprehensive Multi-year Plan (2017–2021). Government policy has prioritized immunization programs, which is good for reducing preventable mortality and morbidity. Despite this priority, many children are actually unable to get these services. 30% of children have not yet received immunizations.¹²⁴ Nepal has made notable progress with considerable decline in stunting and mortality rate of children.¹²⁵

By 2023/2024, the Fifteenth Periodic Plan aims to reduce the percentage of underweight children under five from 27% to 15%. A new Multi-sectoral Nutrition Plan (2018–2022) is currently being implemented. According to UNICEF's Nutrition Report 2021, financial losses and food shortages during COVID-19 both led to a drop in children's nutrient intake.¹²⁶

¹¹⁹ The Constitution of Nepal, Art. 42(3)

¹²⁰ Paragraph 140-142, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

¹²¹ Hemanta Dangal et.al, Constraints on Applying Disability Identity Card: A Study from Roshi Rural Municipality, *Journal of Social Protection*, Social Protection Civil Society Network, 2020; 54% of PWD from Roshi rural municipality had no knowledge about various benefits of the ID card.

¹²² National Human Rights Commission of Nepal, Annual Report, 2020, p.34.

¹²³ National Human Rights Commission of Nepal, Annual Report, 2020, p.14.

¹²⁴ Bishwa Ratna Pun & Gyanendra Kumar Shrestha, Assessment of Child Sensitive Social Protection Programmes in Nepal, *Journal of Social Protection*, Social Protection Civil Society Network, 2020 p.62.

¹²⁵ ILO, National Child Labour Report, 2021.

¹²⁶ UNICEF, Nutrition Report, 2021, p.27.

C. Mental Health

The *Committee* had advised the state to take all necessary steps to offer children, including those impacted by the 2015 earthquake, with mental health care services. Following the earthquake, many sorts of mental health care were provided. Mobile health clinics, staff monitoring, the provision of psychological first aid, community-based psycho-social intervention, etc. were all covered.¹²⁷ A program was run by the Ministry of Education, Science, and Technology in collaboration with CMC Nepal with the goal of enhancing children's access to psychological help and promoting their psychological well-being. Similar to this, a variety of psychological interventions, mental health service delivery, school counseling, etc. were offered under the School Mental Health Program.¹²⁸ Despite these initiatives, the National Mental Health Survey reported that 5.2% of teenagers had mental health issues, 2.5% of which were stress-related diseases.¹²⁹ The Covid-19 crisis has made it even more necessary to review mental health-related regulations and initiatives. Studies have also indicated that there is a severe human resource shortage in Nepal with regard to the provision of mental health services.¹³⁰

D. Adolescent Health

The right of children to access mental and physical health care is guaranteed by the Act Relating to Children, 2018.¹³¹ Although sexual and reproductive health education is on the syllabus, it has been observed that the teachers often skip it.¹³² The National Adolescent, Sexual, and Reproductive Health Program was started by the Ministry of Health and Population in 2015, but the Ministry has not released any data or new information regarding the program's outcomes. Adoption of a comprehensive policy emphasizing sexual and reproductive health education that is compatible with the new federal organization is necessary. Future plans and regulations for sexual education should involve parents, instructors, students, and other relevant stakeholders. In order to properly implement, evaluate, and create new programs and policies, disaggregated data collected in relation to earlier programs and policies should also be made public.

E. Standard of Living

To help 2.8 million children, the government has allotted 7.52 billion rupees to extend day meal programs across the nation. The Mid-West, the far-western hills and mountains, and the Mid-Terai were given priority in the Multi-sector Nutrition Plan (MSNP) 2018.

