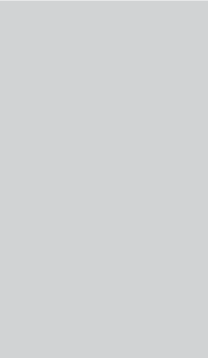


IMPLEMENTATION STATUS OF NATIONAL HUMAN RIGHTS COMMISSION AND UNIVERSAL PERIODIC REVIEW RECOMMENDATIONS ON CHILD RIGHTS



National Human Rights Commission



**IMPLEMENTATION STATUS OF
NATIONAL HUMAN RIGHTS
COMMISSION AND UNIVERSAL
PERIODIC REVIEW
RECOMMENDATIONS ON
CHILD RIGHTS**

December 2012

IMPLEMENTATION STATUS OF NHRC AND UPR RECOMMENDATIONS ON CHILD RIGHTS

Published by: National Human Rights Commission

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Copies printed: 2000

Publication Year: 2013

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Publication Support:  **Save the Children**

PREFACE

This document contains implementation status of children related recommendations made to the Government of Nepal by the Universal Periodic Review (UPR) mechanism of the Human Rights Council and by National Human Rights Commission Nepal.

The non-implementation of many recommendations on child rights has increased the level of frustration among victims and their kin as they are unable to access justice for a long time. Despite increased response of the Government of Nepal to awarding compensation to victims, regrettably, none of the perpetrators indicted have been subject to any prosecution.

Nepal was reviewed by the Human Rights Council under its UPR mechanism in January 2011. Several States made recommendations to the Government of Nepal to improve the realization of human rights in Nepal. More than a quarter of all recommendations were related to children. The Government of Nepal has accepted 31 out of 34 children related recommendations. The report examines the extent to which those recommendations have been implemented. More than two years after the review in the HRC, the implementation of those recommendations is quite weak. NHRC has also made several recommendations directly or indirectly related to children and this report also looks at their implementation status.

NHRC is thankful to Save the Children for the support provided to produce this report and appreciates the work of the NHRC and Save the Children staff and others who were involved in finalizing this document.

We believe that this document will be helpful to the government and other stakeholders working on child rights as it will provide them with the current situation of the implementation of recommendations and also suggests future course of action to improve the realization of child rights in Nepal.

PART I

IMPLEMENTATION STATUS OF
RECOMMENDATIONS MADE BY
THE NATIONAL HUMAN RIGHTS
COMMISSION ON CHILD RIGHTS

PART I

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1. INTRODUCTION

1.1 Background

The National Human Rights Commission (NHRC) of Nepal is an independent and autonomous constitutional body. It was established in the year 2000 as a statutory body under the Human Rights Commission Act 1997 (2053 BS). The Interim Constitution of Nepal 2007 (2063 BS) has made the NHRC a constitutional body. The Commission is created in response to 1991 UN-sponsored meeting of representatives of national institutions held in Paris, which laid down a detailed set of principles on the status of national institutions - commonly known as the Paris Principles. These principles, subsequently endorsed by the UN Commission on Human Rights (Resolution 1992/54 of 3 March 1992) and the UN General Assembly (Resolution 48/134 of 20 December 1993, annex) have become the foundation and reference point for the establishment and operation of the National Human rights Commission of Nepal as well.

Nepal is a party of core human rights treaties namely International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR), International Convention against Torture and Other Inhuman Degrading Treatment or Punishment (CAT), International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Convention on the Rights of the Child (CRC), International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and International Convention on the Rights of Persons with Disabilities (CRPD). NHRC monitors the implementation of these treaties as well as International Convention on the Rights of Migrant Workers and Members of their Families (MWC). Besides that NHRC supports the government for preparing different periodic reports of ratified treaties by Nepal to submit to the treaty bodies.

Since nearly two decades, Nepal is continuously going ahead towards the respect, protection and promotion of the child rights. During the period, recognizing the gravity of child protection and child rights issues, Nepal has made constitutional arrangement and also by formulating laws, regulations, national policy and national plan of action in order to protect their rights.

The National Human Rights Commission has received a shot in the arm by retaining its “A” status in its accreditation with the International Coordination Committee (ICC) of the National Human Rights Institutions (NHRIs), Geneva. Following the ICC’s decision to confer this recognition, it has lauded NHRC’s “past advocacy efforts” and readiness to implement earlier recommendations. Also, considering its crucial role in monitoring human rights issues in Nepal's ongoing transition to peace, the ICC recommendation has indicated that it is satisfied with NHRC's efforts to address the concerns. At a meeting held in Geneva a few months ago, the ICC of NHRIs recognized the NHRC as an ‘A’ status human rights watchdog for a period of five years, taking into account its independence and effectiveness in protecting human rights¹.

The ICC decision can be taken as an inspiration to move ahead more confidently at this critical time. After the new NHRC Act and continue its collaboration with the Asia Pacific Forum of NHRIs, it can be expected that the monitoring role of NHRC-Nepal would be more strengthened and its recommendations would be better implemented. Thus, it was essential to review the implementation of the NHRC recommendations by government of Nepal. As this study is being carried out in the initiation of CRC desk, this study focuses only on child rights related recommendations by the NHRC.

1.2 Objectives

The main objective of this study is to review and analyze the implementation status of child rights related recommendations made by the NHRC. Other specific objectives supplementing these broader objectives are:

- To review the implementation status of recommendations made by the NHRC on the cases of child rights violation directly against children
- To review the implementation status of recommendations made by the NHRC on the Cases of rights violation of children due to other incidents and violations
- To review the implementation status of recommendations made by the NHRC on child rights related policies

1 NHRC Member and Spokesperson Gauri Pradhan unveiled at an interaction with rights activists. Available at http://nhrcnepal.org/nhrc_activities_details-10.html last visited on September 18, 2012.

1.3 Method of Study

This study tries to analyze Nepal Government's efforts and initiatives to implement the child rights related recommendations made by NHRC since 2000 (2057B.S.) to 2011 (2068B.S.). Minutes of NHRC meeting and decisions and letters circulated by NHRC to various government offices as well as letters received are the main source of information for this study. Publications of NHRC related to this study are other import source of information for this study. All cases of child rights violations since 2000 (2057 B.S.), whether affected directly or indirectly, have been studied and analyzed. Basically this study goes deeper into the nature and gravity of violation and government's initiative to take action against responsible persons, groups and organizations and to provide compensation to the heirs of victims, a small numeric data has also been presented on the number of cases of direct violation against children and children indirectly affected because of other incidents. Analysis has been presented in statements. Tables have been used to present cases of various years and of various types.

1.4 Limitation

This research was carried out within the time limitations of three months provided, i.e. July-September in 2012. The research is based on the documents available at the NHRC. Children victim of violation and member of their families were not met and interviewed to find out whether NHRC recommendations were implemented in actual. Government's positive response to the NHRC recommendation by circulating letter to concerned institution has been taken as implementation of NHRC recommendation by the government and has not gone deeper to the actual status in the field. This study does not look the reasons behind recommendations not being implemented.

