

# **Universal Periodic Review (UPR)**

## **Mid-term Review Report Nepal April 2018**

**Nepal NGO Coalition for  
Universal Periodic Review**

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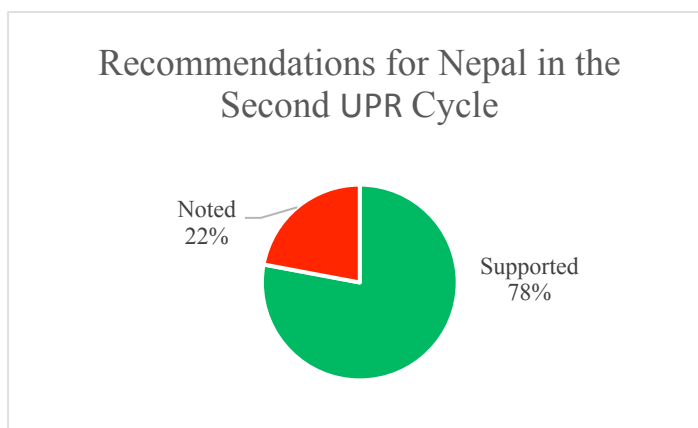
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## 1. Introduction

This midterm report is submitted to Nepal’s second cycle Universal Periodic Review (UPR) by the NGO Coalition for the UPR, Nepal.<sup>1</sup> Members of the coalition previously engaged in preparing Nepal’s civil society report for the first and second UPR cycles. Members of the coalition are also engaged in preparing civil society reports to the Treaty Bodies and interactions with Treaty-bodies Committee Members as well as United Nations Human Rights Council mechanisms through interactions and submission of reports. Around 295 NGOs and civil society members are associated to NGO Coalition for the UPR, Nepal.

## 2. Background

Nepal underwent its second cycle UPR on 4 November 2015 at which point the UPR Working Group reviewed the human rights situation in the country.<sup>2</sup> Nepal’s Deputy Prime Minister and Minister for Foreign Affairs presented the National Report on behalf of the Government of Nepal, where the government stated that the country’s human rights situation had significantly improved since the last UPR which was conducted in 2011.<sup>3</sup> Nepal’s 2<sup>nd</sup> cycle of review was conducted on 4 November 2015 and the UPR Working Group adopted the report on Nepal on 6<sup>th</sup> Nov. 2015. The UPR working Group report was adopted on 16 March 2016. Out of the 195 recommendations that Nepal received, it accepted 152 (78%) and noted 43 (22%).<sup>4</sup>



In December 2015, National CSOs developed, with the support of *UPR Info*, a suggested implementation plan with indicators to track progress outlining expectations on the Government in

1 The members of the organisation are: INSEC as Secretariat, Women’s Coalition for UPR (Secretariat-WOREC), Nepal Durban Review Conference Follow-up Committee (DRCFC), Children Zone of Peace and Protection (CZOPP) and Beyond Beijing Committee (BBC).

2 [https://www.upr-info.org/sites/default/files/document/nepal/session\\_23\\_-\\_november\\_2015/js7\\_upr23\\_npl\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/nepal/session_23_-_november_2015/js7_upr23_npl_e_main.pdf)

3 <http://mofa.gov.np/opening-statement-delivered-by-hon-deputy-prime-minister-and-minister-for-foreign-affairs-mr-kamal-thapa-on-4-november-2015-at-23rd-session-of-universal-periodic-review-upr-working-group-of-human-r/>

4 [https://www.upr-info.org/sites/default/files/document/nepal/session\\_23\\_-\\_november\\_2015/a\\_hrc\\_31\\_9\\_add.1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/nepal/session_23_-_november_2015/a_hrc_31_9_add.1_e.pdf)

the follow-up phase. A corresponding action strategy was developed to map out how national CSOs could support implementation.<sup>5</sup> As a result of the three-day workshop, participating CSOs adopted an Outcome Charter which established a list of priority objectives for CSOs to pursue in the 2<sup>nd</sup> UPR cycle.<sup>6</sup> The implementation plan and action strategy were shared with the Ministry of Foreign Affairs.

In June 2016, the Ministry of Law and Justice of Nepal, the Nepal National Human Rights Commission, the National Coalition for Children as Zones of Peace and Child Protection (CZOPP), and the Informal Sector Service Centre (INSEC), with the support of the European Union, organised a coordinating meeting among government representatives, UN agencies and civil society organisations (CSOs) to discuss ways to ensure inclusive and sustainable UPR implementation.<sup>7</sup> As a result of the dialogue, a Letter of Cooperation<sup>8</sup> was adopted in which all stakeholders agreed to:

1. **Request** to the Government to set up a Coordinating Committee to be in charge of the implementation of recommendations of the UPR, UN treaty bodies and other international human rights mechanisms, with representation of NHRC, government and other stakeholders;
2. **Continue** to hold multi-party meetings at least twice a year with a view to monitor the level of implementation of UPR recommendations and to discuss about ways to address challenges;
3. **Support** participation of all stakeholders in the implementation process of recommendations of the UPR and other human rights bodies;
4. **Include** UPR recommendations in the plan of action of the Government with expected outcomes, assessment indicators, concrete activities, timeframe and responsible parties.

The Government provided additional information on the accepted or noted UPR Recommendations in 2016.<sup>9</sup> The Government developed a UPR Action Plan Matrix for the implementation of UPR recommendations which was uploaded in the Ministry's website on March 11, 2018.<sup>10</sup> This report provides NGO Coalition Nepal's observation over implementation of the recommendations made by the Working Group of the Universal Periodic Report (URR) to Nepal for the second cycle.

### 3. Comparison between first and second cycle UPR Recommendations

In the first cycle, recommendations related to full participation of ethnic groups and casts in constitution making, facilitate to accelerate steps forwards to new constitution in stipulated time, facilitate to carry out federal, inclusive and federal restructuring of state, facilitate to ensure

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5 <https://www.upr-info.org/en/news/upr-info-co-organises-cso-strategy-workshop-in-nepal>

6 [https://www.upr-info.org/sites/default/files/news/outcome\\_charter\\_step\\_1\\_nepal.pdf](https://www.upr-info.org/sites/default/files/news/outcome_charter_step_1_nepal.pdf)

7 [https://www.upr-info.org/sites/default/files/nepal\\_step\\_2\\_outcomes\\_report.pdf](https://www.upr-info.org/sites/default/files/nepal_step_2_outcomes_report.pdf)

8 [https://www.upr-info.org/sites/default/files/nepal\\_letter\\_of\\_intent\\_for\\_cooperation.pdf](https://www.upr-info.org/sites/default/files/nepal_letter_of_intent_for_cooperation.pdf)

9 Addendum, Views on Conclusions and/or recommendations, voluntary commitments and replies presented by the State Under Review, 24 Feb. 2016:

10 UPR Action Plan 2016-2011 Matrix Nepali available at [https://www.opmcm.gov.np/download/Universal Periodic Review](https://www.opmcm.gov.np/download/Universal%20Periodic%20Review)

guarantees the right to freedom of religion or belief in the new Constitution and the right to equality and non-discrimination in line with international standards were accepted. These recommendations were repeated in the second cycle and Government of Nepal (GoN) ‘supported’ these recommendations. Constitutional provisions are being implemented.

**In the first cycle**, recommendations related to repealing discriminatory laws and bringing them in line with international standards were supported by the Government. Similar recommendations were made in the second cycle, and were again supported. Gender and caste-based discrimination is prohibited by constitutional provision and other legislation.

Recommendations relating to formulation and enactment of legislation criminalizing torture and enforced disappearance were repeated in the second UPR as well. Torture and Enforced Disappearance are now criminal offences in Nepal as per the newly enacted Criminal Code.

Recommendations on formulation of LGBTI policies, enactment of laws relating to LGBTI, adoption of measures ensuring enforcement of the Supreme Court decision on citizenship rights were made in both the first and second cycle. Some progress is seen in the sector of rights of LGBTI persons,<sup>11</sup>.

In the first cycle, recommendations on the rights of women and children, *Dalit*, *Madhesi*, indigenous nationalities; strengthening of NHRIs, cooperation with international mechanism, development of international cooperation, strengthening of national mechanisms were made. Since then, a bill has been passed establishing the Truth and Reconciliation Commission (TRC)<sup>12</sup> as well as the Commission of Investigation on Enforced Disappeared Persons. Both the Commissions<sup>13</sup> were formed in February 2015.

**In the first cycle**, Nepal stated that the following recommendations would be considered: ratification of the Rome Statute of the ICC, preparations for a new juvenile justice law, invitations to all special process holders, considering introducing independent complaint mechanism on the conduct of security forces, accelerating efforts for effective implementation of human trafficking law, revising and reinforcing, as appropriate, existing measures on the investigations of violations against HRDs, considering the possibility of joining Convention against Enforced Disappearance, continuing scholarship programme, conducting parental awareness programmes, implementing free and compulsory education up to secondary level, reinforcing the mother tongue and multilingual education, dissemination and implementation of inclusive education pedagogy through training of teachers. Similar recommendations were repeated in the second cycle.

Recommendations on the ratification of the Optional Protocol to the Convention against Torture (OP-CAT), International Convention for the Protection of All Persons from Enforced

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11 Article 12 of the Constitution guarantees that one can obtain citizenship with the gender identity of choice.

12 <http://trc.gov.np/about-commission/>

13 <http://www.ciedp.gov.np/index.php>

Disappearances (CED), Optional Protocol of the Covenant on Economic, Social and Cultural Rights, Palermo Protocol were made, and noted, in both the first and second cycle.

Similarly, recommendations on the protection of vulnerable refugee populations by allowing for registration of the refugee population in Nepal and by refraining from forcibly returning Tibetan asylum seekers to China was ‘noted’ in the first cycle. Similar recommendation on allowing registration of refugee and granting them travel document were also ‘noted’ in 2015. The recommendation to respect the principle of *non-refoulement* was supported in the second cycle.

## 4. Methodology

Consultation meetings with concerned stakeholders, civil society organizations and activists were held in Morang, Janakpur, Kathmandu, Pokhara, Dang, Surkhet, Dhangadi covering all seven provinces of Nepal to collect information and recommendation living in all parts of Nepal. Participants in the consultation meetings included representatives from the National Human Rights Commission, government, sexual minorities, religious minorities, Dalit community, *Madeshi* community, indigenous people, journalists, lawyers, freed bounded labours, child rights workers and rights activists.

In each consultation meeting, draft of the assessment report was presented and information from participants was collected through open discussions as well as group discussions. More than 300 persons participated in the consultation meetings.

The majority of recommendations are vague, making it inherently difficult to assess their impact and level of implementation. It is therefore critical that Recommending states increase the number of action-oriented recommendations, so that progress can be measured and their implementation contribute to improving the national human rights situation. Several of the recommendations Nepal received in its second review were vague or contained more than one action, making it challenging to assess their level of implementation. The methodology of assessing progress is underpinned by Nepal’s treaty obligations, international and national commitments, enactment of legislations and policies, formulation of plan of actions, budget allocation and trainings provided to service providers. To assess, Nepal’s progress on the implementation of economic, social and cultural rights, ‘*Indicators for monitoring economic, social and cultural rights in Nepal*’, jointly prepared by the National Human Rights Commission, the Government of Nepal and the Office of the High Commissioner for Human Rights in Nepal was taken into consideration.<sup>14</sup> Likewise, reference of *Monitoring Framework for the Implementation of the Right to Food in Nepal* was taken while assessing the situation of enjoyment of the right to food in Nepal.<sup>15</sup> Similarly, review of legislative provisions, policies and secondary materials were also conducted for the assessment of the status of the implementation of UPR recommendations.

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14 Available at <http://nepal.ohchr.org/en/resources/publications/2011/Indicators%20for%20Monitoring%20ESCR%20in%20Nepal-%20A%20User's%20Guide.pdf>

15 Available at <http://www.fao.org/right-to-food/resources/resources-detail/en/c/1037434/>

## 5. Assessment

In line with the universality of the UPR, all recommendations, supported and noted, are assessed in this report. The recommendations have been grouped into 15 themes. The subchapters below provide a brief narrative overview of each theme, before using the color-coded Traffic Light System to identify whether the authors consider a recommendation a) implemented, b) partially implemented or c) not implemented. Each subchapter also provides a pie chart summarizing the results per theme.

FULLY IMPLEMENTED

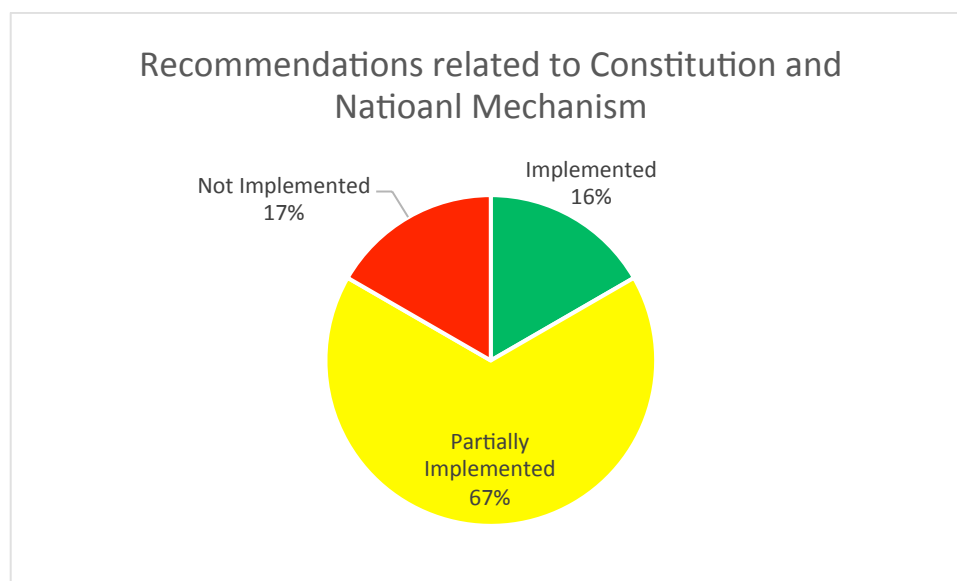
PARTIALLY IMPLEMENTED

NOT IMPLEMENTED

The pie chart below presents a statistical overview of the implementation levels of Nepal's 2<sup>nd</sup> cycle UPR recommendations.

### 5.1 Constitution and National Mechanism

Out of twelve recommendations related to Constitution and National Mechanisms Nepal received in the second UPR cycle, Nepal supported ten and noted two recommendations. Assessment by the Coalition considers that only 16% of the recommendations have been implemented, 8 recommendations (67%) have been partially implemented and 2 recommendations (17%) have not been implemented.



Nepal has been restructured by allocating state power to Federation, Province and Local Bodies. These bodies are responsible to protect and fulfill human rights of people. New Government has

recently been formed after local and provincial elections were conducted. Local and Provincial governments have started their works. National Human Rights Commission has been working as human rights monitoring overseer established as per the Paris Principles on NHRIs.

Nepal's Constitution was passed on 20 September 2015 and the preamble vows its commitment towards democratic norms and values including human rights among others. The Constitution ensures many civil and political rights as well as economic, social and cultural rights as fundamental rights. These rights include, rights relating to poverty, right to language and culture, right to employment, right to labour, right relating to food and housing. The Constitution has also guaranteed constitutional remedy.<sup>16</sup> The Constitution further prescribed State to enact necessary legislations within three years of commencement of the Constitution for the implementation of fundamental rights mentioned in the Constitution.<sup>17</sup>

The Constitution is in progress of implementation as the election of local government, provincial federal government was conducted. Election of members of House of Representatives and National Assembly, Prime Minister and President, vice-President, Speaker of the House and formation of provincial government may be considered as benchmark of implementation of the Constitution.