¹²⁷ Surendra Serchan et al, 'Post-disaster mental health and psychosocial support: experience from the 2015 Nepal earthquake', *WHO South East Asia Public Health Journal*, 2017, April, Volume 6 (1), p. 25 available at http://www.who-seajph.org/temp/WHOSouth-EastAsiaJPublicHealth6122-5131479_141514.pdf,

¹²⁸ Annual Report 2019, Centre for Mental Health & Counselling-Nepal, p.11, available at <https://www.cmcnepal.org.np/publication/annual-report-2019-3/>

¹²⁹ Nepal Health Research Council, National Mental Health Survey 2076, Factsheets: Adolescents, available at <http://nhrc.gov.np/wp-content/uploads/2020/09/Factsheet-Adolescents.pdf>,

¹³⁰ National Child Rights Council, State of Children in Nepal 2020, National Child Right's Council, 2020, p.25,27

¹³¹ The Act Relating to Children, 2018, Section13(2)

¹³² Parents and teachers should be part of sex education, *Republic Nepal National Daily*, (10 March 2017) available at <https://myrepublica.nagariknetwork.com/news/parents-and-teachers-should-be-part-of-sex-education/>

By 2023/2024, the population under the poverty line is to be reduced from 18.7% to 9.5%, and the population with basic food security is to be increased from 48.2% to 80%, as stated in the Fifteenth Periodic Plan (FY2020-FY 2024). Contrary to the *Committee's* proposal, there are no special monitoring procedures that give the impact on children's rights first priority. According to reports, during the Covid-19 epidemic in 2020, 55% of the population reportedly experienced economic losses and 28% reportedly experienced food shortages.¹³³

Although the Poverty Alleviation Act (2006) established a fund to help raise living conditions through a variety of activities, 10% of urban residents are still squatters, and that percentage is expected to climb.¹³⁴ Monetary poverty line is set at NRs 19261 and Global Multi-dimensional Poverty Index has been adopted as the National Multi-dimensional Poverty Index. 28.6 % population in Nepal is multidimensional poor and 78.5 % within it are from rural areas.¹³⁵ The main cause of poverty in rural areas is a low standard of life, demonstrating the need for more effort to raise the standard of living, as suggested by the *Committee*. On various issues, Nepal has enacted legislative social protection.¹³⁶ By 2023–2024, the Fifteenth Plan expects 60% of people to be registered for social security. However, children who are at risk due to urban poverty are not covered by the nutrition-focused strategies and policies. To support children living in urban poverty, social protection policies should not just be dependent on geography. The social protection system in Nepal does not cover children who require special protection under the Act Relating to Children. Additionally, there is a lack of a strategic vision and guiding principles for the local level of social protection for children.

The Coalition recommends the committee call for GoN to:

- Establish a meaningful definition of inclusive education that extends beyond the 2017 Inclusive Education Policy.
- Clearly explain what constitutes discrimination under the Rights of Persons with Disabilities Act, 2017 when "reasonable accommodations" are refused.
- Establish an effective system for identifying disabilities at the local level.
- Establish a social protection system policy that is primarily focused on addressing the needs and best interests of kids in emergency and disaster situations.
- Reexamine mental health policies and programs, and develop new strategies and policies geared at reducing the psychological effects the Covid-19 issue has on children.
- Evaluate the effectiveness of sex education in the classroom and create the appropriate curricula. Include students, parents, and other stakeholders in the process of developing plans and policies for sex education.
- Include children vulnerable to urban poverty while designing welfare policies and plans.

¹³³ UNICEF Nutrition Report, 2021, p.30.

¹³⁴ See <https://www.habitatforhumanity.org.uk/country/nepal/>

¹³⁵ Report on Nepal's Multidimensional Poverty Index, 2018, National Planning Commission, p.1 available at https://www.npc.gov.np/images/category/Nepal_MPI.pdf,

¹³⁶ See <https://socialprotection.org/connect/stakeholders/nepal-social-security-fund>

- Ensure that the social protection system includes the "children in need of particular protection" as defined by the Act Relating to Children, 2018.
- Create a clear strategic vision and governing structure for local child social protection.