2. CONSTITUTIONAL ARRANGEMENT AND THE MANDATE OF NHRC

Human rights movement in Nepal entered into new stage when Nepalese government established National Human Rights Commission (NHRC) in May 2000 to show the respect on human rights as well as to accelerate the commitment towards human rights. Initially, the NHRC of Nepal was a statutory body established under the Human Rights Commission Act (HRCA) 1997 (2053 BS). Paris principles have become the foundation and reference point for the establishment and operation of the NHRC, Nepal.²

² Koshraj Neupane, '*Effectiveness of the National Human Rights Commission of Nepal: With Special Reference to the Interim Constitution 2007*' Dissertation for the partial fulfillment of LL.M, 2007, unpublished

The interim Constitution of Nepal, 2007 came into effect after endorsement by Legislature-Parliament on January 15, 2007. The Interim constitution has many clauses in connection with Human Rights. As mentioned earlier that *NHRC is being made constitutional body*,³ in addition to that, the constitution stipulates various sets of rights as fundamental rights in comparison to the previous constitution. Some major human Rights related features of the constitution are as follows:

- The nation has expressed full commitment to civil liberty, fundamental rights and human rights.⁴
- The notion of inclusiveness is crucial for the full enjoyment of human rights by all. The constitution has proclaimed that Nepal is an inclusive State.⁵
- The right to nationality of a person has been ensured. A mother also can pass the citizenship certificate by her name.⁶
- The constitution has guaranteed the rights against untouchability and racial discrimination more specifically.⁷
- The constitution has broadened the scope of the press, publication and broadcasting right.⁸
- The constitution has guaranteed some economic and social rights as fundamental rights first time such as right to environment and health,⁹ right to education and culture,¹⁰ right to employment and social security,¹¹ right to social justice,¹²
- The constitution has guaranteed the rights of women, children and labors as fundamental rights.¹³

By recognizing some new sets of rights as fundamental rights in the Interim constitution, it can be said that human rights protection system should be more effective and trustworthy. In this connection, there is a need to put in place an independent and effective

3 The NHRC was established as the statutory body in May 2000. As the political situation of Nepal was fragile due to armed insurgency, NHRC had focused its activities on peace building and respect for human rights by conflicting parties, the state and the CPN-M. The ICDC, human rights community and the political parties have recognized the role of NHRC during the conflict and agreed to give constitutional status. Before commencement of the Interim Constitution, Nepalese government and the CPN (M) had signed on the Comprehensive Peace Agreement (CPA) on November, 2006. NHRC's role was defined by the CPA as the monitors of human rights provisions of CPA. The CPA has made the foundation for NHRC to become a constitutional body.

4 The Preamble of the Interim Constitution, 2007

5 Interim Constitution, 2007, Article 4(1)

6 Article 8(3) provides that every child found within the boundary of Nepal without parental identity shall be considered the citizen on the basis of lineage until the father or the mother of the child is found.

7 Interim Constitution, 2007, Article 14

8 Id, article 15

9 Id, article 16

10 Id, article 17

11 Id, article 18

12 Id, article 21

13 Id, article 20, 22 and 30 respectively.

NHRC among other mechanisms in Nepal. To fulfill this gap, the Interim Constitution has envisioned the formation of NHRC. As a significant development for the protection and promotion of human rights in the country, NHRC has been set up as a Constitutional body at part 17, articles 131 to 133.

There may be several reasons and circumstances that led state to set NHRC as a constitutional body; most significant is the respect, to some extent, of Nepalese political parties on human rights. Human Rights activists and civil society of Nepal has also played great contribution in this respect.

In the Interim constitution, 2007, the main provisions relating to NHRC are as follows:

1. NHRC would have 5 commissioners including a chairperson.¹⁴
2. The appointment of Chairperson and Members in the National Human Rights Commission shall ensure representation from all fields including the woman.¹⁵
3. The appointments of commissioners would be from the Prime Minister upon the recommendation of Constitutional Council.¹⁶
4. The term of the office of the Chairperson and the Members of the Commission shall be six years from the date of appointment. However, the Chairperson and the Members of the Commission shall be removed from his/her office on similar basis and way as provided to the Justice of the Supreme Court.¹⁷
5. The person once appointed as the Chairperson or the Members of National Human Rights Commission shall not be eligible for appointment in any other government service. However, this clause shall not be considered as an obstacle to perform any work for any political position or in any position in order to carry out investigation, inquires and examination on any matter or for appointment in any position to provide recommendation, suggestion and idea following study and research of such matter.¹⁸
6. The primary duty of the National Human Rights Commission shall be to guarantee the respect, protection and promotion of the human rights and their effective implementation.¹⁹
7. NHRC can perform many functions to accomplish the duty including:²⁰
 - Conduct inquiries and investigations, and recommend for action against the perpetrator on the matters of violations of human rights of a person or a group of persons,

14 An interim Constitution of Nepal, 2007, pp57-60 (an unofficial translation), Article 131 (1)

15 Id, Article 131 (2)

16 Id, Article 131 (3)

17 Id, Article 131 (4)

18 Id, Article 131 (8)

19 Id, Article 132 (1)

20 Id, Article 132 (2)

upon a petition or complaint presented to the Commission by the victim himself /herself or any person on his /her behalf or upon information received from any source, or on its own initiative;

- Recommend to the concerned authority for the departmental action against the authority who does not perform his/her duty or responsibility to prevent the violations of the human rights or show carelessness or negligence in performing such responsibility;
 - Recommend to file the petition in the court in accordance with the law against the person violated the human rights, in case of necessity;
 - Coordinate and jointly work with the civil society to raise human rights awareness;
 - Recommend to the concerned authority giving clear reason and basis for the departmental action punishment against the violator/s of human rights;
 - Review the provisions of the human rights provided at the prevailing law and submit necessary recommendations to the Government of Nepal for revision and modification on such provisions;
 - Recommend with reasons to the Government of Nepal to sign the international treaties and instruments on human rights and in case of the provided treaties and instrument, monitor their implementation and if found not being implemented, submit the necessary and appropriate recommendations to the Government of Nepal for effective implementation of such provisions,
 - Publicize the names of official, person or agency not following or implementing the recommendations and directions of the National Human Rights Commission regarding the violations of human rights and recorded them as the human rights violators in accordance with law.
8. There are several powers vested to NHRC to accomplish the duty/functions including:²¹
- Use the powers as a court may have, in respect to requiring any person to appear before the Commission for recording his/her statement and information within his/her knowledge, receiving and examining evidence, ordering for the production of any document;
 - Enter without prior notice, to any person or his/her residence or office, search and seize any evidence related to human rights violations, upon receiving the information of incidents or anticipated incidents of human rights violations at the Commission by any source;
 - Enter any government premises or other places without prior notice and rescue, requiring for the immediate action upon receiving the information on violation of human rights of a person;

21 Id, Article 132 (3)

- Order for the compensation as accordance to the law, to the victims of human rights violations;
 - Use or order to use of other powers and perform the duties as provided in the law.
9. The NHRC would not have the Jurisdiction on the Jurisdiction of Military Act provided the issue is related with the violation of human rights and humanitarian law.²²
10. NHRC will produce an Annual Report to the Prime Minister.²³

Most of the provisions of Interim Constitution 2007 have been inherited from the Human Rights Commission Act, 1997. However, there are some new provisions such as inclusive representation in the formation of the NHRC,²⁴ tenure,²⁵ mandate,²⁶ Jurisdiction²⁷ etc.