The Legislature Parliament made first amendment of the Constitution to address the demand and concerns of *Madhesh* based political parties. The amendment tried to ensure proportional inclusion of the marginalized and disadvantaged in the State bodies (Article 42 regarding Right to Social Justice); and delineation of electoral constituencies primarily based on population and secondarily based on geography.<sup>18</sup>

*Article 18* of the Constitution has the provision of right to equality under which all citizens are equal before law and no one shall be discriminated on the basis of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds as a fundamental right.

Similarly, under directive principles (art. 50), the Constitution has ensured that the objective of the state shall be to establish a public welfare system of governance, by establishing a just system in all aspects of national life, including human rights and gender equality among others.

Under article 18 it has also mentioned that nothing shall be deemed to prevent the making of special provisions by law for the protection of, empowerment and development of the citizens, including culturally backward women, *dalit*, indigenous, indigenous nationalities, oppressed class, minorities, gender and sexual minorities among others. There are several provisions in the new Constitution which aim to accommodate all sections of Nepal, for instance, article 40 mentions that special provisions shall be made by law for the empowerment, representation and participation of the *dalit*

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16 Article 46 of the Constitution, 2015.

17 Article 47 of the Constitution, 2015.

18 Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, 24 Feb. 2016.



community in public services as well as other sectors of employment. However, in absence of legislations to give full effect of the provisions mentioned in the fundamental rights parts, there is legal gap to challenge state's omission that signifies violation of these economic and social rights.

National Dalit Commission has been placed as the Constitutional body which shall act in order to have the *dalit* community included in the mainstream of national development and ensure proportional participation in all organs of the state. However, the Commission has not been envisioned as per the Paris Principles on the NHRIs.

Also, the directive principles (art 50) incorporate the principle of proportional participation of all sections in the system of governance on the basis of local autonomy and decentralization. Also, in the case *Sunil Babu Panta and others v. Nepal Government and others*, the Supreme Court of Nepal ordered the GoN to make the necessary arrangements, including making new laws or amending existing laws to ensure that people of different gender identities and sexual orientations could enjoy their rights without discrimination. *Article 38* states about the rights of women. Article 24 of the Constitution of Nepal guarantees the rights against untouchability and discrimination.

*Part 2, Article 12* states that the person who is entitled to the citizenship of Nepal by descent may obtain the citizenship certificate of Nepal from the name of "his/her mother or father" along with gender identity.

*Article 38* provisions wide range of rights for women so as to ensure equality between men and women, for instance: equal lineage right without gender based discrimination, right to participate in all bodies of the State on the basis of the principle of proportional inclusion, equal right of spouse to property and family affairs, etc. Similarly, National Women Commission has been established as constitutional body under *Article 252* which mainly aims at including women in the mainstream of national development and ensures proportional participation in all organs of the State.

As per *Article 11.2(b)*, person who has his or her permanent domicile in Nepal at the time of commencement of this Constitution shall be the citizen of Nepal by descent if his/her father **or** mother was a citizen of Nepal at his or her birth.

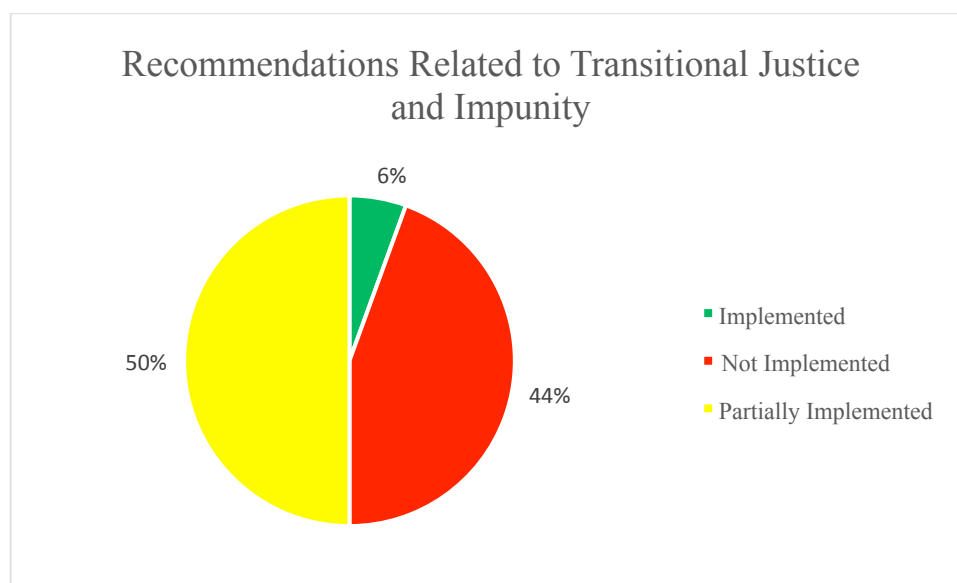
Recommendations: Constitution and National Mechanism	Status
121.2 Advance in the comprehensive implementation of the new Constitution, consistent with the protection of human rights (Colombia);	Supported
121.10 Continue efforts to improve national mechanisms for the promotion and protection of human rights (Myanmar)	Supported
122.1 Consolidate the constitution building and democratization process by accommodating all sections of Nepal to enable broad-based ownership and participation (India);	Supported
122.3 Ensure equality between men and women in its new Constitution as well as the right of all to be free from discrimination (Nicaragua)	Supported
122.21 Implement fully the Fourth 5-Year National Human Rights Action Plan for 2014-2019, to collective ownership of human rights (Cuba);	Supported
122.26 Mobilise the efforts of the international community to provide effective assistance to Nepal in accordance with national priorities (Qatar);	Supported
122.27 Study the possibility of creating a national system for the follow-up of international recommendations (Paraguay);	Supported
122.28 Consider establishing a permanent inter-ministerial committee responsible for the implementation of its international human rights obligations, inter alia, for coordinating the drafting of the national reports to the treaty bodies (Portugal);	Supported
122.52 Ensure the independence and impartiality of the judicial system, in particular through efforts to guarantee that the Judicial Council operates without interference from the Executive Branch of government (Canada);	Supported
122.68 Ensure that provisions in the revised Constitution guarantee the equal rights of women as well as their right to acquire, retain and transfer citizenship (Sierra Leone)	Supported
124.7 Consider amending the Constitution to strike provisions that appear to curtail religious freedoms (United States of America);	Noted
123.23 Consider amending the Constitution to allow women to convey their citizenship to their children and foreign spouses on an equal basis with men (United States of America);	Noted

These provisions signify that the women have right to transfer citizenship by decent in an equal footing to men. However, Article 11(5) provides that the citizenship of Nepal by decent would be provided only to a person who is born in Nepal from a woman who is a citizen of Nepal and has resided in Nepal and whose father is not traced. If such persons' father is held to be a foreign citizen, the citizenship of such person shall be converted into naturalized citizenship as provided for in the Federal law.

Provincial and local bodies require necessary legislations for the full implementation of the new Constitution and those legislations are still being drafted.

## 5.2 Transitional Justice; Enforced disappearances; Impunity

Out of 18 recommendations related to transitional justice, enforced disappearances and impunity, Nepal supported 17 and noted 1 recommendation. Out of which only 1(6%) of the recommendation has been implemented. Nine (50%) recommendations have been partially implemented and 8(44%) recommendations have not been implemented.



The Government of Nepal has responded to widespread calls for accountability for human rights violations during Nepal's conflict by enacting the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act in 2014. Pursuant to the Act, two Commissions of Inquiry (COIs) were established in February 2015: the Truth and Reconciliation Commission (TRC), which has a mandate to investigate cases of serious human rights violations including unlawful killings, sexual violence, torture and a range of other serious crimes committed during the conflict; and the Commission on Investigation of Enforced Disappeared Persons (CIEDP), which has a mandate specific to investigate the cases about the conflict related disappeared persons.<sup>19</sup>

<sup>19</sup> <http://www.ciedp.gov.np/content.php?id=15>

The commission was formed in 2013 April in order to collect and recommend taking action against the loss of human life and physical destruction during a decade long armed conflict.

The Supreme Court had also given directions to end impunity and to bring perpetrators to justice.<sup>20</sup> The special court can hear conflict related cases if the commission recommends for judicial treatment. However, Truth and Reconciliation Commission has requested for clarity with regard to the formation of a special court or to expand the jurisdiction of present special court. The term 'serious crime' has been used in the Act but it has not been defined. Thus, has been asked for the clarity by the TRC.

The Commission had appealed for collection of the complaints from victims of armed conflict from 2016 April 17 to July 17 where almost 60 thousand complaints were received.<sup>21</sup>

The TRC has received 58052 complaints of human rights violations, and the Commission of Investigation on Disappeared Persons (CIEDP) has received 2301 complaints of alleged enforced disappearances. In 2007, the Supreme Court of Nepal in *Rajendra Prasad Dhakal v. Government of Nepal (2007)* directed the Government to criminalize enforced disappearance in accordance with the UN International Convention for the Protection of All Persons from Enforced Disappearance; take action against officials found guilty of perpetrating enforced disappearances; and ensure that amnesties and pardons were not available to those suspected or found guilty of the crime.<sup>22</sup> The judgment was reiterated in *Madhav Kumar Basnet v. Government of Nepal (2014)*<sup>23</sup>. UN authorities, the UN Human Rights Committee and the UN Committee against Torture have also made calls on Nepal to criminalize acts involving gross human rights violations, including enforced disappearances and torture and other forms of ill treatment. They have made clear that by failing to do so, Nepal is in breach of its international legal obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). However, enforced disappearance and torture are still not criminal offenses under Nepali law.<sup>24</sup> Repeated Supreme Court rulings prescribed that any mechanism for transitional justice must conform to international standards and lead to criminal accountability for gross human rights violations.<sup>25</sup>

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20 *Suman Adhikari et. al. v. Government of Nepal, Office of Prime Minister and Council of Ministers, Order Num. 069-WS-0057.*

21 <http://inseconline.org/en/interview/human-rights-humanitarian-law-do-not-lie-with-in-the-boundary-of-one-country/>, accessed on 29th March 2018.

22 See, *Rajendra Prasad Dhakal and Others v. the Government of Nepal and Others, Nepal Kanoon Patrika 2064(BS), Issue 2 decision no 7817.*

23 *Madhav Kumar Basnet and others v. the Government of Nepal, Nepal Kanoon Patrika, 2070 (BS) Issue 9, decision no. 9051.*

24 'Nepal's Transitional Justice Process: Challenges and Future Strategy', Discussion Paper, August 2017, International Commission of Jurists, available at <https://www.icj.org/wp-content/uploads/2017/08/Nepal-TJus-Process-Advocacy-2017-ENG.pdf>.

25 *Ibid.*

These two Commissions of Inquiry (COI) were established initially for Two-year period but, in February 2017, their mandates were extended for one more year.<sup>26</sup> There is no tangible result produced by these two commissions so far. There is dissatisfaction among rights workers and conflict victims for just the term extension without amending the laws.<sup>27</sup> As per the Supreme Court directive for the amendment on the provisions of TRC and CIEDP Acts, the government has finally started the amendment process to include a provision for booking perpetrators of serious crimes.<sup>28</sup>

Formed on February 9, 2015, the TRC has hardly completed preliminary investigation into 1,300 while the CIEDP has short-listed some 2,300 “genuine cases” for probe.<sup>29</sup> Supreme Courts' decision to struck down the amnesty provision of the Commission on Investigation of Disappeared Persons, Truth and reconciliation Act 2014 (TRC Act) ruling out that only the judiciary, and not the commissions established by the TRC Act, can determine the criminality of any violations committed in the context of the country's decade long conflict.<sup>30</sup>

The right against Torture is incorporated as the fundamental right under the Constitution of Nepal (2015). Newly passed Criminal Code has prescribed ‘torture’ and ‘enforced disappearance’ as criminal offences. The Legislature-Parliament on Aug 31, 2016, forwarded the Bill to Control Torture, Inhuman, Brutal and Disrespectful Acts to a parliamentary committee for finalization after completing a thematic discussion.<sup>31</sup> The bill was registered in the Parliament Secretariat after the arrest of Nepal Army Colonel Kumar Lama in the United Kingdom in 2013.<sup>32</sup>

Even after more than 10 years of peace accord between the government and the CPN-Maoist, victims of the conflict have received only the interim relief but no reparation. Despite the TJ Commissions were formed in 2015, mode and methods for reparation have not been finalized.

Nepal has recently criminalized the act of torture by incorporating the provision against torture in new Criminal Code and has prescribed up to five years of imprisonment or fifty thousand rupees fine or both depending on the gravity of offence.<sup>33</sup> Anti- Torture Draft Bill ("Torture and Cruel, Inhuman or Degrading Treatment (Control) Bill") is being discussed in the parliament<sup>34</sup> and not yet been passed. This proposes to criminalize torture, to provide a mechanism for the investigation and

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26 Nepal's Transitional Justice Process: Challenges and Future Strategy, Discussion paper, August 2017, available at <https://www.icj.org/wp-content/uploads/2017/08/Nepal-TJus-Process-Advocacy-2017-ENG.pdf>

27 Statement by Conflict victim Common Platform

28 <http://kathmandupost.ekantipur.com/news/2018-03-20/process-begins-to-amend-transitional-justice-act.html>

29 <http://kathmandupost.ekantipur.com/news/2018-03-20/process-begins-to-amend-transitional-justice-act.htm> accessed on March 30, 2018.

30 <https://www.icj.org/nepal-government-must-implement-landmark-supreme-court-decision-against-impunity/>

31 <http://kathmandupost.ekantipur.com/printedition/news/2016-08-31/anti-torture-bill-moves.html>

32 *Ibid.*

33 Muluki Criminal Code *Section 167*.

34 <https://trialinternational.org/latest-post/nepal-anti-torture-draft-bill-raises-concerns-for-victims/>

prosecution of torture complaints, and to provide compensation to victims.<sup>35</sup> The Bill presented to parliament is a substantial improvement on the current legal framework and contains many positive provisions which would, if implemented, go a long way towards fulfilling Nepal's obligations under the United Nations Convention Against Torture (CAT) and other international treaties on human rights.<sup>36</sup>

However, at present, Compensation Relating to Torture Act, 2053 (1996) makes provisions on compensation for inflicting physical or mental torture upon any person in detention in the course of investigation, inquiry or trial or for any other reason or for giving cruel, inhuman or degrading treatment to such a person.<sup>37</sup> Also, section 3 of the Act provides that no person in detention in the course of investigation, inquiry or trial or for any other reason shall be subjected to torture.