10. EDUCATION, LEASURE AND CULTURAL ACTIVITIES (Articles 28-31)

A. Education, including Vocational Training and Guidance

The right to education is guaranteed under Nepal's legal and constitutional framework, notably the Act Relating to Children, 2018.¹³⁷ In order to promote education in rural areas, the GoN has allotted 2.7 billion NRs for scholarships to students, including those from marginalized communities and their day meal plans.¹³⁸ The effectiveness of these strategies and initiatives has not yet been assessed. The *Committee's* recommendations have not been implemented, with 52.4% of children not receiving a higher secondary education and 3% of children not receiving a primary education.¹³⁹

The Covid-19 problem had made the gap between classes in schooling worse. While public school students and students from remote locations lacked access to online systems and technology, private schools and students did. 12% of disadvantaged households and 65% of wealthy families have literate members.¹⁴⁰ Private school education providers are not adequately regulated, and they have different curricula and cost structures. Frameworks for regulation and enforcement that include reporting mechanisms to examine hidden costs of attending school are ineffective.

A strategy to include gender-sensitive learning environments, including segregated restrooms and sanitation, is included in the school sector development plan as a minimum requirement. Additionally, local governments received conditional payments totaling 1.82 billion for the free distribution of sanitary pads to encourage girls to attend school during menstruation. Contrary to a recommendation made by the *Committee*, segregated facilities and the availability of menstrual hygiene products are still not available in all schools in practice.¹⁴¹ The net enrolment rate in all

¹³⁷ The Act Relating to Children 2018, Section 15(2)

¹³⁸ Budget Speech of Fiscal Year 2020/21, Ministry of Finance, Nepal, pp. 37-38.

¹³⁹ Bishwa Ratna Pun & Gyanendra Kumar Shrestha, Assessment of Child sensitive Social Programmes in Nepal, *Journal of Social protection*, Social Protection Civil Society Network, 2020, p.62

¹⁴⁰ NHRC Annual report 2020, p.36-37

¹⁴¹ Analysis of Menstrual Hygiene Practices in Nepal, UNICEF, 2018 available at <https://www.unicef.org/nepal/sites/unicef.org/nepal/files/2018-07/607531012327148357-analysis-of-menstrual-hygiene-practices-in-nepal.pdf>

level is increasing and dropout rate is decreasing simultaneously¹⁴² but pass out rates of indigenous children and children from the marginalized community are still substantially low.¹⁴³

It is still necessary to accomplish the goals set forth in the School Sector Development Plan (SSDP) 2016–2023 and the National Education Policy 2019 to offer pre-service teacher education, develop a national framework for teacher competency, and provide professional development training for teachers, among other initiatives to increase educational accessibility and quality. Additionally, there are not many schools that offer resource classes for children with disabilities, and the ones that do tend to be integrated and far from places where children with disabilities live.¹⁴⁴

The Coalition recommends the Committee call for GoN to:

- Evaluate the effectiveness of child social protection initiatives and make the resulting information available.
- Create a comprehensive plan to bridge the technological gap between urban and rural communities and schools.
- Create efficient regulatory and reporting mechanisms to monitor hidden school expenses. In addition, keep an eye on and control the curriculum and fee schedule.
- Ensure that menstrual sanitary items and separate restrooms are available in schools.
- Create a thorough plan to address the gender and identity gaps in schooling.
- Create a national framework for teacher competencies and mandate pre-service teacher education that supports CRC's guiding principles.
- Clearly state what inclusive education means in terms of laws, policies, and strategies.

11. SPECIAL PROTECTION MEASURES (Articles 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)

A. Asylum-seeking and Refugee Children

Although birth registration is guaranteed by the Act Relating to Children 2018 and the Constitution, it is nonetheless difficult to register children born to refugees and asylum seekers.¹⁴⁵ As recommended by the *Committee*, Nepal is not a party to either the 1951 Refugee Convention or the 1967 Protocol and does not have any domestic legislation specifically addressing refugees.