It is a recognized norm that the establishment and vested powers of NHRC must be in accordance with the Paris Principles. This means that only setting up of National Institution does not ensure the independency of NHRC. The enabling statute must comply with the relevant guidelines to strengthen any NHRI. It applies in the context of NHRC, Nepal as well. Constitutionally, the NHRC is the national institution on the matter of human rights in Nepal. After a decade of promulgation of human Rights Commission Act (HRCA), 1997, the NHRC has been established as constitutional body by political consensus.

The Interim Constitution 2007 has tried to address human rights violations and abuses committed by state as well as non-state actors²⁸. It is a clear and emerging principle of human rights jurisprudence that the state is responsible not only for the acts of its own agents, but also for the acts of non- state players acting within its jurisdiction. The state is responsible for any inaction that may cause or facilitate the violation of human rights.²⁹ Perhaps Nepalese Interim Constitution 2007 might have used the term 'carelessness or negligence' in this sense, among others. However, further elaboration is necessary what constitutes care-

²² Id, Article 132 (4)

²³ Id, Article 133

²⁴ The constitution has the provision that appoint would be take place from all fields including the woman.

²⁵ Unlike the Human Rights Commission Act, 1997, the interim constitution has determined 6 years tenure of the members,

²⁶ The constitution provides new mandates to NHRC such as to recommend to file the petition in the court in accordance with the law against the person violated the human rights, to publicize the names of official, person or agency not following or implementing the recommendations and directions of the NHRC regarding the violations of human rights and recorded them as the human rights violators in accordance with law, power to enter any government premises or other places without prior notice etc.

²⁷ Human Rights Commission Act, 1997 has restricted NHRC to look into the matter associated with the jurisdiction of Military Act. But the constitution has defined clearly the role of NHRC on such matter. Now, NHRC can intervene on the issue of Military if the issue is related with the violation of human rights and humanitarian law etc.

²⁸ For example: individuals, group of individuals, legal person etc.

²⁹ NHRC(India), Human Rights Newsletter (New Delhi, April 2002) in Reenu Paul, *National Human Rights Commission of India: A Human Rights Evaluation* (A dissertation submitted to the London School of Economics & Political Science, in part completion of the requirement for the M Sc in Human Rights) , September, 2003, P.9

lessness and negligence. Hence, NHRC has the scope of human rights protection by making state mechanisms responsible³⁰ if human rights abuses committed by non-state actors though the Paris Principles also don't cover the jurisdiction over armed forces or non-state actors and the role of NHRIs explicitly.³¹

People have higher expectation that NHRC will be more effective than the past with the exercise of vested powers by the Interim constitution 2007.

3. CHILD RIGHTS DESK IN NHRC

The Commission has been continuously focusing on the protection of the rights of the child since its inception. It has been actively engaged to protect the rights of the child from conflict situations to post conflict situation. For effective works and its result oriented achievements NHRC has established Child Rights Desk in 2005 where one focal officer is working on its all offices. CRD is conducting investigation into the incidents of child rights violation and abuses and suggesting to the government about compensation and action against perpetrators. Child Rights Desk no longer exists in NHRC after the restructuring of NHRC. It has divided its thematic desk as treaty based desk and the previous Child Rights Desk is now known as CRC focal person.

a. Protection Related Activities

a.1 Complaint Handling Mechanism

The Commission has set up a separate complaint section to receive complaints. The section collects data provided in the complaint; take statements from the parties of the complaint, conduct field investigations and collect evidences and complete paper works and forward to the concerned department for decision in recommending such decisions to the authority concerned including the Nepal Government for implementation. In this connection NHRC is taking each and every complaint relating to child rights violation and abuses seriously and working on the complaint in priority basis. Sometimes NHRC is taking initiation to protect the rights of the child on the *suo moto* basis also.

30 There are many ideas about the responsibility of states for abuses by non-state actors. For instances, the state may be responsible when it relies on someone or something to carry out an action that falls within the role of a state, the state may be responsible when it has participated in some way or supported abuses by others, the state may be responsible when it does not provide effective remedies. For more detail, See: *Women's Human Rights Literatures*, Vol.2, KSL, 2006, pp.186-187

31 Surya Bahadur Deuja, National Human Rights Institutions in Armed Conflict: A Comparative Study of the Nepal, Sri Lanka and Philippines National Human Rights Commissions A Dissertation Submitted to the University of Hong Kong, Faculty of Law, June, 2006, p.53 (Unpublished)

a.2 Investigation and monitoring

Investigation and monitoring is one of the protection mechanisms of the NHRC. In this regards, Commission is investigating on the complaints received and it has been monitoring at the different places child presence is available to know the child rights situation. Mainly, monitoring is carried out to analyze the situation of child rights and to find out the facts and evidences.

NHRC had monitored detention, custodies, demonstration and sitting programmes, BANDH, Rallies, Children's home and schools etc. On the basis of the findings of the monitoring NHRC is making its report public and sending recommendation to the government of Nepal. Such recommendations include compensation to the victim and legal action for the perpetrators.

a.3 Rescue and Rehabilitation

The Commission had rescued many vulnerable children from serious violation and abuses of human rights with the joint effort of others child rights NGOs and Center of child welfare board. And it had made arrangements for psychological counseling to the children for their rehabilitation.

Similarly the Commission had rescued the girls who were kept as kamalari, forced to work, not given payment as per agreement. Likewise the Commission had rescued street children and sent them to the children home with the help of civil society.

b. **Promotion Related Activities**

b.1 Policy/Advocacy

NHRC is continuously advocating on followings major issues apart others:

Constitution should mention as minors any child under the age of 18.

Constitution should mention that participation of children is compulsory while framing policies related with the children and also while launching activities related with the children.

To declare school and children peace zone free of any violence,

The provision relating to ban use of children in political purpose and use of children in police, army and rebels for war purpose with any pretext.

There should be compulsory and free education up to at least secondary level and special program for health care for children.

There should be special legal provision for children in courts.

Corporal punishment must ban in any where public or private settings.

Human rights education must be included in school curriculum.

Completely eradication of child labour from all sectors of the society and industries.

NHRC is reviewing the implementation of recommendation made by UPR, treaty body and special rapporteurs. And advocating for the implementing the recommendation made by above mechanisms.

b.2 Seminar, Workshops, Awareness Program and Trainings

To promote the rights of child and impart the knowledge and skills to the stakeholders, human rights defenders and state agencies about the national and international mechanism for protection of rights of the child, NHRC is time being organizing different seminar, workshops, awareness program and trainings. In this regards, once it had organized international level workshop on South Asian Conference on Child Rights. This conference concluded to make common policy for the protection and promotion of rights of the child especially on children in armed conflict, right to education and challenges in south Asia, which includes trafficking in children also. Besides, in national level recently it had organized workshops on Corporeal Punishment and Human Rights Education in School Curriculum. To develop the human rights culture it had carried out numerous interaction and awareness program on human rights education in different school around the country via its regional offices.

During and after the conflict period, numerous activities were held to aware people specially children on landmines and explosive and banning the landmines which directly affects the children.

b.3 Dialogues and Meetings

The NHRC frequently holds dialogues and meetings with different stakeholders mainly on remedial, legal and policy issues with the government, Parliament, Nepal army and Nepal Police etc.