Nepal has not yet signed the optional protocol to the Convention against Torture or Other Inhuman, Degrading Treatment or Punishment.<sup>38</sup>

Anti- Torture Draft Bill ("Torture and Cruel, Inhuman or Degrading Treatment (Control) Bill") puts a positive duty on officers in charge to prevent torture or ill-treatment, and a rebuttable presumption of responsibility of the superior officer where torture or ill-treatment by those under his or her command is proved (Sec. 7). Also, imposes a positive duty on all officials to inform a superior if they have knowledge that torture is to be inflicted (Sec. 8); and provides for command responsibility, and disallows any defense of acting under orders (Sec. 10).<sup>39</sup>

Nevertheless, as per section 5 of the *Compensation Relating to Torture Act, 1996*, victim or any one of the family members, in situations where the victim is not able, may, file with the District Court of the District, where he/she has been detained, and a complaint making a claim for compensation within the prescribed time.<sup>40</sup>

If the contents of such complaint are found to be true and correct, court may make a decision requiring Government of Nepal to pay compensation in a sum not exceeding One Hundred Thousand Rupees to the victim (Section 6). In addition, District Court may order the concerned body to take departmental action against the governmental employee who has inflicted such torture, in accordance with the prevailing law. (Section 7)

In practice, lawyers as well as Human Rights Defenders have no proper access to meet the detainees. Progress made by the government to ensure the prompt independent investigation on the extra

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35 <http://advocacyforum.org/downloads/pdf/publications/torture/TORTUREINNEPALIN2014EnglishVersion.pdf>

36 *Ibid.*

37 Preamble, Torture Compensation Act, 1996

38 [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-9-b&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9-b&chapter=4&clang=_en)

39 <http://advocacyforum.org/downloads/pdf/publications/torture/TORTUREINNEPALIN2014EnglishVersion.pdf>

40 35 days from the date of inflicting torture upon him/her or of his/her release from detention

judicial killings by security forces is not satisfactory. Excessive use of force in the Terai caused more than 50 deaths of the protestors. The probe Committee under the Ex supreme Court Judge has submitted a report on the atrocities during the Terai Protest, however the government is unwilling to make it public which shows government’s unwillingness to make its action transparent.

UN Special Rapporteurs (the Special Rapporteur on extra judicial, summary or arbitrary executions; the Special Rapporteur on promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to freedom of peaceful assembly and of association; and the Special Rapporteur on minority issues) jointly wrote a letter to Nepal government on 7 June 2017. In this letter, the Special Rapporteurs raised the issues of extra judicial killings and excessive use of force during the different protests in the Terai and asked the Government of Nepal to reply within 60 days. However, the Government of Nepal did not respond to the letter.

Nepal’s impunity issues are often misunderstood taking into account only the cases of conflict-time but cases of post-conflict impunity have not got much attention.

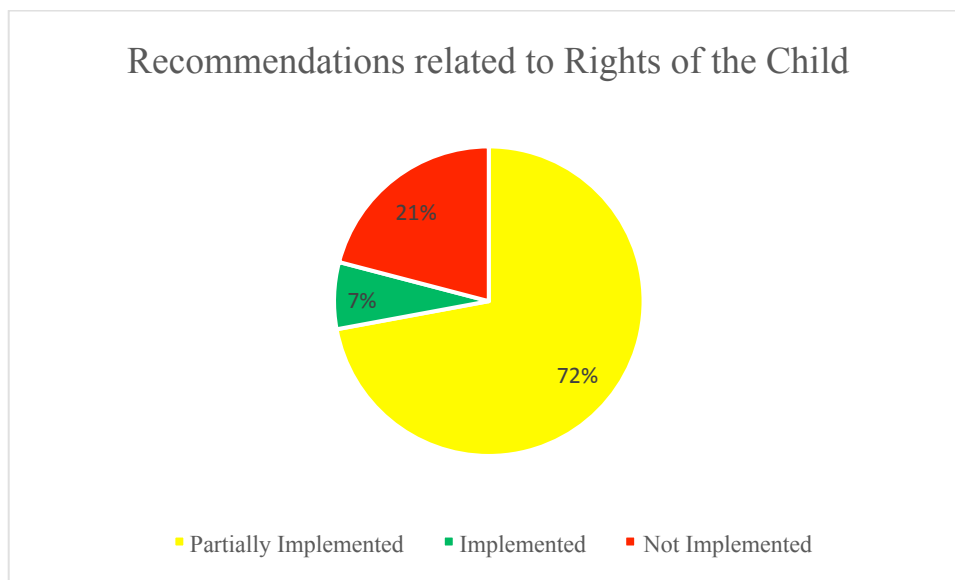
<b>Recommendations: Transitional Justice (Torture, Enforced Disappearances; Impunity; Rule of law)</b>	<b>Status</b>
<b>121.3</b> Introduce legislation providing appropriate criminal penalties for acts of torture; establish independent procedures to ensure that all allegations of torture are investigated promptly, thoroughly, impartially and independently; that any officials responsible for torture are held accountable; and that any victims of torture have the right to remedy and reparations (Germany);	<b>Supported</b>
<b>121.4</b> Explicitly prohibit torture and enforced disappearances as criminal offences under Nepali law (Norway)	<b>Supported</b>
<b>121.26</b> Promptly investigate all allegations of torture, arbitrary detention, extra-judicial and summary executions and punish perpetrators (New Zealand);	<b>Supported</b>
<b>121.27</b> Investigate allegations of extrajudicial killings and deaths in custody as well as of trafficking in human organs (Sierra Leone)	<b>Supported</b>
<b>121.28</b> Take steps to ensure that the Truth and Reconciliation Commission and the Commission on Disappearances function in accordance with international standards, and bring the perpetrators of serious human rights violations to justice (Canada)	<b>Supported</b>
<b>122.4</b> Implement the decision of the Supreme Court of 26 February 2015 [with regard to the incompatibility of the Truth and Reconciliation Commission and the Commission on Disappearances with Nepal’s international obligations], as soon as possible (Switzerland);	<b>Supported</b>
<b>122.5</b> Bring the 2014 Act on the Commission on Investigation of Enforced Disappeared Persons, Truth and Reconciliation into compliance with international norms, particularly with regard to the definition of amnesty, witness protection and the delays in processing complaints (Belgium)	<b>Supported</b>

122.24 Implement human rights education programmes for law enforcement officials (Paraguay);	<b>Supported</b>
122.25 Train the public force on human rights principles, in particular on prevention of torture and ill treatment (Djibouti);	<b>Supported</b>
122.44 Guarantee respect of the principles of proportionality and necessity in all cases of use of force in conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Switzerland);	<b>Supported</b>
122.53 Take measures to guarantee that all outstanding allegations of crimes are investigated and to ensure that perpetrators of human rights violations are brought to justice in proceedings which meet with international standards (Netherlands);	<b>Supported</b>
122.54 End the impunity of law enforcement authorities (France);	<b>Supported</b>
122.61 Investigate and prosecute those who committed human rights violations on both sides of the country's civil war and provide reparations to victims in line with international standards under the newly-formed Truth and Reconciliation Commission (New Zealand);	<b>Supported</b>
122.62 Make necessary efforts to investigate crimes under international law or human rights violations that have occurred, protecting victims of such violations and guaranteeing them access to justice and full and effective reparations (Uruguay);	<b>Supported</b>
122.63 Implement the Supreme Court rulings of 2013 and 2015 on the Truth, Reconciliation and Disappearance Act so that investigation into human rights violations committed during the civil war, compensation for victims and reconciliation efforts are undertaken in accordance with international standards on transitional justice (Czech Republic);	<b>Supported</b>
122.64 Ensure the effective functioning of the Truth and Reconciliation Commission and full implementation of its recommendations, including prosecution of those responsible for violent insurgency (India);	<b>Supported</b>
122.65 Adopt measures to ensure the participation of women in the peace process, including the truth commissions (Costa Rica);	<b>Supported</b>
123.28. Amend the 2014 Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act (TRC) in compliance with the Supreme Court ruling of 26 February, 2015 in order to uphold international standards relating to accountability for gross violations of international human rights and international humanitarian law (Denmark).	<b>Supported</b>
124.15 Strengthen the rule of law by establishing an independent complaints commission capable of investigating and prosecuting complaints against the security forces (United Kingdom of Great Britain and Northern Ireland);	<b>Noted</b>



### 5.3 Rights of the child

Out of 43 recommendations made on child rights issues, 41 were supported and two recommendations were noted by Nepal. Out of which 31 (72%) recommendations have been partially implemented and three (7%) recommendations were implemented whereas nine (21%) recommendations have not been implemented.



Children's Act of 1992 was amended on June 21, 2000 and Child Labor (Prohibition and Regulation) Act, 2006 was enacted in order to protect the rights and interests of children for the physical, mental and intellectual development of children. However, a further change has not been made in the law to include child labor in the informal sector within the purview of law. Section 13 and 14 of the children's Act 1992 mentions that indulging children in harmful cultural practices are punishable but state intervention for cultural modification to protect children is not satisfactory.

Child marriage and forceful marriages are punishable offences as per Criminal Code 2017.<sup>41</sup> However, there are inconsistencies between the Penal Code Act and Civil Code Act in addressing child marriage. While the Penal Code Act criminalizes marriage below 20 years<sup>42</sup> and declares it void ab initio i.e. the marriage does not have any legal effect,<sup>43</sup> the Civil Code Act provides that child marriages shall be legally valid, though voidable.<sup>44</sup> Additionally, the Penal Code Act also punishes minor for marrying below the minimum legal age<sup>45</sup> thus leading to double victimization. This provision does not recognize the continuum of harms resulting from child marriage leading to violation of fundamental and human rights and lack any support mechanism and social protection for girls married young.

41 *The Muluki Penal (Code) Act, 2017, Section 173*

42 *The Muluki Penal (Code) Act, 2017, part 1.2, ch. 13, sec. 173 (1)*

43 *The Muluki Penal (Code) Act, 2017, part 1.2, ch. 13, sec. 173 (2)*

44 *The Muluki Civil (Code) Act, 2017, part 3, ch. 1, sec. 73 (1) (a) (2017)*

45 *The Muluki Penal (Code) Act, 2017, part 1.2, ch. 13, sec. 173 (3) (2017)*

Based on commitments made by the Government of Nepal for the implementation of the CRC and the Declaration of the United Nations General Assembly Special Session for Children, a 10-year National Plan of Action (NPA) for Children for 2004/05–2014/15 was formulated in 2004/05 and implementation was initiated. The NPA is based on four themes identified in ‘A World Fit for Children’ and addresses various issues of child protection including promotion of healthy lives, provision of quality education, protection of children from abuse, exploitation and violence, and expansion of the principles of child participation. Following a mid-term evaluation of the NPA and review of achievements made and gaps identified, the NPA was revised and, after its approval by the Council of Ministers on 3 September 2012, is being implemented.<sup>46</sup>

In 2016, the government adopted "National Strategy to End Child Marriage" with the vision of ending child marriage by 2030, however it has not prepared budget plan for the implementation of the Strategy.

Though Central Child Welfare Board is specially working for the rights of children in Nepal, it cannot be considered a special mechanism responsible for independent child rights monitoring given its structure and mandate.

The Human Trafficking and Transportation (Control) Act, 2007 and Human Trafficking and Transportation (Control) Rules, 2008 is in force to deal with the issues of the human trafficking of women and child.

The parliamentary Committee on Women, Children, Senior Citizens and Social Welfare tabled the bill on the eighth amendment to the Education Act-1971 which was forwarded to the committee by the Parliament on January 4, 2016 for further discussion.<sup>47</sup> The bill is currently in the committee for finalization after preliminary discussion in the full House. Thirty-nine lawmakers have registered amendments to 182 provisions of the bill. The bill will be tabled in Parliament for endorsement after the committee revises it on the basis of discussion with the stakeholders.<sup>48</sup> The most contentious clauses are free basic education (grades 1-8), mandatory registration of new private schools as cooperatives and formation of the National Examination Board. Private and Boarding Schools Organization Nepal Chairman Lachhe Bahadur KC claimed that *nothing comes free; the only question is who pays the bill*.<sup>49</sup>

Infant mortality has declined by 42 percent over the last 15 years, while under-five mortality has declined by 54 percent over the same period.<sup>50</sup> Childhood mortality is relatively higher in the mountain ecological zone than in the Terai and hill zone and is highest in the Far-western region.

46 <http://unicef.org.np/uploads/files/344006198179237619-npa-english-version-final.pdf>

47 <https://thehimalayantimes.com/kathmandu/education-bill-tabled-parliament/>

48 <http://kathmandupost.ekantipur.com/printedition/news/2016-02-02/discussion-starts-on-bill-to-amend-education-act.html>

49 <http://kathmandupost.ekantipur.com/printedition/news/2016-02-02/discussion-starts-on-bill-to-amend-education-act.html>

50 Demographic and Health Survey, 2011, available at <https://dhsprogram.com/pubs/pdf/fr257/fr257%5B13%5D.pdf>

The neonatal mortality rate in the past five years is 33 deaths per 1,000 live births, which is two and a half times the post-neonatal rate. The peri-natal mortality rate is 37 per 1,000 pregnancies.<sup>51</sup> According to a report released at the Partnership for Maternal and Child Health (PMNCH) 2014 Partners' Forum in Johannesburg, South Africa (June 30- July 1, 2014), at the global convention on maternal and new born, Nepal has set an example among 10 fast-track countries which succeeded to achieve the goal on maternal and child health.<sup>52</sup>

There is lack of promotion of locally available food for mothers during pregnancy and children after six months of age. There is lack of access to health care and nutritious food for pregnant and lactating mothers in remote parts of Nepal. There is lack of a comprehensive strategy towards tackling the root causes of hunger and malnutrition with severe impact on growth, development and health of children.

The enrolment rate of children in grades 1 through 8 stands at 87 percent. Overall, the gender gap in public schools is closing: for every 100 boys attending public schools there are 99 girls. Nepal's Ministry of Education has translated the global "Education for All" initiative into a School Sector Reform Plan which constitutes the basis for all education-related programs in the country. Nonetheless, challenges persist. Enrolment rates are lower in the hills and mountains. School enrolment rates of Dalits and other disadvantaged ethnic groups in these areas are well below the national average: The majority of schools in Nepal do not meet the minimum conditions set by the Government.<sup>53</sup> 1000741 Dalit students in grade 1-8, 1907469 girl students including Karnali Package were benefitted by the scholarship program.<sup>54</sup> Similarly, 106517 students from targeted groups in basic level (children from 22 ethnic nationalities and marginalized group, freed *Kamaiya*, *Badi*, *Haliya*, *Charuwa* etc.) were benefitted by the scholarship program.<sup>55</sup> Despite the fact of certain improvement in the sector of education, enrollment and participation of children with disability is still not satisfactory.

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51 Ministry of Health and Population (MOHP) [Nepal], New ERA, and ICF International Inc. 2012. Nepal Demographic and Health Survey 2011. Kathmandu, Nepal: Ministry of Health and Population, New ERA, and ICF International, Calverton, Maryland.