In order to protect the rights of refugees and asylum seekers in Nepal, which is home to a sizable number of refugees, the country relies on its constitution, general protections, and other laws. In

¹⁴² Net enrolment rate in all level increased as compared to the last year. School drop-out rates at primary level (grade 1-5) was 3.6%, in lower secondary level (grade 6-8) was 4.4% and in secondary level (grade 9-10) was 3.7%. Flash I Report, Department of Education, 2017/018.

¹⁴³ Asian Development Bank, Gender Equality and Social Inclusion Diagnostic of Selected Sectors in Nepal, 2020, p.9

¹⁴⁴ Disability Inclusive Development in Nepal, Institute of Development Studies, 2020.

¹⁴⁵ Nepal 2020 Human Rights Report, US Embassy (US Government), 2020, p.16

Koshi Province, Bhutanese refugees have access to the National Health Insurance Program. Refugees who experience medical emergencies were able to visit hospitals because to UNHCR's collaboration with the provincial authorities.¹⁴⁶ In collaboration with local authorities and the government, *Tribhuvan* University Teaching Hospital (TUTH) gave refugees' access to PCR testing public health services. Despite these efforts, many refugees and asylum seekers still reside outside of these institutions and lack access to necessities. Refugees from Afghanistan, Tibet, and *Rohingya* do not entirely fall under the purview of these facilities. Children make up one-third of the refugees in Nepal.¹⁴⁷

Despite what the state report asserts,¹⁴⁸ children of refugees and asylum seekers are vulnerable because refugees do not have access to these resources. Contrary to the Committee's recommendation¹⁴⁹, Nepal has not yet completed the registration and issuing of legal identity documents for all refugees, including long-staying Tibetan refugees.¹⁵⁰

B. Internally Displaced Children

In 2017, the government provided resettlement assistance to 10448 children and their families. The government is trying to guarantee the fundamental rights of internally displaced children and their families in conjunction with local authorities and civil society organizations. Despite this, a large number of children and their families live in vulnerable circumstances because they lack access to safe drinking water, sanitary facilities, etc.¹⁵¹ The majority of the internally displaced people have made temporary camps their home. As advised by the *Committee*, they lack separate lockable latrines and functional lighting. Due to a lack of adequate physical security and protection, there have also been instances of assault against and abuse of women and children.¹⁵² Children are not informed nor consulted about all stages of disaster response and preparedness.

C. Children Belonging to Minority and Indigenous Groups

Nepal is a party to many conventions that acknowledge indigenous communities' right to give their free, prior, and informed consent (FPIC) on matters that impact them. Despite this, the government of Nepal has not successfully implemented FPIC in a number of projects.¹⁵³ In addition, despite a recommendation from the *Committee*, FPIC were not always included in the relocation process after the 2015 earthquake. Relocations after a disaster must be supported by

¹⁴⁶UNHCR UN Refugee Agency, Fact Sheet, November 2020 available at https://reporting.unhcr.org/sites/default/files/UNHCR%20Nepal%20fact%20sheet%20November%202020_0.pdf

¹⁴⁷ *Ibid.*

¹⁴⁸ Paragraph 174 and 176 of the 6th and 7th combined State Report of Nepal on the implementation of the CRC.

¹⁴⁹ Section 61(d) Concluding Observations on Nepal 2016 CRC/C15/Add.26.

¹⁵⁰ Nepal 2020 Human Rights Report, US Embassy (US Government), 2020, p.16

¹⁵¹“In Nepal refugees and internally displaced persons still face a critical situation.” Available at <https://reliefweb.int/report/nepal/nepal-refugees-and-internally-displaced-persons-still-face-critical-situation> ; Lessons Learned from Post-Earthquake Policy in Nepal, Guidance for Further Housing, Land and Property Disaster and Reconstruction Law and Policy Reform, Displacement Solutions, 2019 available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Nepal%20IDP%20and%20HLP%20Paper.pdf> , p.22

¹⁵² *Ibid.*

¹⁵³ *Id.*

competent and objective technical help, inclusive dialogues, active community involvement, and community leadership.¹⁵⁴

Numerous clauses in the Act Relating to Children, 2018, both tacitly and explicitly acknowledge children's right to access information. However, there is no particular clause addressing the availability of such data in the user's native language. The Language Commission, a legal entity, is researching the linguistic contexts of schools in various localities.¹⁵⁵ There are not many linguistically adopted awareness-raising initiatives intended to support policies that provide meaningful access to fundamental government services.