Recently, it had a strong dialogue with government about implementation of NHRC recommendations and human rights in secondary school curriculum. NHRC is holding different dialogues and meetings with civil society, NGO related to child rights human rights defenders, professional experts, Teachers, govern-

ment and security agencies to discuss for drastic changes in the law and policy and effective implementation of national and international laws including proper justice and rehabilitation for the children.

b.4 Publication and Dissemination:

The NHRC regularly prepares, publishes and disseminates monitoring and research related and child rights status reports. The reports are made public via print and electronic media including NHRC website and Radio programs. They are disseminated through various NHRC offices and networking agencies to increase their access to grass root level. The reports are widely used as advocacy tools.

b.5 Networking

NHRC is tying up with different Networks of children for wider protection of child rights. It is connected with girl's education network and network related to child rights NGOs and human rights defenders. It is also connected with CZOP network and others various civil society network. NHRC is actively carrying out the different joint monitoring, advocacy, rescue and rehabilitation of children, monitoring of implementing existing national plan of action, policies of government with the support of those networks.

c. **Law and Policy review**

NHRC is reviewing the laws and policies of the Government and pressuring to meet international standards of human rights while drafting such laws and policies. Similarly, it has been reviewing the laws which are contradicting with the international human rights standards and norms. Nowadays NHRC is continuously advocating for child participation in Constitution making process and advocating for child rights friendly Constitution as well.

d. **Treaty Body Reporting and UPR**

NHRC is giving its expert opinion on the periodic report prepared by the government to submit at treaty body. NHRC is reviewing the report and sending back to government with its comments and reservations. While reviewing the any periodic report to the Treaty body NHRC widely consults with different civil society, experts, academia, NGO and stakeholders.

NHRC is time being advocating for the proper implementation of recommendation made by UN Special Rappourter and Treaty bodies.

Recently, NHRC had submitted the joint reports of UPR to HR Council. In this relation, Government of Nepal made a decision to implement the ten child rights related recommendation given to Nepal by HR Council and NHRC is playing the role of watch dog on it.

e. National and International Relation

NHRC is making harmonious relation with national and international human rights agencies including donor partners. Save the Children is financially supporting NHRC for its child rights protection and promotional works. It is making professional relation with OHCHR, NIRMS, APF, ICC and UNDP and working together for wider protection and promotion of rights of the child. Likewise, NHRC is arranging discussion, meetings and interaction with Parliamentarian, judicial and quasi judicial bodies, security agencies and Government Ministries on any kinds of child rights issues.

f. Recommendations

NHRC is making recommendations to the government of Nepal for the compensation to the victim and legal action for the perpetrators and some of the recommendations related to the law and policy reforms. NHRC's major recommendations includes to declare school as zone of peace, free and compulsory secondary education for all, abolition of Kamaiya child, abolition of domestic child labour, to establish the nutrition rehabilitation center in each district, implementation of national plan of action of government on child, implementation of child protection policy, banning the corporeal punishment in all settings, assimilating human rights education in school curriculum³².

4. IMPLEMENTATION STATUS OF RECOMMENDATIONS MADE BY THE NATIONAL HUMAN RIGHTS COMMISSION ON CHILD RIGHTS

Child rights related recommendations have been discussed in three categories for the purpose of this study. There are recommendations on the cases of rights violation on which children were the direct victim. That means persons below 18 years were killed, tortured, displaced, beaten, detained, sexually harassed or their economic, social or cultural rights were deprived.

NHRC has made remarkable recommendations for the benefit of the child considering their

³² source: Study Report on the Implementation of recommendations of rights of the child, Annual Report of Child Rights, Child Rights Desk

best interests whenever they were affected by other incidents and violations. NHRC has especially recommended for free education whenever any dependent child's father, mother or guardian was killed, displaced or forced disappeared.

NHRC has also made some policy related recommendation.

All together there were 105 recommendations made on child rights issues by the time of this report preparation.

Summary of findings:

A. Cases of rights violation directly against children

From the year 2000 to 2002 (2057 to 2059 B.S), there was no recommendation on the case of child rights violation. Up to 2011 (2068 B.S.), there were all together 39 recommendations where children were directly victimized or their rights were violated.

In the year 2003 (2060 B.S.) there was only one case of extra judicial killing of a child. In the year 2004 (2061B.S.) there was no recommendation. In the year 2005 (2062 B.S.) there were nine recommendations on extra-judicial killing, one recommendation in the case where children were killed by Maoist, six recommendations where children were killed in explosion and three recommendations in the case of displacement of children. In the year 2006 (2063 B.S.) there was only one recommendation in torture of children. Likewise only one recommendation was made in the year 2007 (2064 B.S) in a case of killing of children in crossfire. In the year there were three recommendations in total; one was on extrajudicial killing and two in killing in explosion case. Like in the previous year, there was one recommendation on extra-judicial killing and two in killing in explosion, in the year 2009 (2066 B.S.) In the year 2010 (2067 B.S.), there were two recommendations in extrajudicial killing, one recommendation in the case of killing in explosion and one recommendation in a case where a child was forcedly disappeared. In the year 2011 (2068 B.S) there were nine recommendations, one on extrajudicial killing, one in a case where a child was killed by Maoist, one in forced disappearance, one in beating, one in violation of right to education, one in right to health, and recommendations on each case of detention with adult and one sexual harassment case.

The below table may help to understand the abovementioned statements.

	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	Total
Extra-judicial Killing	-	-	-	1	-	9	-	-	1	1	2	1	15
Torture	-	-	-	-	-	-	1	-	-	-	-	-	1
Killed in Crossfire	-	-	-	-	-	-	-	1	-	-	-	-	1
Killed by Maoists	-	-	-	-	-	1	-	-	1	-	-	1	3
Killed in explosion						1		3	3	1	1		9
Displacement						1							1
Forced Disappearance									2		1	1	4
Right to Education												1	1
Right to Health												1	1
Beating												1	1
Detention with Adults												1	1
Sexual Harassment												1	1
TOTAL													39

Brigade commander

B. Cases of rights violation of children by other incidents and violations

It is noteworthy that NHRC has made generous recommendations whenever any child was affected by any case of rights violation of children by other incidents and violations. These types of recommendations have been made when a dependent child's family member, especially when his/her father or mother was killed, forced disappeared or displaced. These

types of recommendation mentions free education to such children.

All together there were 51 recommendations, out of which 36 recommendations were made in cases of extra-judicial killings of family members of children. Eight recommendations were made when family members of children were killed by Maoists.

	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	Total
Extra-judicial Killing							3		8	6	3	16	36
Torture													-
Killing in Crossfire										2			2
Killing by Maoists									3	3		2	8
Killed in explosion										1			1
Displacement			1						1				2
Killed and Displaced by unidentified people/group								1					1
Forced Disappearance												1	1
Total													51

C. Policy-related recommendations

There were seven child rights policy related recommendations made by the NHRC. Out of which four recommendations have been implemented and in three recommendations there is no information on the implementation status from the relevant agency. The

recommendations still to be implemented are on the issues of (i) deployment of children as labour by government employee, (ii) status of trafficked women and children returned from Indian circus; and (iii) news published about Nepal Armed Police residing in building of Liliya Thakur National Primary School, Hanuman Nagar of Saptari District and its effect on school children

The recommendations implemented were on the issues of (i) rehabilitation and reintegration of child soldiers; (ii) sexual harassment of students by a scout teacher at Budhanilkantha school; (iii) existing custom of *Kamalari* and discrimination, domestic violence, torture and exploitation of such children; and (iv) practice of security officers entering inside examination halls as it creates environment of fear among examinee students

Detail of recommendation and analysis is annexed in annex 3.