52 Gita Sapkota, *Nepal achieves marvelous success in improving maternal, child health*. July 5 2014, Available at [trn.gorkhapatraonline.com](http://trn.gorkhapatraonline.com)

53 World Food Programme/Nepal: Overview. Online available at <https://www.wfp.org/countries/nepal/overview>

54 <http://www.doe.gov.np/assets/uploads/files/1e43d09e6fb3ce81ef4a498c2edca909.pdf>

55 Status Report-2013. Ministry of Education. Department of Education. Government of Nepal.

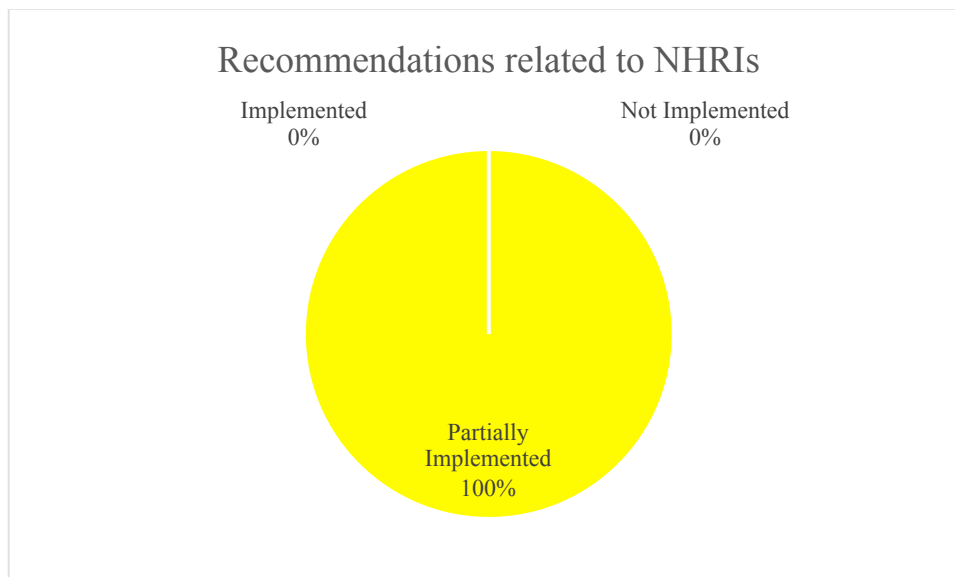
<b>Recommendations: Rights of the child</b>	<b>Status</b>
<b>121.4</b> Explicitly prohibit torture and enforced disappearances as criminal offences under Nepali law (Norway);	<b>Supported</b>
<b>121.5</b> Intensify efforts to adopt a revised Children’s Act that complies with international standards, including provisions on prohibition of all forms of violence against children, and to ensure sufficient budgetary resources to its implementation (Slovakia);	<b>Supported</b>
<b>121.6</b> Amend the existing Child Labor Act to include child labor in the informal sector within the purview of the law (Slovakia);	<b>Supported</b>
<b>121.7</b> Adopt a bill criminalizing harmful cultural practices, and abolish child, early and enforced marriage (Sierra Leone);	<b>Supported</b>
<b>121.8</b> Finalize the revision of child act in order to set up coordination mechanism related to cases of child victims trafficking (Timor-Leste);	<b>Supported</b>
<b>121.20</b> Step up efforts to eliminate gender inequity and implement the national strategy on ending child marriages (Botswana);	<b>Supported</b>
<b>121.21</b> Guarantee the necessary personal and material resources to protect victims of gender-based violence, especially in emergency situations and as it pertains to the effectiveness of protection orders (Spain)	<b>Supported</b>
<b>121.24</b> Maintain its resolve to eliminate harmful practices against women and children (Egypt);	<b>Supported</b>
<b>121.25</b> Make increased efforts to introduce and effectively carry out new measures to deal with human trafficking of women and children (Japan);	<b>Supported</b>
<b>122.2</b> Take necessary measures to ensure the guarantee in the Nepal’s Constitution of full equality between men and women with respect to the nationality of their children and in accordance with article 9 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, which Nepal has ratified (Canada);	<b>Supported</b>
<b>122.19</b> Establish a special mechanism responsible for independent child rights monitoring (Estonia);	<b>Supported</b>
<b>122.20</b> Continue its implementation of the national plan of action on the provision of education for all, including for economically disadvantaged social groups (United Arab Emirates);	<b>Supported</b>
<b>122.22</b> Enhance measures on protecting the rights of children, women and other vulnerable groups (Lao People’s Democratic Republic);	<b>Supported</b>
<b>122.29</b> Partner with States and organizations which have experience working with children affected by armed conflict to develop programmes designed to their need for	<b>Supported</b>

rehabilitation and integration (Namibia);	
<b>122.47</b> Strengthen measures to combat violence against children, particularly with regard to the prevention of early and forced child marriages and child trafficking and in particular through awareness-raising campaigns among families (Belgium);	<b>Supported</b>
<b>122.48</b> Take measures to enforce legislation prohibiting child labour and to facilitate access to education for all children, particularly the poor and disadvantaged (Brazil);	<b>Supported</b>
<b>122.49</b> Enforce legislation prohibiting child labour, facilitate access to education for poor and disadvantaged children and reinforce labour inspections (Slovenia);	<b>Supported</b>
<b>122.50</b> Reinforce and protect the rights of children, in particular by eliminating child labour and facilitating access of poor children to education (Djibouti);	<b>Supported</b>
<b>122.51</b> Give specific attention to the implementation of the plan aimed at eliminating worst form of child labour by 2016 and all forms of child labour by 2020, including prohibiting child labour in the informal sector (Russian Federation)	<b>Supported</b>
<b>122.66</b> Implement special detention and internment canthers for boys and girls, with a view to avoiding their future criminalization and to promote the reintegration into society (Chile);	<b>Supported</b>
<b>122.67</b> Amend the citizenship laws to allow citizenship through either parent (Hungary);	<b>Supported</b>
<b>122.69</b> Amend legislation on nationality in order to be able to grant Nepali nationality through either parent (Spain);	<b>Supported</b>
<b>122.70</b> Implement measures to ensure that the rights to acquire, transfer and retain citizenship are extended equally to all women and their children (New Zealand);	<b>Supported</b>
<b>122.90</b> Continue to implement policy measures to ensure that quality healthcare is accessible to all, particularly women and children (Singapore);	<b>Supported</b>
<b>122.91</b> Take measures to ensure universal vaccination coverage (Maldives);	<b>Supported</b>
<b>122.93</b> Further accelerate the efforts aiming at decreasing the infant, child and maternal mortality rates and increasing average life expectancy (Sri Lanka);	<b>Supported</b>
<b>122.94</b> Continue taking action to reduce maternal and infant mortality (Israel);	<b>Supported</b>
<b>122.95</b> Continue to implement measures to ensure all women and girls have equal access to quality sexual and reproductive healthcare (New Zealand);	<b>Supported</b>
<b>122.96</b> Consider drafting a law that makes basic education mandatory and free (Qatar);	<b>Supported</b>
<b>122.97</b> Consider expediting its work on the draft Bill to make basic education compulsory and free (Sri Lanka);	<b>Supported</b>
<b>122.98</b> Continue to increase spending on education in order to improve coverage and	<b>Supported</b>

quality of education with the special attention to the right to education of the vulnerable groups, including poor students, girls and children with disabilities	
<b>122.99</b> Implement ongoing national policies to guarantee quality education to the multi-ethnic people (Lao People’s Democratic Republic);	<b>Supported</b>
<b>122.100</b> Accelerate the discussions regarding the bill to make basic education compulsory and free, currently under consideration (Israel);	<b>Supported</b>
<b>122.101</b> Accelerate the process of considering the Education Bill currently under consideration at the Ministry of Education (Afghanistan);	<b>Supported</b>
<b>122.102</b> Ensure equal access to education for all children (Namibia);	<b>Supported</b>
<b>122.103</b> Continue its efforts to improve access to education for all, including by providing adequate resources (Indonesia);	<b>Supported</b>
<b>122.104</b> Ensure equal educational opportunities for all children, including girls and Dalit children, in line with the observations made by the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights (Finland)	<b>Supported</b>
<b>122.105</b> Continue to pursue policies that will increase enrolment in schools of school-going aged children, in particular girls, and children from indigenous communities and minorities (Singapore);	<b>Supported</b>
<b>122.106</b> Continue strengthening successful social policies that promote access to education and health of the people, particularly for women and children (Bolivarian Republic of Venezuela);	<b>Supported</b>
<b>122.107</b> Amend current education policies to ensure an inclusive education system and implement concrete measures to increase the participation of children with disability (Norway);	<b>Supported</b>
<b>122.108</b> Take measures to ensure compulsory and free primary and quality education for all (Maldives);	<b>Supported</b>
<b>123.29.</b> Raise the age of criminal responsibility of children that currently stands at 10 years of age (Chile);	<b>Noted</b>
<b>124.8</b> Set up an independent Commission for children and women (India);	<b>Noted</b>

## 5.4 National Human Rights Institutions

Out of six recommendations made on the issues of National Human Rights Institutions, all six were supported by Nepal. All six recommendations have been partially implemented.



The National Human Rights Commission Act, 1996 has been repealed by the National Human Rights Commission Act 2012<sup>56</sup> and is an independent and autonomous constitutional body however there are questions raised on its independence in line with international standard.<sup>57</sup>

National Human Rights Commission has been entitled with the duties to respect, protect and promote human rights and their effective enforcement as per Article 249 (1) of the Constitution of Nepal-2015. As a constitutional body, therefore, the Commission has been accomplishing its constitutional responsibilities through monitoring the human rights situation, investigation and promotion of human rights.<sup>58</sup>

National Human Rights Commission Act, 2012 has made number of provisions to ensure the autonomy of National Human Rights Commission. For instance, section 32 provides power to the commission to frame necessary Rules to fulfill the objectives of this Act. Similarly, section 33 of the act holds that no suit or legal proceedings shall be taken regarding any act done or intended to be done in good faith by the Commission.

As per article 249 of the Constitution of Nepal 2015, Human Rights Commission may exercise all such powers as of a court in respect of the summoning and enforcing the attendance of any person before the Commission and seeking and recording his or her information or statements or depositions, examining evidence and producing exhibits and proofs, also to search any person or his

56 <https://reliefweb.int/report/nepal/nepal-human-rights-commission-annual-progress-report-synopsis-2015-2016-enne>

57 <https://www.hrw.org/news/2016/04/14/nepal-end-intimidation-human-rights-commission>

58 <https://reliefweb.int/report/nepal/nepal-human-rights-commission-annual-progress-report-synopsis-2015-2016-enne>

or her residence or office, enter such residence or office without notice, and, in the course of making such search, take possession of any document, evidence or proof related with the violation of human rights, upon receipt of information by the Commission in any manner that a serious violation of human rights has already been committed or is going to be committed.

As per section 4(2) of the Act the Commission shall be independent and autonomous in fulfilling the work of ensuring respect, protection and promotion of human rights. NHRC has also been monitoring economic, social and cultural rights. One of such tools to monitor right to food is ‘Monitoring Framework for the Implementation of Human Right to Adequate Food in Nepal’ prepared in 2017.<sup>59</sup>

There is poor state of implementation of recommendations made by the NHRC. There is no monitoring mechanism to monitor effective implementation of the recommendations of the Commission.

National Women Commission is now a constitutional body as per the Constitution of Nepal 2015 (art. 252) which engages in formulation of policies and programs concerning the rights and interests of the women and submits them to the Government of Nepal for implementation.

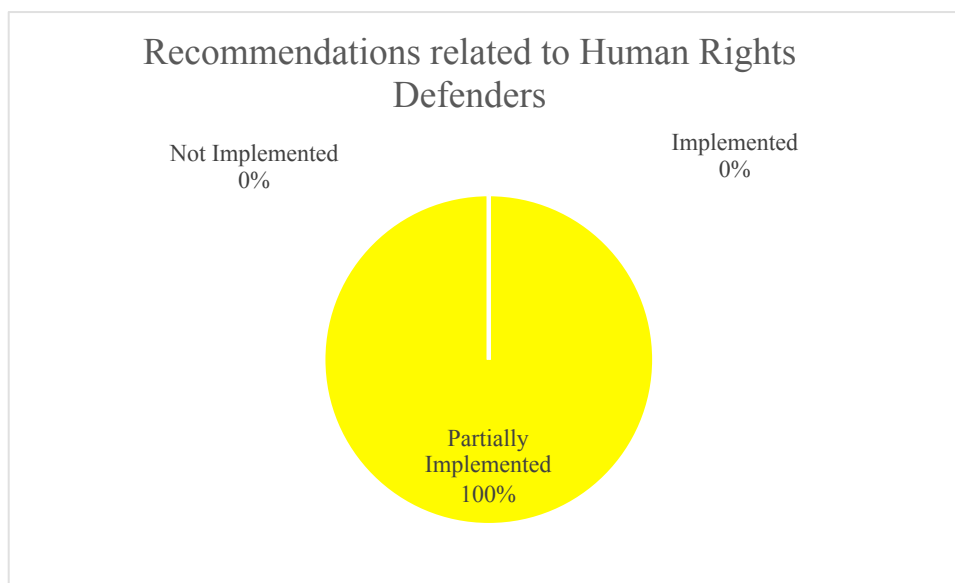
<b>Recommendations: National Human Rights Institutions</b>	<b>Status</b>
<b>121.11</b> Amend its National Human Rights Commission Act in order to guarantee the independence and financial autonomy of this Commission (Portugal);	<b>Supported</b>
<b>121.12</b> Enact relevant legislation to provide for necessary autonomy and independence of the National Human Rights Commission in accordance with the decision of the Supreme Court of Nepal (Uganda);	<b>Supported</b>
<b>121.13</b> Ensure the effective functioning of the National Human Rights Commission of Nepal, including a representative approach to appointments (Australia);	<b>Supported</b>
<b>122.15</b> Ensure the effective functioning of the National Human Rights Commission in accordance with the Paris Principles, in particular by providing the Commission with required and adequate levels of funding as well as sufficient autonomy (Republic of Korea);	<b>Supported</b>
<b>122.16</b> Ensure the independence and financial autonomy of the National Human Rights Commission (India);	<b>Supported</b>
<b>122.17</b> Strengthen its National Commissions, namely the National Women Commission, in order to implement the adopted policies (Portugal);	<b>Supported</b>

## 5.5 Human Rights Defenders

<sup>59</sup> <http://www.fao.org/3/a-i7601e.pdf>



Out of four recommendations made on the issues of Human Rights Defenders, all four were supported by Nepal. All four recommendations have been partially implemented.



Human Rights Defenders shall not be victimized of any kinds of violent activities and in case of occurrence of such activities, necessary steps is taken in regard to investigation as well as prosecution is done according to the guidelines of the European Union is followed and the Directive Order made by the Supreme Court regarding the protection of the Women Human Rights Defenders.<sup>60</sup>

Besides having the constitutional provision for the independence in carrying out the work, journalist have been facing various threats including the threat of physical violence. Federation of Nepalese Journalists provides names of 36 journalists killed and 4 enforced-disappeared during conflict and to date.<sup>61</sup> Likewise, FNJ's listed total 73 cases of violation of press freedom.<sup>62</sup>

A study conducted by INSEC reported total 201 cases of violence against human rights defenders. These defenders include, human rights activists, teachers, journalists, law professionals and health professionals.<sup>63</sup> The NHRC has published the Guideline for Human Rights Defenders to empower human rights defenders.<sup>64</sup> The guidelines prescribe the things to be considered by human rights defenders for their individual safety.

60 <http://www.nawhrd.org/index.php/about-nawhrd>

61 [http://www.fnjnepal.org/uploads/freedoms/freedom\\_1502098548.pdf](http://www.fnjnepal.org/uploads/freedoms/freedom_1502098548.pdf)

62 Annual Press Freedom Violation Data from May 4, 2016 to May 3, 2017, available at [http://www.fnjnepal.org/uploads/freedoms/freedom\\_1502095635.pdf](http://www.fnjnepal.org/uploads/freedoms/freedom_1502095635.pdf)

63 INSEC, Situation of Human Rights Defenders in Nepal (From January to October 2012), <http://www.insec.org.np/wp-content/uploads/2017/12/Situation-of-Human-Rights-Defenders-in-Nepal-January-to-October-2012.pdf>

64 [http://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/HRDefendor%20and%20Sahakarya%20Guideline-Nep2069.pdf](http://www.nhrcnepal.org/nhrc_new/doc/newsletter/HRDefendor%20and%20Sahakarya%20Guideline-Nep2069.pdf)

Section 47 of Electronic Transaction Act, 2008 states that if any person publishes or displays any material in the electronic media which are legally/morally prohibited or against the decent behavior, shall be liable to the punishment with the fine not exceeding One Hundred Thousand Rupees or with the imprisonment not exceeding five years or with both.