To ensure that the needs of orphans, indigenous children, and religious minorities are met, the *Committee* had recommended for the creation of a special unit under the government's social service division. In order to meet the needs of such children, the Ministry of Women, Children, and Senior Citizen (MoWCS) has established a Women, Children, and Social Development Department at all provincial and similar office in all local levels. Performance of these departments and offices must be evaluated for objective effectiveness.

D. Economic Exploitation, including Child Labor

Constitutional and legal arrangement in Nepal prohibits child labour and makes it a punitive offence.¹⁵⁶ Both the Child Labor (Prohibition and Regulation) Act, 1992 and the Act Relating to Children, 2018 forbid child labor. A National Master Plan for Eliminating Child Labor adopted by MoLESS (2018-2028) has a goal to help formulate policies and initiatives based on information about child labor. However, Nepal lacks an updated disaggregated data on child labor and a national database that is accessible to stakeholders.. The last comprehensive data on child labour was collected in 2008, reported in National Child Labour Report 2011. Despite the legislation, children working in informal sectors are not regulated.¹⁵⁷

In Nepal, 15.3% of children between the ages of 5 and 17 are engaged as child laborers.¹⁵⁸ Among such children, girls are more vulnerable. Additionally, the prevalence of child labor is highest among *Dalits* and Indigenous, at 19.4% and 18.1%, respectively. 34% of children work in dangerous conditions.¹⁵⁹ 74% of minors employed in the informal economy were subjected to

¹⁵⁴Lessons Learned from Post-Earthquake Policy in Nepal, Guidance for Further Housing, Land and Property Disaster and Reconstruction Law and Policy Reform, Displacement Solutions, 2019 available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Nepal%20IDP%20and%20HLP%20Paper.pdf>, p.20

¹⁵⁵ Prem Phyak and Laxmi Prasad Ojha, Language Education Policy and Inequalities of Multilingualism in Nepal: Ideologies, Histories and Updates, Routledge International Handbook of Language Education Policy in Asia, 2019.

¹⁵⁶ Constitution of Nepal, Art. 29 and 39, Child Labour (Prohibition and regulation) Act, 2000, Act Relating to Child, 2018, Child Labour Act 1992 strictly prohibits employing children below 14 and makes it a punitive offence. Act Relating to Children 2018 prevents children below 14 from working in hazardous sectors and provisions prevention from child labour as a responsibility of guardian.

¹⁵⁷ Section 69(a) Concluding Observations on Nepal 2016 CRC/C15/Add.261.

¹⁵⁸ ILO, Nepal Child Labour Report, 2021.

¹⁵⁹ ILO, Nepal Child Labour Report, 2021.

risky working conditions.¹⁶⁰ Despite what the state report asserts¹⁶¹, the fact indicates that child labor prevention and prohibition laws and regulations have not been effectively implemented in Nepal.

E. Administration of Juvenile Justice

There is a provision in the Act Relating to Children, 2018 that lists "alternatives" to custody. When the officer hearing the case determines that it would not be in the interests of the juvenile to be placed in prison, the officer may instead place the child in the custody of his or her parents, relatives, or social organizations. The Supreme Court of Nepal issued a writ of mandamus stating that it was improper to keep youngsters in detention or prison with adults due to the fact that they were not kept separately.¹⁶² The court's ruling emphasized the need for minors to be kept in juvenile correctional facilities rather than prisons. It has been found that children between the ages of 10 and 18 are detained together with adults without being separated by age.¹⁶³

Contrary to the recommendation made by the *Committee*, there are no child correctional centers across all districts. Out of 7 provinces, 6 have child correctional centers. All together there are eight juvenile correction facilities in Nepal.¹⁶⁴

In response to the *Committee's* proposal that separate police units be established to handle cases involving children, the Nepal Police Headquarters has a Women, Children, and Senior Citizen Service Directorate. All 77 districts have Women, Children, and Senior Citizen Service Centers running under the Directorate. The criminal liability starts at the age of ten.