ANNEX 1

A. Cases of rights violation directly against children

Extra-judicial Killing 2060

S.N	Name of victim	Address	Short description of complaint	viola-tor	Decision and Recommendation made by the NHRC	Status of implementa-tion	Remarks
1.	Four students of Sharada Higher Secondary School Yadunath Joshi, Meena B.K. Sushila Kumari Joshi, Hari-na Kumari Bhandari killed and five other students Bishnu Prasad Sharma, Tek Bahadur B.K, Dharma Kumari Bhurtyal, Ram Ba-hadur Bohara and Damber B.K.	Sharadha Higher Sec-ondary School located at Mud-hbhara V.D.C. No. 1, Doti District	In the crossfire between Nepal army and Maoist, few students of the high school and Maoist cadres lost their life which dragged the attention of NHRC and commission initiated the proce-dure itself.	Securi-ty force and Maoist	On 2062/8/2 commission decided to recommend the Government to penalize the perpetrator of the incident as per the law and provide sufficient compensation to the victim's family. The commission also recom-mended security forces for the compliance of any of the procedure of the force with laws in order to prevent any incidents like this in future. The commission also rec-ommended Government to direct concerned bodies to be careful that no one's fundamental rights as guar-anteed in the constitution is violated.	Rupees 1 Lakh as a relief amount sent to families of four vic-tims to the respective districts. However, any reports authenticating the amount provided is not received. The statement was given that security body is aware and sensible about the protection and promotion and protection of fun-damental rights as ensured in the consti-tution.	

Extra judicial killing: Recommendation of 2062

1.	Kisan Naurata Calaune, Netra Kadayat, Bhim Bahadur Pariyar, Rana Singh Bishwokarma, Nara Bahadur Nepali and Prabhunath Rimal	Bidhya Mandhir Higher Secondary School situated at Achham District ,VDC no.5	In the premise of the Bidhya Mandhir Higher Secondary School situated at Achham District,when people were gathered to attend a cultural program organised by district People's Council, gun was fired randomly from the helicopter of security force. After the message of injuries and deaths of general public, commission on its own activism, commission initiated the procedure itself.	Security Force	On 2062/2/3, the commission decided to recommend Government to punish the offender security personnel according to the prevailing laws and compensate the victim's family with Rs.1,50,000/-.	In the response of the first report sent to the district, Peace and Reconstruction Ministry as record no.68 ,on 2067/11/15 mentioned that amount of Rs.1 lakh for each of the beneficiaries of five victims including Naurata Chalaune, Netra Kadayat, Bhim Bahadur Pariyaar, Rana Singh Bishwakarma and Nara bahadur is sent to the concerned district. However, the name of the Prabhunath Rimal is not found in the records.	
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2.	Narayan Kanauji Magar (17), Tek Bahadur Gaha Magar (15), and Dal Bahadur Darlami	Palpa District, Chidipaani VDC no-1, Dhaireni, Sidhartha Highway	On 2061/12/12, security forces with uniform fired gun which killed Narayan Kanauji (age 17) and Tek Bahadur Gaha (Age 15, who were collecting donation for festival of colors (<i>holy</i>). The next day, Kantipur daily published the news which dragged the attention of commission towards the incident and it initiated the procedure of complaint on <i>suo moto</i> .	Security Forces	On 2062/01/28, the commission decided to recommend government to punish the offender as per prevailing laws and compensate victim's family.	As per the record number 2714 of the letter circulated by Home Ministry, it was informed that complying the decision of 2060/12/23, Rs. 1, 00,000 was provided as compensation. Additionally, according to the record no. 68 of letter circulated by Peace and Reconstruction Ministry on 2067/11/15, amount of Rs.1 lakh for each of the beneficiaries of five victims including Naurata Chalaune, Netra Kadayat, Bhim Bahadur Pariyaar, Rana Singh Bishwakarma and Nara bahadur is sent to the concerned district. On 2067/10/23 a letter was circulated by Defense Ministry mentioning that Security Force formed investigation team and the team found out that the victims and the arrested people of the incidents were not involved in any rebell as such. Therefore, the people arrested were released and sent to their families and not to repeat same incidents again, and the implemenattion of the recommendation by the commission to warn security personnels involved is being done.	
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3.	Heluram Chaudhary (19), Sharad Chaudhary (16), Buddhiram Chaudhary (15), Indralal Chaudhary (19), Binod Chaudhary (19), Dhundiraj Chaudhary (18), Prithvinarayan Chaudhary (16) and Asuri Chaudhary (22)	Dang District, Laxmi-pur VDC, Ward No.3, Beluwaa, Tharu Gaun	On 2059/8/3, a complaint made by Human Rights Awareness Forum, <i>Manab Adhikar Tatha Shanti Samiti</i> and INSEC was received by Commission about the incident of 2059 at Dang whereby 19 years old Heluram Chaudhari, 16 years old Sharad Chaudhari, 15 years old Buddhi Ram Chaudhary, 23 years old Indra Lal Chaudhari, 19 RamPrashad Chaudhary, 19 years Binod Chaudhary, 18 years old DhundiRaj Chaudhary, 16 years old Prithivi Narayan Chaudhary and 22 years old Ashuri Chaudhari, while celebrating a festival were killed when around 200 security forces in number fired gun indiscriminately. The complaint appealed for necessary investigation, punishment to the offender and compensation to the victim's family.	Security forces.	On 2062/2/3 a decision was made by the commission to circulate a letter to the government recommending for necessary prosecution of the responsible security personnel and provide relief amount of 1,50,000 each to the victim's families.	According to the letter circulated by Peace and Reconstruction Ministry, the first report has been sent to the district demanding relief amount for beneficiaries of victim's families including name of six victims, Heluram Chaudhary, Sharad Chaudhary, Buddhi Chaudhary, Indralal Chaudhary, Binod Chaudhary, Dundiraj Chaudhary and Prithivi Narayan Chaudhary. Regarding Ram Prashad Chaudhary and Ashuri Chaudhary, according to letter sent by Peace and Reconstruction Ministry on 2067/11/15 the letter on 2067/09/04 circulated has been circulated by Ministry of Home Affairs to Prime Minister and council of ministers proposing 1 lakh and 50 thousand relief amount to the victim's families.	
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4.	Devraj Adhikari studying at grade 7, Mahendra Rai (grade 9), at Jante Secondary School and Rajendra Madi Limbu	Morang District, Jatey VDC, Ward no. 02, near a school.	A complaint registered in the Commission regarding 2062/11/2 incident appealing for three students who lost their life while returning home caught in the crossfire between security forces and Maoist firing of gun.	Security force	On 2062/11/5 Commission decided to recommend government to provide 1,50,000 as compensation to the victim's families, manage free treatment to injured Dil Kumari Kurungwang, Maankumari Yonghang and to inspect and provide necessary compensation to Khimkumari Limbu and Bir Bahadur Limbu who have lost their properties of home and animals in the fight between the parties. The commission also decided to appeal Maoist not to execute armed activities in the school and obstruct non-involved parties	According to the letter circulated by Peace and Reconstruction Ministry on 2067/11/15, first report has been sent to the district regarding the relief amount to the beneficiaries of victim Mahendra Rai's family. And regarding Devraj Adhikari and Rajendra Madi, second report regarding the relief amount of Rs.1 lakh for victims' families has been sent to the district.	
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5.	Rupa Tharu (12 yrs)	Bardiya District, Saraswati Lower Secondary School	The commission received a complaint appealing for punishing the offender and providing sufficient compensation to victim's family. Here, victim Rupa Tharu aged 12, studying in grade 2, was taken by patrolling team of security forces up to the distance of 50 metres from home while she was sleeping and was killed by firing guns.	Security Forces	On 2063/2/30, Commission decided to recommend Government to inflict and execute a strong legal action against the perpetrator and provide Rs. 2,00,000 as compensation to the victim's family.	<ul style="list-style-type: none"> Rs. 1 lakh is sent to the district as compensation to victim's hiers and 1 lakh is remaining to be provide; No report regarding the procedure and action taken against the perpetrator 	
6.	Pooja Chausir (8yrs)	Kailali District, Dhangadi Municipality ward no. 1	Complain registered appealing for necessary investigation and action against the perpetrator who fired gun and killed 8 years old child Pooja Chausir and to provide compensation to the victim's family.	Un-known	On 2063/2/30, the Commission decided to send letter to the government to investigate and punish the perpetrator and not to do recommend anything regarding the compensation as the compensation of Rs. 1,50,000 is already provided to the victim's family.	<p>Rs. 2 lakhs and fifty thousand is sent to the concerned district to the victim's beneficiaries and even before the recommendation, Rs. 1 lakh 50 thousand was all ready sent to the victim's family;</p> <p>No any report regarding prosecution against the perpetrator is received.</p>	