Supreme Court had issued a show-cause notice to the government and concerned ministries for prosecuting civilians by defining their comments and opinions on social networking sites as cybercrimes in a writ of mandamus which had been filed seeking nullification of clauses 1 and 2 of article 47 in the Electronic Transactions Act that curtails the right of free speech and freedom of expression secured under article 17 of the Constitution of Nepal 2015.<sup>65</sup>

However, Human Rights Defenders Bill 2066 (2009)<sup>66</sup> in Chapter-5 states about the Protection of Human Rights Defenders’ Service. The draft Nepali decree contains a good example of preventive measures under which human rights defenders cannot be detained or prosecuted in the course of their duties (unless they commit a crime), neither can they be forced to testify or to make statements based on information they have acquired as a result of their work as defenders. Both measures are important to avoid the criminalization of defenders.<sup>67</sup>

In addition, The Human Rights Defender Directive, 2013 was formulated by the NHRC on January 20, 2013 for strengthen and systematize the role of human right defenders in the protection and promotion of human rights and also for the protection of Human Rights Defenders.<sup>68</sup>

<b>Recommendations: Human Rights Defenders</b>	<b>Status</b>
<b>122.60</b> Investigate all case of threat and attacks against human rights defenders (Botswana)	<b>Supported</b>
<b>122.72</b> Ensure the right to freedom of expression online/offline in law and in practice, including by decriminalizing defamation, and to investigate all cases of threats and attacks against journalists and human rights defenders (Estonia)	<b>Supported</b>
<b>122.73</b> Create and maintain, in law and practice, a safe and enabling environment in which journalists, media workers, human rights defenders and civil society can operate free from hindrance and insecurity, in accordance with Human Rights Council resolutions 22/6, 27/5 and 27/31 (Ireland)	<b>Supported</b>
<b>122.74</b> Ensure that freedom of assemblies are guaranteed and lift all restrictions on peaceful protests (Cyprus);	<b>Supported</b>

65 <http://kathmandupost.ekantipur.com/news/2015-11-23/online-policing-sc-serves-govt-show-cause.html>

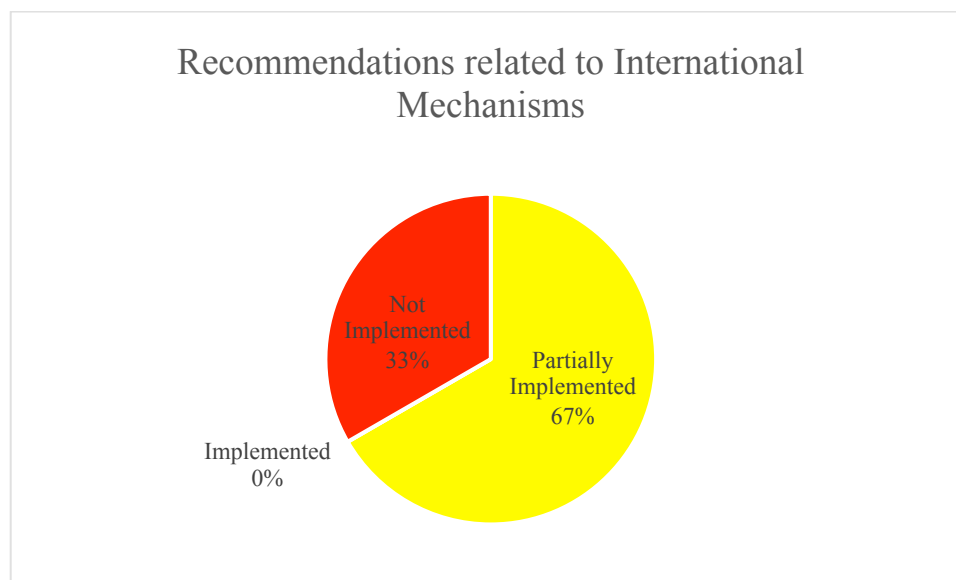
66 Draft proposal sent by the Nepalese NGO Informal Sector Service Center (*INSEC*, <http://www.insec.org.np>), in September 2009, prior to it being discussed by the relevant authorities in Nepal.

67 <https://www.forum-asia.org/uploads/wp/2016/11/7.-Nepal-Final.pdf>

68 Preamble, Human Rights Defender Directive, 2013 (Published by the NHRC)

## 5.6 International Mechanisms

Six recommendations were made on the issue of international mechanisms. All six were supported by Nepal. None of the recommendation has been implemented so far but 4 (67%) recommendations have been partially implemented and 2 (33%) recommendations have not been implemented.



Despite the ratification of seven of the core nine Conventions, implementation status is not satisfactory as expected.

Though the State had shown the commitment to ratify ICC statute in June session, 2011; the statute has not yet been ratified. State should ratify the Statute as soon as possible.

Though Nepal has already ratified the Convention on the Transnational Organized Crime on 23rd Dec. 2011, ratification of UN Trafficking in Persons (TIP) and Smuggling of Migrants (SOM) Protocols are still underway.<sup>69</sup>

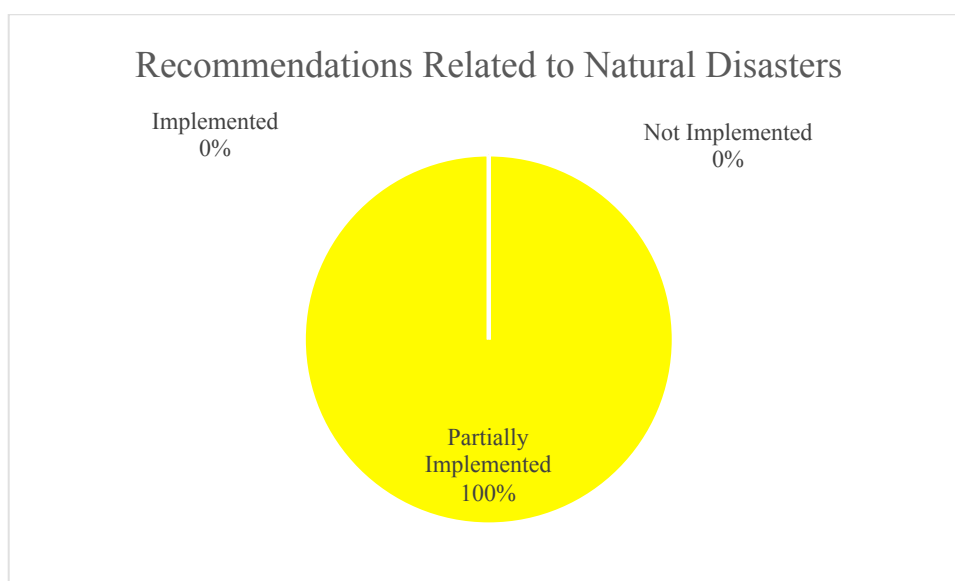
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990; International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), 2006; Convention relating to the Status of Refugee, 1951; the Optional Protocol to the International Convention on Economic, Social and Cultural Rights, 2008; the Optional Protocol to the Convention against Torture (OPCAT), 2002; the Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure, 2011 and Additional Protocols to the Geneva Conventions have not been in line to consider ratification.

<sup>69</sup> <https://www.unodc.org/unodc/en/human-trafficking/glo-act/glo-act-briefs-nepali-authorities-on-the-ratification-process-for-the-un-trafficking-and-smuggling-protocols.html>

Recommendations: International mechanisms	Status
121.1 Continue to ensure the implementation of ratified human rights treaties (Pakistan)	Supported
121.14 Submit its overdue reports on the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women (Portugal);	Supported
121.15 Further promote cooperation with the Human Rights Council special procedures, including facilitating the visits of the mandates holders to the country (Ukraine)	Supported
122.31 Continue cooperation with the United Nations system (Ghana);	Supported
123.1 Study the possibility of accepting the competence of the Committee against Torture (Panama)	Supported
123.2 Study the possibility of the ratification of the Optional Protocol to the Convention against Torture (Panama);	Supported

## 5.7 Natural disasters

Out of six recommendations made on the issues of natural disasters, all six were supported by Nepal. All six recommendations have been partially implemented.



International support has been received by Nepal for the reconstruction purposes related to the 2015 earthquake. UNDP has played a significant role in supporting the National Planning Commission for

conducting the Post- Disaster Needs Assessment (PDNA) in partnership with the Asian Development Bank, the European Union, the Japan International Cooperation Agency, and the World Bank.

The National Reconstruction Authority (NRA), a government body formed under the Act Relating to Reconstruction of the Earthquake Affected Structures, 2015 to carry out post-earthquake reconstruction works, was able to use only Rs 6.11 billion of allocated fund of Rs 65 billion in the Fiscal year 2016-2017.

As of 28 March, 2018, 1,12,450 new houses have already been constructed while 3,76,027 houses are still under construction. 689559 families first installment of monetary supports. For the second installment out of 326298 applications 318086 were approved and 277984 received the payments. Out of 92140 applicants for the third installment, 85475 were approved and so far 64397 have received the payment.<sup>70</sup>

So far, the Authority has received 237085 complaints. Out of which 205584 complaints were entertained and all were resolved.<sup>71</sup> However, 31,501 complaints are still pending or unheard about which the NRA’s web site does not clearly mention. Most complaints are related with land tenure and people’s ownership on land.

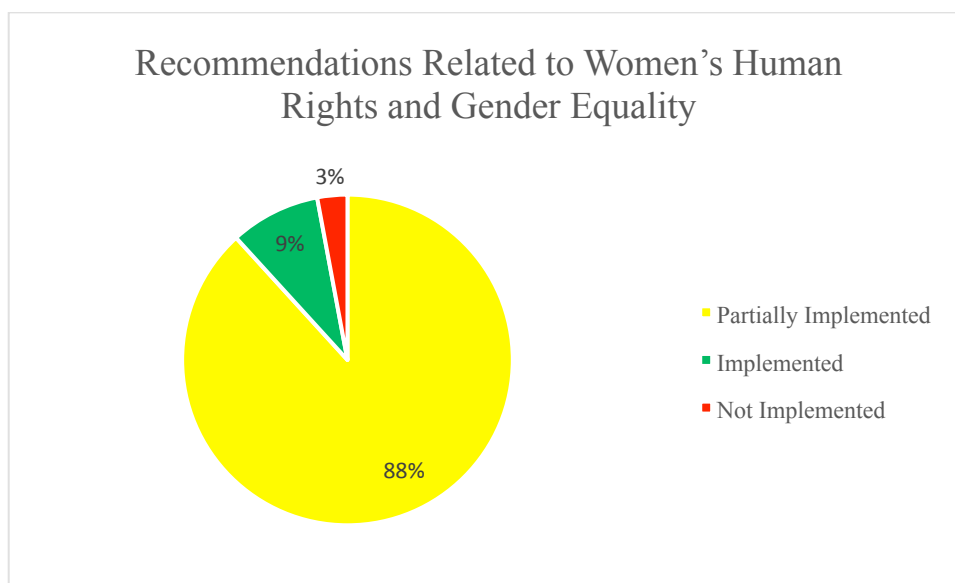
<b>Recommendations: Climate and 2015 earthquake</b>	<b>Status</b>
<b>121.30</b> Further strengthen the capacity in implementing the environmental strategies and plan to combat natural disasters. (Myanmar)	<b>Supported</b>
<b>121.31</b> Ensure that its climate change-related policies are informed by its human rights commitments and obligations (Philippines)	<b>Supported</b>
<b>122.30</b> Seek enhanced international support for economic development and reconstruction of infrastructure destroyed due to the conflict and the devastating earthquakes (Bhutan)	<b>Supported</b>
<b>122.56</b> Develop a redress mechanism to address all forms of discrimination and human rights violations in post-earthquake reconstruction efforts (Australia)	<b>Supported</b>
<b>122.111</b> Ensure that earthquake relief engages and addresses the needs of members of vulnerable communities, including Dalits, and promotes decent work (United States of America);	<b>Supported</b>
<b>122.113</b> Continue making progress in the implementation of measures to offer assistance and rehabilitation to persons displaced due to natural disasters (Colombia)	<b>Supported</b>

<sup>70</sup> <http://nra.gov.np/mapdistrict/datavisualization>

<sup>71</sup> Ibid.

## 5.8 Women’s Human Rights and Gender Equality

Out of 34 recommendations made of the issue of women’s human rights and gender equality, Nepal supported 33 recommendations and noted one recommendation. Out of supported 33 recommendations 30 (88%) recommendations have been partially implemented, 3 (9%) recommendations have been implemented and 1 (3%) recommendation has not been implemented.



A wide range of rights of women have been safeguarded under Article 38 of Constitution of Nepal (2015) so as to ensure equal lineage right without gender-based discrimination.

Most prisons in Nepal are overcrowded and the conditions of detention are extremely poor.<sup>72</sup> The National Human Rights Commission of Nepal has written to the office of Prime Minister, Home Ministry and prison Management Department to draw their attention to improve the condition of prisons in various districts.<sup>73</sup>

In order to ensure women’s easy access to justice, Domestic Violence (Crime and Punishment) Act, 2009 has been amended and brought changes in its certain provision also with more clarity in its definitions. The property right of the women is also made stronger than before.

National Women’s Commission of Nepal is now a constitutional body. The Commission was established on 7<sup>th</sup> March 2002 and was regulated by National Women Commission Act, 2007 and National Women Commission Regulation, 2009. The Commission is in the process of preparing the draft of its new act in compliance with the provisions of the new constitution.<sup>74</sup>

<sup>72</sup> Mahendra Nath Upadhyaya, *Overcrowding of Prison Population Populations: The Nepalese Perspective*, available at [http://www.unafei.or.jp/english/pdf/RS\\_No80/No80\\_13PA\\_Upadhyaya.pdf](http://www.unafei.or.jp/english/pdf/RS_No80/No80_13PA_Upadhyaya.pdf)

<sup>73</sup> “NHRC urges government to improve prison facilities”, *MY Republica*, 12 July 2015.

<sup>74</sup> <http://www.nwc.gov.np/content/about-national-women-commisison-nepal.html>

As per Art.253(f) of the constitution of Nepal 2015, the functions, duties and powers of the National Women Commission shall be to forward a recommendation to concerned authority to lodge a petition in the court, in accordance with the law, in matters related with gender violence, and women deprived of women rights due to social malpractices.

Article 18 of the Constitution of Nepal 2072 ensures that no citizens shall be discriminated on the ground of race, sex, economic condition and similar other grounds. Nevertheless, special provisions may be made for the protection, empowerment or development of the citizens including the socially or culturally backward women, Dalit, indigenous people, indigenous nationalities, etc.

The rights of women are secured in laws but they are not aware about the fact which has been a major problem. The patriarchal societal structure has made it hard to deal with the issues of domestic violence since the complaints are generally not lodged by the victims. The interim protection measures envisioned by the Act has not been effective. It is necessary to organize awareness-raising program to combat negative stereotyping against women.

Women, girls and children are often targeted by criminals and people doubt that they are living in a safe and confidential environment. Female police officers at police stations have started to comfort the female victims to lodge the crimes of trafficking, sexual violence and offences of similar nature.

Despite having the Labor Act, 1992 and being the member of ILO, there still remains the wage gap in between male and female worker especially in the industrial sector or in non-formal jobs. There has been a trend of employing women usually in low skilled jobs. Since, they work on daily wage; they are subjected to lower pay. There is massive gender stereotyping in labor market in Nepal.

After constitutional guarantee of women's representation in all levels, women have now access to the decision making positions to the extent of 33 % at the Federal legislature, 34% at Provincial legislature and 40.95% at Local Government.<sup>75</sup>

The newly enacted Criminal Code prohibits sexual relationship or sexual intercourse with prisoners by government authority.<sup>76</sup> Likewise the Code prohibits sexual relationship or sexual intercourse with person under guardianship or protection or subordinates in the workplace.<sup>77</sup> Violence and discrimination on the ground of sex that takes place at work place has also been put in the frame for discussion and its prevention.