Children's rights to a fair trial are included in both Nepal's Constitution and the Act Relating to Children. Despite the SC directive for the establishment of juvenile courts, such have not yet been established, and matters involving children who come in contact with law are heard by juvenile benches. The Cabinet recently decided to constitute a juvenile court in the federal capital, which will start its service from April 15, 2025.¹⁶⁵

There is a Juvenile Justice Procedural Rule, 2019. It lays out guidelines preventing the handcuffing of children, protecting their privacy, and creating a central Juvenile Justice Coordination Committee.

Justice sector actors have receive training on various legal topics, including the administration of juvenile justice and human rights, from the National Judicial Academy but the quantity of training

¹⁶⁰ *Ibid.*

¹⁶¹ Paragraph 179 and 182, 6th and 7th combined State Report of Nepal on the implementation of the CRC.

¹⁶² Juvenile Delinquency, 2020, Advocacy Forum Nepal, available at <http://advocacyforum.org/downloads/pdf/publications/factsheet-on-covid-19-and-it-s-effect-on-juvenile-justice-system-in-nepal.pdf>

¹⁶³ National Human Rights Commission of Nepal, Annual Report 2020, p.19

¹⁶⁴ Factsheet on COVID-19 and its Effect on Juvenile Justice System in Nepal, June 2020, available at <http://advocacyforum.org/downloads/pdf/publications/factsheet-on-covid-19-and-it-s-effect-on-juvenile-justice-system-in-nepal.pdf>

¹⁶⁵ <https://kathmandupost.com/national/2025/02/15/government-finally-decides-to-constitute-juvenile-court>

is no match to the need of the country. Juvenile benches are run on an as-needed basis and do not always have a psychologist and a social worker there. Despite the claim made by the state report¹⁶⁶, Nepal lacks a functional juvenile justice system.

The Coalition recommends the committee call for GoN to:

- Ratify the 1951 Refugee Convention and the 1967 Protocol, and create domestic legislation pertaining to refugees.
- Completely implement registration and the provision of official identification cards for refugees, ensuring the safety of those seeking asylum and their children.
- Ensure the safety of displaced women and children in these camps. Reintegrate them into permanent settlements as well.
- Ensure that children are kept aware and involved in the emergency preparation process at all times.
- Establish a transparent and well-thought-out policy framework to implement free, prior, and informed consent (FPIC) in all relevant projects.
- Establish a comprehensive policy that addresses FPIC obligations for relocation processes brought on by crises and disasters.
- Make an explicit provision in the 2018 Act Relating to Children regarding the availability of relevant info to children in their native language.
- Expand linguistically accommodating awareness-raising campaigns that are intended to support policies enabling meaningful access to public utilities and services.
- Enhance the ability of the Women, Children, and Social Development Branch at the provincial and local levels to better meet the needs of children.
- Make available updated, disaggregated data on child labour and national database accessible to all stakeholders.
- Create a comprehensive plan of action to address the gender and identity-based disparities that perpetuate child labor.
- Regulate and observe the unregulated sectors to eliminate the worst types of child labor in both the informal and formal sectors.
- Create and put into effect a plan for the rehabilitation and reintegration of juvenile delinquents.
- Make sure juvenile courts are established in all seven provinces, and include a child psychologist and a social worker in all hearings.

¹⁶⁶ Paragraph 190-192, 6th and 7th combined State Report of Nepal on the implementation of the CRC.