7.	Krishna Kaji Kshetri (16), and Tuk Bahadur Thapa (14)	Tanahu district, Rishing patan VDC, Ward no. 9, Dulegauda	The complaint was received at Commission appealing for investigation and punishment against the offender who shot gun to the 14 years old Tuk Bahadur Thapa who was swinging. The complaint also appealed for the sufficient compensation to the victim's family.	Security Forces	On 2063/2/23, the commission decided to sent recommendation to the government to prosecute the perpetrator and provide Rs. 2,00,000 as compensation to the victim's family.	Compensation of Rs.2 lakhs is provided to the victim's family; Report stating that the accused of the incident is innocent is received.	
8.	Yogesh Gurung (15)	Dhading District, Nilkantha VDC no. 8	A complaint registered in the Commission against the security forces who arrested and shot gun against 15 years old Yogesh Gurung who was sleeping at Shiva Bahadur's Thapa's place suffering from Typhoid.	Security forces	On 2064/10/02, Commission decided to circulate letter to the government recommending the prosecution against offender according to the prevailing laws and provide 3 lakhs to the victim's family as compensation.	1 lakh as a compensation to the victim's family is sent to the district whereas two lakh is remaining ; No any report of the offender being punished has been received	

9.	Maina Sunuwar	Kavrepalanchowk district, Kharelthok VDC, ward no. 06	Complaint filed in the commission regarding the statement of prisoner of the Panchkhal on 2060/11/5 stated that ninth grader Maina Sunuwar who was taken by security force from her home to an unknown place was arrested and was forcedly disappeared at Panchkhal Barack.	Security Force	On 2066/9/9, the commission decided to re-request Nepal Government to act upon the earlier recommendations made by the commission concerning the prosecution of the accused according to the law and implement the decisions of Supreme Court. Additionally, commission also stated that a Court of Inquiry should be formed and the accused of Maina Sunuwar's murder, Major Niranjana Basnet from Nepal Army, who was presently at Kavrepalanchowk District Court for trial, should be prosecuted. With due respect to the order of the Supreme Court and warrant of District Court, commission decided to recommend government as per article 132 of Interim Constitution 2063 to prosecute the offender.	Relief amount of Rs. Four lakhs for victim's family has been sent to district; The decision of the court to punish the offender and providing compensation to the victim's family is all ready implemented.	Full implementation
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Extra-judicial killing: Recommendations of 2065

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Nirmala chand	Barchen V.D.C, Doti	A complain was registered at regional office of the Commission, Dhangadi, reporting that despite the possibility of arresting Nirmala Chanda, security force shot at her which also hit 11/12 years old child.	Security Force	On 2065/2/07, Commission decided to recommend Government to identify and prosecute the offender, compensate victim with three lakhs relief amount and provide the injured child with treatment expenses and educational scholarship.	<ul style="list-style-type: none"> Relief amount of 1 lakh has been sent to concerned district for victim's hiers whereas the remaining 2 lakhs has not been sent; Responsibility given to <i>Ko.A.E</i> Board to prosecute the offender; The children of victim have been provided with scholarship for education and accommodation. 	

Extra-judicial Killing: Recommendations of 2066

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Taman Khatiwada (16 yrs), Gopal Adhikari (19)	Nangk-hoyang V.D.C. -3, Taplejung	According to the complain no. 493 and 494, Gopal Adhikari and Taman Khatiwada residing in Taplejung district, Namkhel V.D.C, Ward no.3 were illegally killed.	Security Force	According to the investigation carried out by the commission, both of the victims were taken from the residence of Pampha Baral from Tamplejung District, Dokhu-3, on 2065/05/02 and with handcuffed were interrogated and later shot with gun. As, the act of shooting and killing of victim despite the prevailing provision of prosecuting an individual according to the law is the violation of human rights., the Commission recommended government to provide three lakhs as a compensation to the victim's family and prosecute the offender.	Not implemented.	

Extra-judicial Killing: Recommendations of 2067

1.	Chhatra Kambang (17 yrs), Binaya alias Chandrabir Kambang (15 yrs)	Oyam V.D.C.-4, Likhyang, Panchthar	Complaint registered for compensation and legal action against security personnel involved in killing Chhatra Kambang aged 17 yrs and Binaya alias Chandrabir Kambang aged 15 yrs	Security Force	Decision on 2067/2/3 to recommend Nepal Government to identify personnel involved in the murder of Chhatra Kambang and Chandrabir Kambang to bring them to justice and to compensate the heir of deceased with the amount of Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) deducting Nrs. 5,000 received by District Administration Office, Panchthar. Further recommendation to manage free education to the child of Chhatra Kambang.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/6/12 Letter dated 2067/8/19 received of the Peace and Reconstruction Ministry, Relief and Rehabilitation Unit deciding to compensate NRs. 300,000.	
2.	Prakash B.K.	Barchen-3, Doti	Complaint registered against security personnel involved in killing of Prakash B.K. aged 13, studying grade 5.	Security forces	Decision on 2067/7/11 to recommend Nepal Government to identify personnel involved in the murder of Prakash B.K. to bring them to justice and to compensate the heir of deceased with the amount of Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) as per National Human Rights Commission (Complaint, Action and Determination of Compensation) Regulation 2057.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/8/29	