Forty percent seats in civil services have been reserved to economically and socially backward women, Indigenous/ indigenous nationalities, *Madhesi*, and *Dalit* to make civil service inclusive.<sup>78</sup> National and international organizations have been promoting and providing opportunities to women by giving preferences to the application of the women and indigenous people while hiring staffs.

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75 <http://result.election.gov.np/>

76 Section 221 of Criminal Code, 2017.

77 Section 222 and 223 of Criminal Code, 2017.

78 Section 7(7) of the Civil Service Act, 1993 (second amendment 2007).

The women of rural areas have less access to quality reproductive health care. The maternal mortality ratio (MMR) in Nepal was 239 maternal deaths per 100,000 live births in 2016. In 2016, roughly 12% of deaths among women of reproductive age were classified as maternal deaths.<sup>79</sup>Hospitals and health posts often lack competent and qualified health professionals in rural areas. This has to be serious concern of the government to strengthen the health sector and has to come up the strong policies.

In order to ensure equal opportunities for women in the labor market Labor Act 1992 has been repealed and new Labour Act 2017 has been enacted.<sup>80</sup>Section 69 of the Labour Act 2017 prescribes responsibilities to the employers for the guarantees of health and safety of workers. As per article 38(4) of the Constitution of Nepal (2015) Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion. Right to labour has been guaranteed as fundamental right under article 34 of the Constitution according to which every labourer shall have the right to practice appropriate labour. Labour Act 2017 mentions that minimum remuneration shall be fixed as per agreement and shall not be less than as fixed by Minimum Remuneration Fixation Committee of Government of Nepal.

The role and contribution of women's work in natural resources activities should be recognized by the state in its legal regime. The state should guarantee that women have equal ownership right over land and proportionate participation and representation of women in the user groups related to natural resources management e.g. agriculture, forest, water, VDC level planning, cooperative management etc. A targeted program should be implemented to support rural and low resource / income base women of marginalized and traditionally disadvantaged groups to access and utilize the natural resources for their livelihood.

Right relating to health has been guaranteed as fundamental right under article 35 of the Constitution of Nepal 2015, according to which every citizen shall have the right to free basic health services from the State, and also have equal access to health services. Furthermore, women shall have special opportunity in education, health, employment and social security, on the basis of positive discrimination (article 38(5)).

Children have been guaranteed the right to health, among other, as per article 39 of the Constitution.

The right to safe motherhood and reproductive health have been secured as fundamental right under article 38(2) of the Constitution. The government has also initiated a process of drafting a comprehensive *Reproductive Health Bill (RH Bill)* with focus on various components of reproductive health such as family planning, safe abortion, safe motherhood, treatment of reproductive morbidity, and access of adolescents and persons with disability as a cross cutting issue

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79 <https://www.mhtf.org/2017/12/29/the-current-state-of-maternal-health-in-nepal/>

80 <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/105434/128931/F-1418263960/NPL105434%20Nep.pdf>



in all components. The *RH Bill* received “in principle consent” from the Cabinet in 2017, however the process is stalled due to the elections and several other reasons.

Similarly, Rights of Persons with Disabilities Act 2074, sec 19(2) mentions the duty of Nepal government, to secure the protection of health and reproductive right of women with disabilities.

Article 31 of the Constitution mentions about the right to get compulsory and free education up to the basic level and free education up to the secondary level from the State. The Constitution further mentions that citizens with disabilities and the economically indigent citizens shall have the right to get free higher education in accordance with law.

In order to ensure that the women have easy access to justice, Domestic Violence (Crime and Punishment) Act, 2008 has been amended and brought changes in its certain provision also with more clarity in its definitions. The property right of the women is also made stronger than before. Implementation of the Act is still challenging.

The new Criminal Code has broaden the definition of rape and has also made marital rape a non-bailable crime and increased jail term up to five years. Besides, the Act has also increased imprisonment for acid attack convicts to up to eight years in jail and fine ranging from NRs. 1,00,000 upto NRs. 8,00,000.<sup>81</sup>

Government of Nepal has passed the Criminal Code which address the gender-based violence. The code will come into force from August 2018. Likewise, an Act has been passed by legislative parliament of Nepal to combat sexual harassment in working place.<sup>82</sup>

The 35-day limitation on lodging a complaint of rape has been amended and extended it for **6 months** on Muluki Ain 2020, Chapter on Rape, Section 11. New Criminal Code has extended the limitation to one year from the date of commission of such crime.

Recommendations: Women’s human rights and gender equality	Status
122.8 Develop a national action plan to end gender-based violence and to bring rape laws in line with international standards (Australia);	Supported
122.9 Bring the laws on rape into compliance with international norms, particularly with regard to the legal definition of rape and the timeframe to file complaints (Belgium);	Supported
122.11 Enact the draft law on sexual harassment in the workplace (Algeria);	Supported
122.12 Consider adopting a national legislation on combating sexual harassment (Egypt);	Supported

81 Section 193(1) of Muluki Criminal Code 2017.

82 The Sexual Harassment at Workplace Prevention Act, 2015 (2071), came into effect on February 20, 2015 (Falgun 08, 2071).

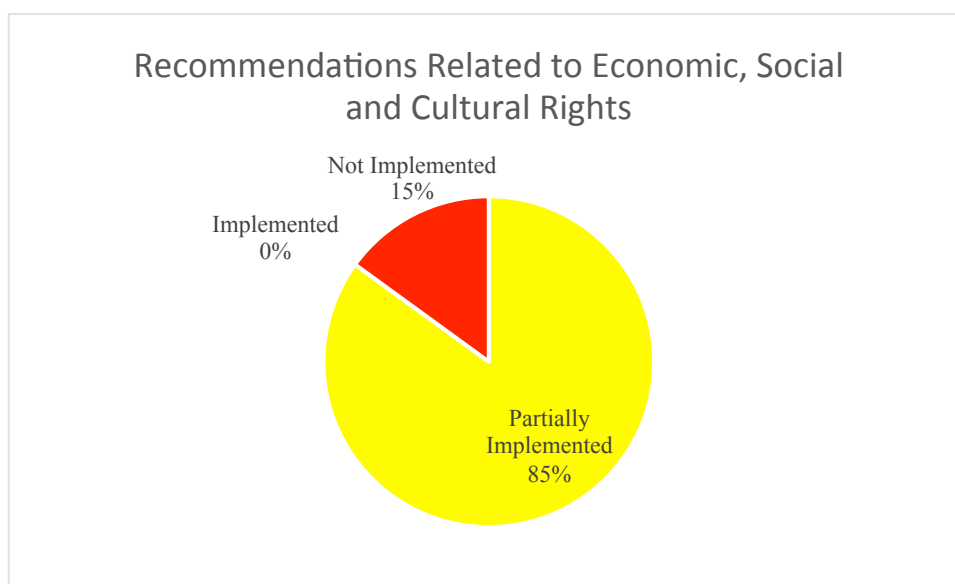
<b>122.13</b> Bring rape laws in line with international standards and remove the 35-day limitation on lodging a complaint of rape with the police (Republic of Korea);	<b>Supported</b>
<b>122.14</b> Remove, or at least extend, the 35-day statute of limitations of reporting rape cases (United Kingdom of Great Britain and Northern Ireland);	<b>Supported</b>
<b>121.17</b> Strengthen its efforts to effectively implement existing laws and policies to eliminate all forms of discrimination (Thailand)	<b>Supported</b>
<b>121.18</b> Make increased efforts to truly bring an end to discrimination (Japan)	<b>Supported</b>
<b>121.19</b> Increase efforts to protect women from violence and discrimination, in particular in areas affected by the earthquakes (Norway)	<b>Supported</b>
<b>121.23</b> Make further efforts to ensure safety in prisons for both men and women (Sweden);	<b>Supported</b>
<b>122.10</b> Effectively enforce its legislation on domestic violence and expedite the adoption of the Bill on Gender Equality and Violence against Women (Slovenia);	<b>Supported</b>
<b>122.18</b> Continue making progress in the protection of women rights, consolidating existing institutional mechanisms (Bolivarian Republic of Venezuela)	<b>Supported</b>
<b>122.23</b> Increase awareness-raising campaigns on women's rights and the negative effects of gender-based violence (Slovenia);	<b>Supported</b>
<b>122.34</b> Promote gender equality including through an awareness-raising program to combat negative stereotyping against women (Malaysia);	<b>Supported</b>
<b>122.45</b> Combat violence against women and guarantee equality of rights (France);	<b>Supported</b>
<b>122.46</b> Ensure that the police provide a safe and confidential environment for women and girls to report incidents of violence, including sexual violence and incidents of trafficking, and that all complaints are recorded and effectively investigated (Netherlands);	<b>Supported</b>
<b>122.57</b> Ensure that law enforcement thoroughly investigates all claims of domestic violence, and that perpetrators are prosecuted (Canada);	<b>Supported</b>
<b>122.58</b> Facilitate complaints from victims of gender-based violence and their access to justice, prosecute and punish the perpetrators and protect the victims (Slovenia);	<b>Supported</b>
<b>122.59</b> Adopt effective measures for the protection of and assistance to victims of gender-based violence and ensure that all cases of gender-based violence are duly investigated and perpetrators prosecuted (Czech Republic);	<b>Supported</b>
<b>122.75</b> Redouble efforts towards providing more opportunities for women's active involvement in the economic and political spheres (Mauritius);	<b>Supported</b>
<b>122.76</b> Continue to advocate for the principle of equality between men and women in the decision making (Timor-Leste);	<b>Supported</b>

122.77 Speed up the process to promote more participation of women in public offices (Israel);	<b>Supported</b>
122.78 Ensure equal opportunities for women in the labour market (South Africa);	<b>Supported</b>
122.81 Ensure equal remuneration for men and women workers for the same work or similar work and for the prevention of discrimination on grounds of sex (South Africa);	<b>Supported</b>
122.90 Continue to implement policy measures to ensure that quality healthcare is accessible to all, particularly women and children (Singapore);	<b>Supported</b>
122.95 Continue to implement measures to ensure all women and girls have equal access to quality sexual and reproductive healthcare (New Zealand);	<b>Supported</b>
122.104 Ensure equal educational opportunities for all children, including girls and Dalit children, in line with the observations made by the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights (Finland);	<b>Supported</b>
122.106 Continue strengthening successful social policies that promote access to education and health of the people, particularly for women and children (Bolivarian Republic of Venezuela);	<b>Supported</b>
122.115 Continue to implement policies for women development under SDGs (Pakistan).	<b>Supported</b>
122.6 Amend the Domestic Violence Act, in particular to clarify the definition of sexual harm and broaden the definition of domestic violence to also include threats of violence, as well as include all types of physical harm (Norway);	<b>Supported</b>
122.7 Amend legislation on domestic violence to encompass all forms of sexual violence, including between partners and outside marriage, in addition to threats (Spain);	<b>Supported</b>
122.32 Continue efforts to sanction discrimination and violence against women and ensure that there are adequate mechanisms for the provision of assistance and protection to women victims of crime (Mexico)	<b>Supported</b>
122.71 Provide protection to the family as the natural and fundamental unit of the society (Egypt);	<b>Supported</b>
123.24 Enact consolidated laws addressing all types of sexual violence effectively, with provisions of no statutory limitation on rape and other sexual violence, adequate witness and victim protection mechanisms, compensation from state and measures to address special needs of girls below 16 (Norway);	<b>Noted</b>

## 5.9 Economic, Social and Cultural Rights

*(Issues of education have already been discussed in recommendation no.122.98 recommended by China, recommendation no. 122.100 recommended by Israel, recommendation no.122.48 recommended by Brazil and 122.49 recommended by Slovenia.)*

All together 20 recommendations were made on economic, social and cultural rights. Nepal supported all 20 recommendations. Out of 20 recommendations none of the recommendation has been fully implemented. 17 (85%) recommendations have been partially implemented and 3 (15%) recommendations have not been implemented.



The Government of Nepal has established National Reconstruction Authority (NRA)<sup>83</sup>, responsible for the central coordination, planning and financial management of the earthquake related reconstruction effort.

The international support has been received by Nepal for the reconstruction purpose. National Planning Commission with support of UNDP has conducted Post- Disaster Needs Assessment (PDNA) in partnership with the Asian Development Bank, the European Union, the Japan International Cooperation Agency, and the World Bank.

It cannot be denied that the government is behind in framing the policies and programs for the development of agricultural and animal husbandry sectors for the increment of national economy. Government needs to create an environment for the investment in such sectors.

Freed bonded laborers got land for their settlement and the land they received is not sufficient for the family to survive from the crops they can produce from that piece of land. Out of total 8,910, a total of 8,203 households were rehabilitated before the last fiscal (2016) after they were freed 11 years

<sup>83</sup> Section 3, Act Relating to Reconstruction of the Earthquake Affected Structures, 2015 available at <http://nra.gov.np/uploads/brochure/kcuWTDTZkP160114062918.pdf>

ago.<sup>84</sup> According to District Land Reform Office, Kailali, out of 370 million rupees allotted for the rehabilitation of *Kamaiyas*, 120 million rupees was not utilised. “A huge budget froze as the freed *Kamaiyas* demanded rehabilitation at the places where they had been staying and also due to lack of appropriate land in the district.”<sup>85</sup>

Under the ‘Policies relating to Social Justice and Inclusion’ of the Constitution of Nepal (2015)<sup>86</sup>, it has been envisioned to identify the freed bonded labours, *Kamlari*, *Harawa*, *Charawa*, tillers, landless, squatters and provide them with a housing plot for residence and cultivable land or employment for their livelihoods.

The State also has adopted ‘zero hunger plan of action’ which has been formulated under the Sustainable Development Goals, Goal (2).

Recommendations: Economic, social and cultural rights	Status
121.32 Continue its efforts in adopting development policies which meet the needs of the people and improve the standard of living of the citizens in order to protect and promote human rights (Yemen).	Supported
122.20 Continue its implementation of the national plan of action on the provision of education for all, including for economically disadvantaged social groups (United Arab Emirates).	Supported
121.22 Put emphasis on suicide prevention and support to these people and their families, taking into account the despair generated by such act (Haiti).	Supported
122.30 Seek enhanced international support for economic development and reconstruction of infrastructure destroyed due to the conflict and the devastating earthquakes (Bhutan).	Supported
122.41 Take all necessary measures to ensure effective implementation of the Caste-based Discrimination and Untouchability Act of 2011 and to eliminate all forms of discrimination against women (Namibia);	Supported
122.75 Redouble efforts towards providing more opportunities for women’s active involvement in the economic and political spheres (Mauritius).	Supported
122.79 Continue to build on the successful programs for the creation of jobs and assistance to those most vulnerable, in the fight against poverty and social inequalities (Bolivarian Republic of Venezuela);	Supported

84 <https://thehimalayantimes.com/nepal/budget-kamaiya-rehabilitation-frozen/> August 03, 2017

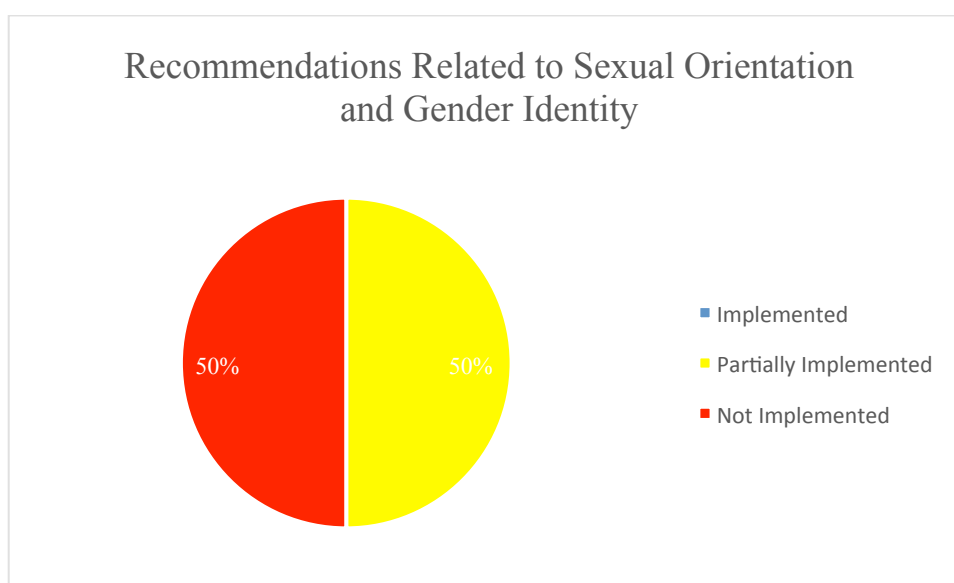
85 Ibid. Laxman Bahadur Kathayat, Land Reform Officer. August 03, 2017.