Extra-judicial Killing: recommendations of 2068

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Bina Roka, Shuvani, Devikala Pariyar, Shyam B.K., Samundra Gharti, Pakti Pariyar, Pune Bista, Govinda B.K, Balsari Roka, Lalmati Pun, Jiyura Pun, Tume Budhathoki, Kame Punand Ratna Gurung	Rolpa	File number 165, Complaint registered on 2065/1/15; Bina Roka (18 yrs) and Shuvani Pun (17 yrs) of Jailbang-Rolpa, , Devikala Pariyar (17 yrs) and Shyam B.K. (17 yrs) of Sirpa-3, Jutukhola, Samundra Gharti (15 yrs), Pakti Pariyar (14 yrs), Pune Bista (16 yrs), Govinda B.K (16 yrs) and Balsari Roka (18 yrs) of Tewang, Lalmati Pun (18 yrs), Jiyura Pun (16 yrs), Tume Budhathoki (18 yrs), Kame Pun (16 yrs)and Ratna Gurung (17 yrs) of Gumchal-5 were mass murdered by shooting on 2058/12/8 at Pategumchal Kapra, Gumchal V.D.C-8, Rolpa	Security Force	Decision on 2068/11/22 to recommend Nepal Government to identify personnel involved in the murder to bring them to justice and to compensate the heir of deceased with the amount of Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) as per section 16(5) of the National Human Rights Commission Act 2068.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2069/1/10.	

Torture: Recommendation of 2063

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Fu Tsering Sherpa (15), Kami Sherpa (17), and Pasang Sherpa (15)	Kimalung-8, Bhojpur and Chhaithan-1, Dolakha now living at Jorpati-3, Kathmandu	Plain-clothed police from Boudha Police station arrested Fu Tsering Sherpa (15), Kami Sherpa (17), and Pasang Sherpa (15) at 7:00 am of 2060-02-23 Friday and allegedly tortured them in police custody and released them at around 2:00 pm on the same day forced them sign a document to appear every day at the police station. Examination of these students was going on and the action of police hampered their studies.	Nepal Police	Decision and recommendation of the Commission dated 2063-02-23 to the Nepal Government to investigate the case and inquire police personnel involved in torture and to take action if found guilty. Recommendation also to refund the expenses made by the victims on their treatment.	The Finance Ministry returned letter to the Peace and Reconstruction saying that all recommendations made by the NHRC is to be proceed under the Ministry of Home Affairs.	Not implemented

Killed in crossfire: recommendation of 2064

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Devi Sundas(15)	Bhojpur Sangpang VDC 4,	<i>Suo moto</i> initiative of NHRC on the killing of Devi Sundas (15) while she was being taken for action by the Maoists as she eloped with a boy named Machhindra Damai of the same place.	Security force	Recommendation of 2064-10-03 to identify guilty security officer and to provide NRs. One hundred thousand to the dependent family member of the deceased.	Compensation amount released and letter circulated by the MoHA for the action against the guilty military officer	Implemented

Killing by Maoists: recommendation of 2062

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Dinesh Kohar, Dipendra Chaudhary, Bharat Yadhav, Chandra Man Waretha alias Wadghad Dhobi, <i>Hridayes Yadhav (student of grade 7)</i> , Abhimanyu Chaudhary, Bijaya Chaudhary, Rajendra Chauhan, and Dinesh Chaudhary	Somani VDC 7, Bargadawa of Nawalparasi District	<i>Suo Moto</i> initiative of the Commission in the killing of people in the night of 2062-01-02	Maoists	Decision dated 2062-01-28 to recommend Nepal Government to refund all expenses made for the treatment of wounded, to compensate all those whose house was burnt or destroyed, to investigate the case and to take action of all involved, to rehabilitate all those displaced by the incident, to stop and discourage forming defense group and to force to be the member of such groups, to compensate the families whose members were killed by such defense groups, to provide NRs. 150,000 to family whose member was killed by the Maoists.	The letter of Peace and Reconstruction Ministry dated 2067-11-15 mentioned that NRs. 100,000 was sent to the relevant district to be received by the members of victim's family except to Bharat Yadev and Hridayes Yadhav's family as their name was not in the list of victims.	Partial implemented for other victims; Not implemented on Hridayes' case.

Killing by Maoists: recommendation of 2065

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Ram Sharan Khatri (14)	Hiledevi-9, Ramechhap	Ram Sharan Khatri (14) son of Krishna Bahadur Khatri was being taken to Ramechhap from Banepa by the Maoists. He was beaten on the way. The Maoists threw him to the flood of Sunkoshi river.	Maoists	The decision dated 2064-09-13 decided to recommend Nepal Government to list the case of Ram Sharan Khatri in 'forced disappearance' list and to proceed accordingly as the Maoists' allegation that he ran away and voluntarily jumped in the river is not believable.	NRs. 100,000 was released to be received by the victim's family from District Administration Office by the letter dated 2066-10-22 of Prime Minister's Office and Council of Ministers.	No information whether the victim actually received the amount

Killing by Maoists: Recommendations of 2068

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Jhabindra Kunwar and Sher Bahadur Kunwar	Bohara v.D.C. Baglung	A complaint was lodged at NHRC for the compensation and justice for victims and to identify perpetrator where Jhabindra Kunwar (10 yrs) and Sher Bahadur Kunwar (12 yrs) were killed and Ganesh Nepali (13 yrs) was injured by bullet in indiscriminate firing in strength demonstration by Maoists.	Maoists	Recommendation of 2068/03/31 to the Nepal government to identify the Maoist cadre responsible for the violation and take necessary action against him/her and to provide NRs. 300,000 to family members of each deceased and to provide NRs. 100,000 to the injured child. The recommendation also directed the GoN to provide him artificial leg.	The letter sent to the Peace Ministry by the MoHA, Cc'd to the NHRC	Letter circulated

Killed in explosion: 2062

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Basanti Rajali (10), Sumitra Rajali (19), Bhoj Kumari Rajali (13), Phulmaya Sunari (10),	Thada VDC-5, Argakhan-chi	<i>Suo moto</i> initiative of the Commission on the death on spot by the explosion of unattended/left explosive by unidentified group in Baghmunte jungle of Thada-5 on 2062-02-30. Basanti Rajali (10) and Sumitra Rajali (19) were killed in spot and Bhoj Kumari Rajali (13) and Phulmaya Sunari (10) and Ghumkala Rajali (25) were injured and rushed for treatment.	Unidentified group	Decision on 2062-07-03 to recommend government to provide adequate compensation to the victims.	As per the letter of MoHA reference number 166, dated 2063-11-28, NRs. 150,000 has been released to be received by concerned persons.	Budget released