86 Article 51(j) of the Constitution of Nepal 2015.

<b>122.80</b> Ensure implementation of legislation on the minimum wage in all sectors (South Africa);	<b>Supported</b>
<b>122.82</b> Ensure the freed bonded laborers' access to fertile land and their equal enjoyment of human rights, including the right to work and right to property, in line with the observations made by the Committee on Economic, Social and Cultural Rights (Finland);	<b>Supported</b>
<b>122.83</b> Continue its fight against poverty with the support and cooperation of the international community (Bangladesh);	<b>Supported</b>
<b>122.84</b> Continue to reduce poverty as a priority in the national development plan and improve the living standards of vulnerable groups (China);	<b>Supported</b>
<b>122.85</b> Apply in its periodic development plans a policy on poverty reduction aimed at social and economic justice (Cuba);	<b>Supported</b>
<b>122.86</b> Ensure effective implementation of its poverty alleviation policy as well as consider adopting a comprehensive national strategy to ensure food and nutrition security for its people (Malaysia);	<b>Supported</b>
<b>122.87</b> Persevere in its efforts to combat poverty and facilitate access to water for rural populations (Morocco);	<b>Supported</b>
<b>122.88</b> Adopt a comprehensive national strategy to ensure food and nutrition security for all in line with international standards (Ireland);	<b>Supported</b>
<b>122.89</b> Pursue its efforts with a view to facilitating access to housing for marginalized and low-income groups (Morocco);	<b>Supported</b>
<b>122.92</b> Improve access to affordable healthcare for all through the effective implementation of its policies and directives (Thailand);	<b>Supported</b>
<b>122.104</b> Ensure equal educational opportunities for all children, including girls and Dalit children, in line with the observations made by the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights (Finland);	<b>Supported</b>
<b>122.112</b> Collaborate with civil society, regional and global organisations to protect the rights of Nepalese migrant workers abroad (Australia);	<b>Supported</b>
<b>122.114</b> Continue to engage its partners with the view to build capacity and mobilize resources in support of its development efforts and in fulfilling its human rights obligations (Philippines);	<b>Supported</b>

## 5.10 Sexual Orientation and Gender Identity

Nepal received four recommendations on the issue of sexual orientation and gender identity. Out of which Nepal supported 3 recommendations and noted one recommendation. Of the total recommendations only 2 (50%) recommendations have been partially implemented and rest have not been implemented.



*Article 18* of the Constitution has the provision of right to equality under which all citizens shall be equal before law and shall not be discriminated on the basis of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any other such grounds as a fundamental right. Despite the constitutional guarantee, *de facto* equality is a challenge.

A bill has been passed by legislative parliament of Nepal to combat sexual harassment in working place.

Likewise, In the case of *Sunil Babu Panta and others/v. Nepal Government and others, SC of Nepal (21 December 2007)*<sup>87</sup> ordered the GON to make the necessary arrangements, including making new laws or amending existing laws to ensure the that people of different gender identities and sexual orientations could enjoy their rights without discrimination. However, there have not been any specific laws for the rights of the LGBT.

Article 12 of the Constitution guarantees that one can obtain citizenship with the gender identity of choice. Only new applicant LGBTI can have gender "O" but the persons who already got their citizenship with the gender identity as male or female cannot amend the citizenship with the gender identity of their choice. There is no provision to change name or gender identity in other legal

<sup>87</sup> The case is available at <https://www.icj.org/sogicasebook/sunil-babu-pant-and-others-v-nepal-government-and-others-supreme-court-of-nepal-21-december-2007/>

documents and educational certificates. This violates essence of the constitutional provision to have citizenship with gender identity.

Sexual and Gender Minorities are not incorporated with in the definition of "minorities" that the Constitution has defined. Because of this definition, LGBTI are facing the following problems:

- Election Commission of Nepal did not make compulsory to nominate any candidate from LGBTI from political parties in elections whereas there are quotas allocated for minorities to participate in structure of the state.
- Because of having citizenship with "O" identity, there are increasing case of denied in job.

There is no specific mechanism established for the investigation and punishment for discrimination against LGBTI person.

Recently enacted Criminal Code in section 226 prohibits unnatural sexual intercourse and prescribes to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees.

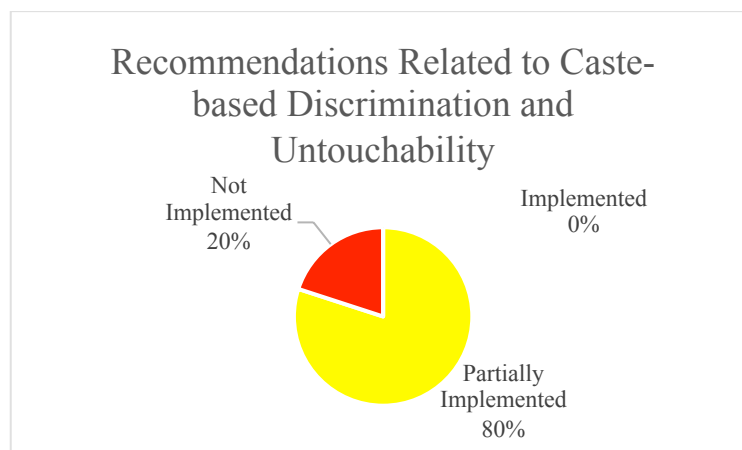
Same sex marriage is denied and not recognized by Nepalese laws. Ministry of Women, Children and Social Welfare prepared a draft note on the same sex marriage but this document has not taken any shape and things have not moved any forward. Because of non-recognition of same-sex marriage, many LGBTI people are forced to marry the person whom they do not like. Many LGBTI people are living together without legal recognition of their relationship. There is uncertainty of future of this same-sex living together relationship in Nepal.

<b>Recommendations: Sexual Orientation and Gender Identity</b>	<b>Status</b>
<b>121.16</b> Take the necessary steps to ensure that the new constitution is implemented while protecting human rights and thus ensuring its provisions on gender equality, lesbian, gay, bisexual and transgender persons, and minorities (Sweden);	<b>Supported</b>
<b>122.42</b> Establish specific mechanisms for the investigation and punishment of possible cases of discrimination against lesbian, gay, bisexual, transgender and intersex persons, particularly with regard to issues in relation to the administration (Spain);	<b>Supported</b>
<b>122.43</b> Strengthen the protection of lesbian, gay, bisexual, transgender and intersex people and work towards the full implementation of the current laws (Israel);	<b>Supported</b>
<b>123.30</b> Take measures to implement the Supreme Court's decision concerning same sex marriage (Brazil)	<b>Noted</b>



## 5.11 Caste-based Discrimination and Untouchability

Nepal received five recommendations on caste-based discrimination and untouchability. Nepal accepted all five recommendations; out of which none of the recommendation has been implemented, 4 (80%) recommendations have been partially implemented and 1 (20%) recommendations have not been implemented.



The Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 which was adopted unanimously by Nepal's interim Parliament, prohibits the practices of 'untouchability' both in the public and private sphere. Dalit groups had advocated for two years ensuring that the law did not only extend to the public sphere, but also to the private. Nepal's constitution *Article 24* has the provision regarding 'Rights against untouchability and discrimination'. Despite the constitutional and legal guarantee of non-discrimination, caste-based discrimination is still a problem in Nepalese societies.

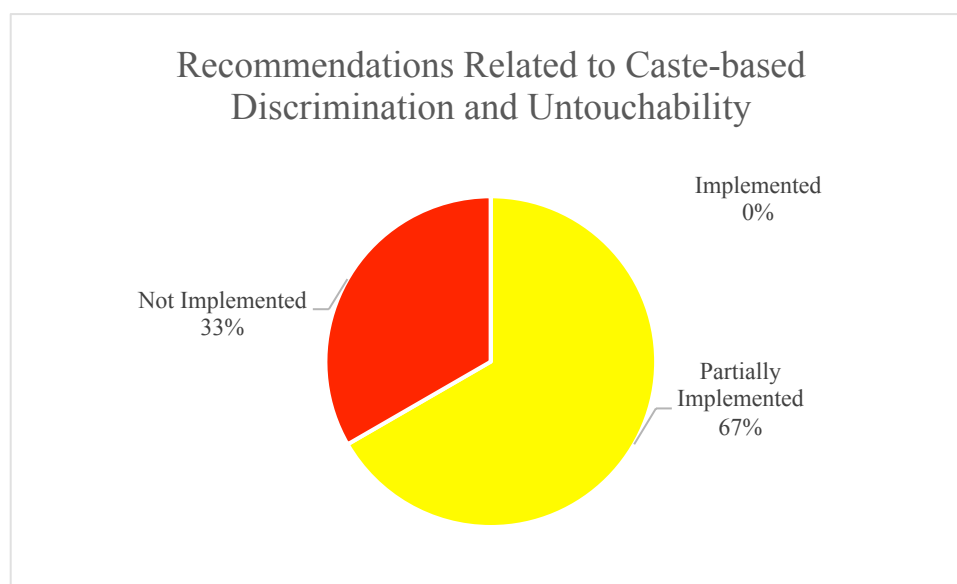
As caste-based discrimination has roots on cultural and religious values and practices, State has not taken any strong measures to intervene for the modification of such defective values.

Recommendations: Caste discrimination and untouchability	Status
<b>122.33</b> Develop public policies for the effective implementation of the Law on discrimination based on caste and untouchability (Paraguay);	<b>Supported</b>
<b>122.35</b> Ensures full and effective implementation of the 2011 Caste-based Discrimination and Untouchability Act (Denmark);	<b>Supported</b>
<b>122.36</b> Put in place a concrete strategy for the comprehensive implementation of the 2011 Law on Discrimination Based on Caste and Untouchability (Switzerland);	<b>Supported</b>
<b>122.40</b> Work actively to abolish legal and factual discrimination based on ethnicity, gender and caste, inter alia, by developing effective and independent mechanisms for the implementation of the Caste-based Discrimination and Untouchability Act (Germany);	<b>Supported</b>
<b>122.55</b> Investigate all acts of discrimination against the Dalit community (Argentina);	<b>Supported</b>

## 5.12 Persons with Disabilities

*(Issues of education have already been dealt in recommendation no.122.98 recommended by China, recommendation no. 122.100 recommended by Israel, recommendation no. 122.48 recommended by Brazil and 122.49 recommended by Slovenia.)*

Out of three recommendations received on the issue of persons with disabilities, Nepal supported all there, however, non of the recommendations have been fully implemented. 2 (67%) recommendations have been partially implemented and 1 (33%) recommendations have not been implemented.



The Constitution of Nepal, (2015) has National Inclusive Commission in its Part-29 which focuses on protecting rights and welfare of indigenous communities, Khash Arya, Madhesi, Tharu, Muslim, backward class, persons with disability, senior citizens, laborers, peasants, marginalized and minority communities, people of Karnali region and economically disadvantaged people.

The infrastructures, teaching and learning methods, tools and technologies used in most of the schools are not disability-friendly. However, the reconstruction work of earthquake affected schools has begun and the government is planning to make the infrastructures more disability friendly than ever before.

The Rights of Person with Disabilities Act 2017 has been passed in line with CRPD. Section 20.5 of the Act ensures that the children with disabilities receive proper education through a well addressed syllabus and resource materials.

Section 21 of the same Act states that the government of Nepal shall make necessary arrangements to provide free education to PWDs up to higher level.

Similarly, section 21(6) provisions that in order to secure the PWDs' right to education; arrangements shall be made for other alternative means including Braille script, sign language, information & technological mediums.

Additionally, the government can manage residence for the persons with disabilities from geographically remote places or persons with disabilities with serious nature of disabilities so as to provide them with proper education (Section 21(8)).

Also, the persons with disabilities' accessibility to the school building and other physical infrastructures shall be guaranteed (Section 20(12)).

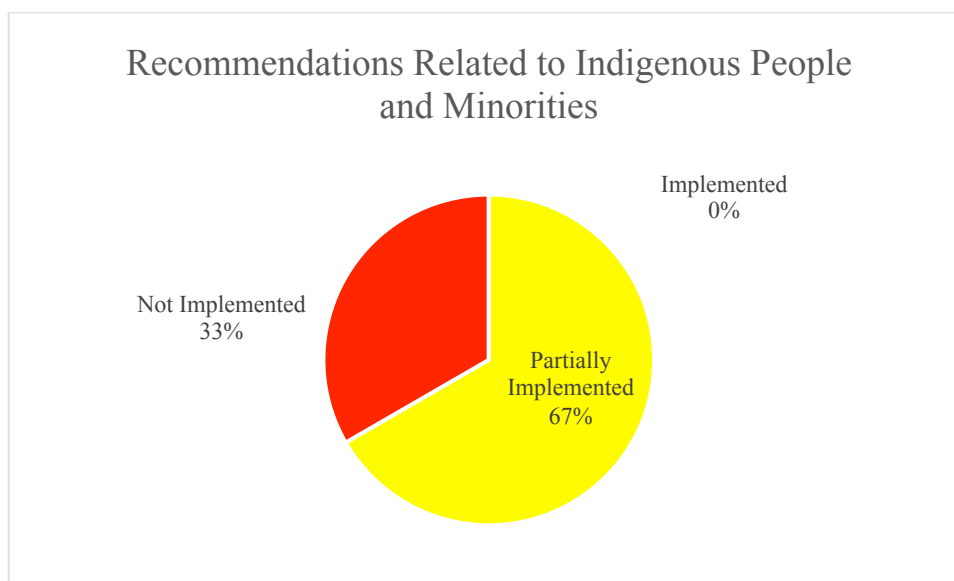
Section 8(2) of the Act prevents discrimination of any kind in using any form of publicly provided facilities such as admission in educational institution. It is instrumental in securing human rights in political, economic, social and cultural sectors and fundamental freedom of the persons with disabilities.

Section 21(5) of the Act provides that educational institutions should not discriminate persons with disabilities in extra-curricular activities, access and distribution of education materials.

<b>Recommendations: Persons with disabilities</b>	<b>Status</b>
<b>122.98</b> Continue to increase spending on education in order to improve coverage and quality of education with the special attention to the right to education of the vulnerable groups, including poor students, girls and children with disabilities (China);	<b>Supported</b>
<b>122.109</b> Design instruments for measuring and generating reliable and disaggregated data on persons with disabilities and remove any legal barrier and discriminatory practices towards persons with disabilities (Panama);	<b>Supported</b>
<b>122.110</b> Include defenders of human rights of persons with disabilities in the decision-making process on education policies (Spain);	<b>Supported</b>

## 5.13 Indigenous People and Minorities

Out of six recommendations received on the issue of indigenous and minority's issues, Nepal supported five and noted one recommendation. None of the recommendations have been fully implemented so far whereas 4 (67%) recommendations have been partially implemented and 2 (33%) recommendations have not been implemented.



The Constitution of Nepal, 2015 has National Inclusive Commission in its Part-29 which will focus on protecting rights and welfare of indigenous communities, *Khash Arya*, *Madhesi*, *Tharu*, Muslim, backward class, persons with disabilities, senior citizens, laborers, peasants, marginalized and minority communities, people of Karnali region and economically disadvantaged people.

An Indigenous Nationalities Commission has been envisioned for under article 261 of the Constitution of Nepal (2015), as well as a Madhesi Commission, Tharu Commission and Muslim Commission to work to safeguard and further their rights. The Supreme Court ordered the Government of Nepal to enlist *Sonaha* as endanger indigenous community (as per the National Foundation for Development of Indigenous Nationality Act, 2002) on 2 December 2015.

However, the implementation and effectiveness of laws are very less assessed. Effective evaluation and monitoring mechanism and action plan should be made aimed toward the protection of the rights of vulnerable population.

Constitution making process was participatory and has the inclusive provision. So, it is expected that further dialogues, discussions between all the minority groups and the government will be conducted and decisions made will be incorporated accordingly.

However, Government's efforts for physical development, such as road expansion have not taken into account of indigenous peoples' rights. One pertinent situation of such is the road expansion in Kathmandu valley which has been happening without Free Prior Informed Consent (FPIC). The affected indigenous Newa (Newar) community are not even paid appropriate compensation not their voices are heard. Their peaceful voices have been cracked down with the use of excessive force by Nepal Police.

On 28 March 2018, the indigenous Newa communities were protesting peacefully about the destructive development projects to be carried out on their lands. However, the government used excessive force to crack down the peaceful demonstrations that left many including elderly people

injured as they were met with police' water cannons and tear gas. Police also arrested at least 16 activists from the community.<sup>88</sup>

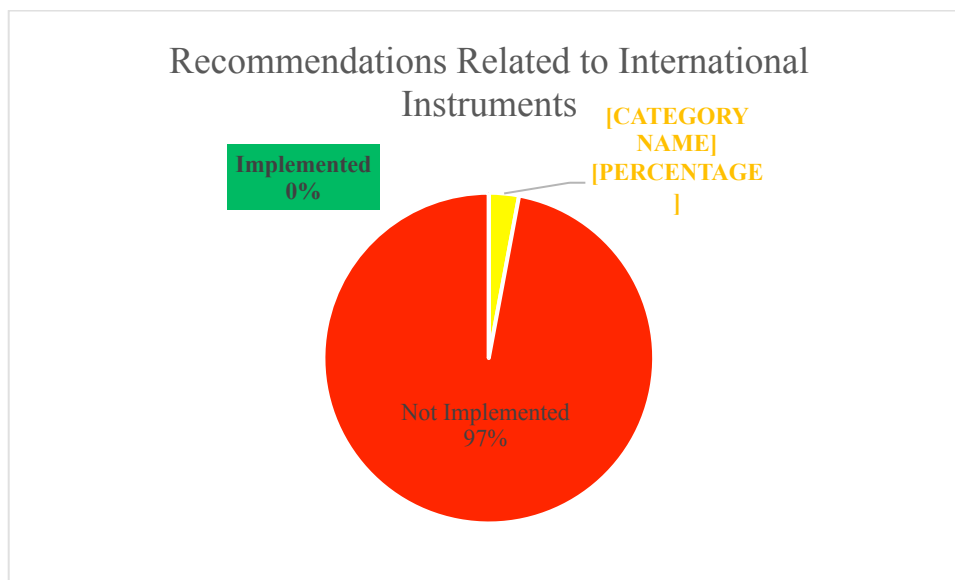
The indigenous Newa (Newar) communities' rights guaranteed under many international conventions which Nepal is a party to such as ICESCR, ILO C NO. 169, and CERD have been violated by ongoing construction of the Kathmandu valley road expansion, the Fast Track Highway and prospective Outer Ring Road, and other satellite cities and places. These projects are set to destroy their homes and religious and cultural heritages. The demands of the indigenous people's right to free, prior informed consent in the projects remains to be unheard and disregarded. Government of Nepal must comply with its international human rights commitments and obligation including to respect, protect and fulfil indigenous peoples' rights as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the ILO Convention No. 169 on Indigenous and Tribal Peoples' Rights.

<b>Recommendations: Indigenous people and minorities</b>	<b>Status</b>
<b>121.9</b> Strengthen the legislative and institutional framework for the promotion and protection of rights of indigenous peoples, in particular to ensure their full participation in society (Mexico);	<b>Supported</b>
<b>122.37</b> Put in place an effective mechanism for addressing the reported multiple forms of discrimination against indigenous women in Nepal (Uganda);	<b>Supported</b>
<b>122.39</b> Assess the implementation and effectiveness of laws aimed at ending and preventing all forms of discrimination, in particular against women and Dalits, and take concrete steps to translate anti-discrimination efforts into effective practice on the ground (Czech Republic);	<b>Supported</b>
<b>122.105</b> Continue to pursue policies that will increase enrolment in schools of school-going aged children, in particular girls, and children from indigenous communities and minorities (Singapore);	<b>supported</b>
<b>122.38</b> Ensure an inclusive dialogue with all Nepalese minority groups (Ukraine);	<b>Supported</b>
<b>124.16</b> Eliminate the prohibition of conversion to another religion, which undermines freedom of religion (Spain);	<b>Noted</b>

<sup>88</sup> <http://kathmandupost.ekantipur.com/news/2018-03-29/police-intervene-in-save-heritage-rally.html>;  
<https://aippnet.org/nepal-stop-the-use-of-violence-to-the-indigenous-newar-community-and-uphold-their-rights-to-peaceful-assembly/>

## 5.14 International Instruments

Nepal received 34 recommendations related to international instruments. Out of which Nepal supported only two and noted 32 recommendations. The only one recommendation supported has been partially implemented and no concrete action have been taken on rest 33 (97%) recommendations.



Out of thirty-four recommendations related to accession or ratification of international instruments, only one recommendation on studying the possibility of the ratification of the Optional Protocol to the Convention against Torture was supported by the Government of Nepal. However, recommendations that required direction action of acceding or ratifying particular instrument was just ‘noted’. Interestingly, recommendations for signing of the OP-CAT was also ‘noted’. OP-CAT emphasizes prevention rather than reaction, and cooperation with national authorities rather than condemnation. Rather than reacting once violations have occurred, the OPCAT bodies are proactive: they can visit any place of detention at any time, without any allegation of abuse.<sup>89</sup> Non-ratification of OP-CAT shows that GoN is not serious and unwilling to prevent torture.

Though Nepal is basically a country of origin for labour migrants but Nepal is also receiving labour migrants from neighbouring countries as well. Nepal does not even want to consider ratifying International Convention of the Rights of Migrant Workers and Members of their Families (ICRMW).

Nepal witnessed grave violations of international law during the armed conflict that occurred during 1996-2006 as well as in post-conflict situations. Thus, many recommendations came for the ratification of Rome Statute of the International Criminal Code (ICC) and International Covenant for the Protection of All Persons from Enforced Disappearance (ICPPED). Then Prime Minister Girija Prasad Koirala in 2006 had expressed commitment to ratifying the ICC on 26-27 August 2006 during

<sup>89</sup> <https://www.apr.ch/en/what-is-the-opcat/>

a meeting with Asian Delegates in Kathmandu.<sup>90</sup> Such commitments were repeatedly expressed by political leaders, ministers and government officials in various forums<sup>91</sup> but Nepal ‘noted’ recommendation for the ratification of the ICC.

Nepal ‘noted’ recommendations for standing invitation to the special procedures of the Human Rights Council. Nepal also did not show interest in ratifying the Optional Protocol to the ICESCR and OP-CRC. These instruments are key to give full legal remedy to the rights mentioned in ICESCR and CRC.

Ironically, Nepal also ‘noted’ *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, when Nepal has been already combating human trafficking with legislations and mechanisms in place.

<b>Recommendations: International instruments</b>	<b>Status</b>
<b>123.2</b> Study the possibility of the ratification of the Optional Protocol to the Convention against Torture (Panama);	<b>Supported</b>
<b>123.3</b> Accede to the OP-CAT (New Zealand) (Czech Republic);	<b>Noted</b>
<b>123.4</b> Ratify the OP-CAT (Montenegro) (Denmark) (Uruguay) (Ghana) (Germany);	<b>Noted</b>
<b>123.5</b> Sign and ratify OP-CAT (Portugal);	<b>Noted</b>
<b>123.6</b> Sign OP-CAT (Sweden);	<b>Noted</b>
<b>123.7</b> Ratify the ICRMW (Timor-Leste) (Sierra Leone);	<b>Noted</b>
<b>123.8</b> Consider ratifying ICRMW (Philippines) (Egypt);	<b>Noted</b>
<b>123.9</b> Continue its consideration to ratify the ICRMW (Indonesia);	<b>Noted</b>
<b>123.10</b> Ratify the International Covenant for the Protection of All Persons from Enforced Disappearance (ICPPED) (Argentina) (Sierra Leone) (France) (Japan) (Ghana);	<b>Noted</b>
<b>123.11</b> Ratify and implement the ICPPED, (Paraguay);	<b>Noted</b>
<b>123.12</b> Consider ratifying the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (Egypt);	<b>Noted</b>
<b>123.13</b> Ratify the Rome Statute of the ICC (Switzerland) (Portugal) (Germany) (Ghana);	<b>Noted</b>
<b>123.14</b> Ratify and implement the Rome Statute (Paraguay);	<b>Noted</b>
<b>123.15</b> Ratify the Rome Statute of the ICC and incorporate its provisions into national legislation; and accede to the Agreement on Privileges and Immunities of the Court (Estonia);	<b>Noted</b>
<b>123.16</b> Ratify and implement in the national legislation the Rome Statute of the ICC (Costa Rica);	<b>Noted</b>

<sup>90</sup> <https://www.forum-asia.org/?p=6108>

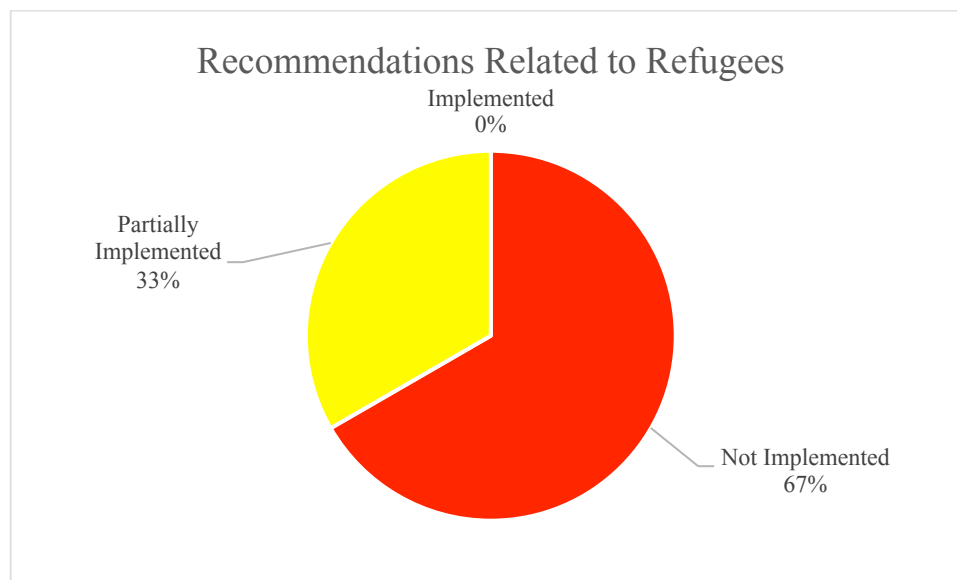
<sup>91</sup> <http://www.amnestynepal.org/campaigns/ai-nepal-activities/we-are-committed-to-ratify-rome-statute:-nepal-government.html>

123.17 Ratify the Rome Statute of the ICC and implement it in its national legislation (Hungary);	<b>Noted</b>
123.18 Accede to the Rome Statute of the ICC (Czech Republic);	<b>Noted</b>
123.19 Accede to the Rome Statute of the ICC and the Convention on the NonApplicability of Statutory Limitations to War Crimes and Crimes Against Humanity (Uruguay);	<b>Noted</b>
123.20 Accede to and fully align its national legislation with the Rome Statute of the ICC (Latvia);	<b>Noted</b>
123.21. Take all necessary measures towards acceding to the Rome Statute of the ICC (Cyprus);	<b>Supported</b>
123.22 Ratify ILO Convention No. 87 (Algeria);	<b>Noted</b>
123.26 Accept the request of visit by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the Special Rapporteur on human rights defenders, the United Nations Working Group on enforced or involuntary disappearances and cooperate fully with the mandate holders (Hungary);	<b>Noted</b>
123.27 Accept the requests to visit the country made by some special procedures, including the request made by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (Uruguay);	<b>Noted</b>
124.1 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Uruguay);	<b>Noted</b>
124.2 Sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Portugal);	<b>Noted</b>
124.3 Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Slovakia) (Chile) (Montenegro);	<b>Noted</b>
124.4 Consider ratifying International Labour Organization Convention No. 189 (Philippines);	<b>Noted</b>
124.5 Ratify the conventions on refugees and stateless persons (Portugal);	<b>Noted</b>
124.6 Ensure the protection of Tibetan refugees by ratifying and applying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (France);	<b>Noted</b>
124.9 Issue a standing invitation to the special procedures of the Human Rights Council (Switzerland);	<b>Noted</b>
124.10 Issue a standing invitation to the special procedures of the Human Rights Council (Czech Republic);	<b>Noted</b>
124.11 Extend a standing invitation to the special procedures mechanisms to visit the country (Costa Rica);	<b>Noted</b>
124.12 Extend a standing invitation to all Special Procedure mandate holders (Latvia);	<b>Noted</b>
124.13 Extend a standing invitation to special procedures (Uruguay);	<b>Noted</b>
124.14 Consider extending a standing invitation to the mandate holders of all special procedures of the Human Rights Council (Republic of Korea);	<b>Noted</b>



## 5.15 Refugees

Out of three recommendations made on refugees' issues, Nepal supported one and noted two recommendations. The supported single (33%) recommendation has been partially implemented and no concrete progress is seen in other two (67%) noted recommendations.



Nepal started welcoming Tibetan refugees since the 1950s, but their first major inflow in Nepal occurred after the 1959 Lhasa uprising.<sup>92</sup> Likewise Bhutanese refugees started coming in Nepal in early 1990s. Nepal is also hosting refugees from Pakistan, Myanmar and African Nations. Despite this humanitarian assistance, GoN is not willing to take any legal obligation by ratifying Refugee Convention. Though Nepal supported recommendation about strictly upholding and respecting the international law prohibiting refoulement, Nepal's attitude towards new refugees and asylum seekers is not welcoming.

<b>Recommendations: Refugees</b>	<b>Status</b>
<b>121.29</b> Strictly uphold and respect the international law prohibiting refoulement. (Germany)	<b>Supported</b>
<b>124.17</b> Provide refugees and their families with identification certificates making sure that all children of refugees have access to education, and repeal restrictions on refugees' rights to own property, to work, to establish and incorporate businesses and to travel freely (Germany);	<b>Noted</b>
<b>124.18</b> Register refugees and provide documentation so they are able to work, access education, and travel (United States of America).	<b>Noted</b>

92 <http://www.tibetanreview.net/tibetan-refugees-in-nepal/>