Killed in explosion: 2064

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1..	Anita Nau Thakur (killed); Birendra Bhar, Krishna Bahadur Bhar (injured)	Buddhi-6, Kapilbastu	While playing with unattended bomb in 2062/02/09, Anita Nau was killed in the explosion while taking to hospital for treatment. In the same explosion Birendra Bhar (8years) and Krishna Bahadur Bhar (10 years) were wounded and were taken to hospital for treatment. Complaint was lodged before the NHRC for the compensation and to book the culprits to bring them to justice.	Un-identified group	Decision was made on 2064/09/13 to recommend the Nepal Government to provide NRs. 200,000 to the family of deceased and NRs. 35,000 to each family of wounded. Further recommendation to bring attention of the government and the Maoists to manage such left over explosives.	A recommendation letter was sent to the MoHA on 2065/2/31; Cc was received of the letter issued by the MoHA to the concerned agencies for the implementation of the recommendation on 2065/03/21	Only letter circulate and compensation not received by the victim.
2..	Tulashi Darji	Jayanagar-7, Kapilbastu	A ten year old daughter of Mangal Singh Darji lost her one limb because of explosion of a bomb inside the compound of Goringhe Barrack while gone for collecting firewood and complaint was lodged before the NHRC for the compensation.	Nepal Army	Decision to recommend Nepal Government to book responsible authority of the barrack for not notifying general public of such explosives left inside the compound and further recommendation to provide NRs. 100,000 to the victim.	Letter circulated to the Office of the Prime Minister and the Council of Ministers on 2065/02/31 for the implementation of the recommendation; Cc received by the NHRC of the letter by Office of the Prime Minister and the Council of Ministers sent to the MoHA on 2065/03/15; Cc received by the NHRC of the letter by MoHA to the District Administration Office and to the Peace and Reconstruction Ministry on 2065/03/31.	Only letter circulate and not compensation received by the victim.

3.	Gopal Thapa (killed), Pappu Thapa, Rambe Kumal (injured)	Rupandehi	Gopal Thapa (12 years) was killed on 2065/01/21 and Pappu Thapa (9 yrs) and Rambe Kumal (13 years) were injured while gone for collecting firewood in the jungle of <i>Khayerdanda</i> . All these three boys were of Mayadevi Orphanage.	Un-identified group	Decision was made to recommend GoN to provide NRs. 200,000 to the family of deceased Gopal Thapa, NRs. 50,000 to the family of injured Pappu Thapa and NRs. 10,000 to the family of Rambhe Kumal as per the gravity and seriousness of injury.	Letter circulated to the Office of the Prime Minister and the Council of Ministers on 2065/02/31 for the implementation of the recommendation; Cc received by the NHRC of the letter by Office of the Prime Minister and the Council of Ministers sent to the MoHA on 2065/03/15; Cc received by the NHRC of the letter by MoHA to the District Administration Office and to the Peace and Reconstruction Ministry on 2065/03/31.	Only letter circulate and not compensation received by the victim.
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Killed in explosion: 2065

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Parbati B.K.	Parros-5, Rupandehi	<i>Suo moto</i> initiative of the Commission on the death of Parbati B.K (18) in an explosion of bomb put on Tulbuliya bridge of Dudhrakshya VDC of Rupandehi by the Maoists to obstruct movement.	Maoists	Decision to recommend GoN to identify the culprit and bring him/her to justice, who put explosive in public place.	As per the letter of Prime Minister's Office and the Office of Council of Ministers, ref. num. 372, dated 2066-10-22, the compensation amount of NRs. 100,000 has been released to be received by the victim's family through the concerned District Administration Office.	Amount released

2.	Tal Bahadur Basnet	Bamtibhandar V.D.C. 8, Ramechhap	Tal Bahadur Basnet ,14 years old son of Amar Bahadur Basnet was killed in an explosion by grenade left by Maoists inside the house. Complaint was lodged for the compensation.	Maoists	Decision of 2065/07/21 to recommend GoN to provide NRs. 300,000 to the family of deceased.	Letter dated 2065/12/12 was sent to the Office of the Prime Minister and the Council of Ministers	Only letter circulate and not compensation received by the victim.
3.	Aituram Rana (8 yrs)(killed), Kesh Kumari Rana, Nil Bahadur Rana, Bhum Bahadur Disuwa (injured)	Khaliwan V.D.C. -5, Palpa	Aituram Rana , eight years son of Gopisar Rana was killed in an explosion while playing with left over bomb by the Maoists on 2060/10/28.	Maoists	Decision on 2065/09/20 to the GoN to provide NRs. 300,000 to the family of deceased and to provide free medical treatment to the wounded.	Cc of the letter of Office of the Prime Minister and the Council of ministers sent to the MoHA received on 2065/11/30.	Only letter circulate and not compensation received by the victim.

Recommendations made in 2066: Killed in explosion

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Rahamad Ali (2 yrs)	Mahuwa V.D.C.-8, Kapilbastu	A person named Sahiuddin Nisa brought a ball of iron without knowing it a bomb which went exploded and a two years baby was wounded. A complaint was lodged as they did not get any help for his treatment.	Security force	Decision on 2066/05/17 to recommend GoN to provide NRs. 40,000 to the victim's family.	A letter was dispatched to the Office of the Prime minister and the Council of Ministers in 2066/07/17	No compensation received by the victim.

2.	Nirajan Choudhary (2 yrs), Parashuram Choudhary (12 yrs), Sabina Choudhary (9 yrs) killed and Kiran Choudhary (8 months), Ram Kumar Choudhary injured	Chisapani-5, Banke	Nirajan Choudhary (2 yrs), Parashuram Choudhary (12 yrs), Sabina Choudhary (9 yrs) were killed and Kiran Choudhary (8 months) and Ram Kumar Choudhary were injured in a powerful explosion from a rice mill kept in a cowshed of Kshetra Bahadur Choudhary.		Decision of 2066/10/26 to recommend GoN to provide NRs. 100,000 each to the family of victims and to provide 25,000 to each family of wounded.	A letter of Peace and Reconstruction Ministry, Relief and Rehabilitation Unit has been received which mentions to provide 100,000 as compensation to the family of deceased.	Only letter circulate and not compensation received by the victim.
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Killed in explosion 2067

1.	Janaki Rai, Ram Maya Rai and Raj Kumar Rai	Bhandara-8, Chitwan	<i>Suo Moto</i> initiative of the NHRC on the news published in various media on killing of Janaki Rai (42 yrs) her daughter, Ram Maya Rai, aged 17 and Raj Kumar Rai aged 14 on the spot, and Kumar Rai (24 yrs) and Arbin Rai (7 yrs) son of deceased Janaki Rai and neighbor Bal Krishna Rai were wounded in a powerful explosion at Sundarbasti, Bhandara-8, Chitwan.	Unknown	Decision of 2067/5/15 to recommend Nepal government to launch awareness raising programs to make sure not to repeat such incidents in future days; to make a policy decision to move the firing range of Armed Police situated in Martikhola in another place; take responsibility of the incident by the Gadhimai <i>Bal</i> on moral ground as the explosive was left there carelessly; identify responsible personnel for the incident and take action; and to compensate the each heirs of deceased Nepalese Rupees Three Hundred Thousand (NRs. 300,000) and to provide free medical treatment to the wounded.	Letter dated 2067/6/15 circulated to the Office of Prime Minister and the Council of Ministers for the implementation of NHRC recommendation	
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Displacement: recommendation of 2062

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	58 Persons of aged 2 to 84	Ratnapark	Detention of the Internally Displaced Persons caused by the atrocities of Maoists by Nepal Police	Nepal Police	Recommendation to release the IDPs, return their belongings and to respect all their rights and to implement IDPs Policy issued by the GoN.		IDP Policy not implemented

Forced Disappearance: Recommendation of 2065

1.	Chotelal Chaoudhary (14), Janga Bahadur Choudhary and Nathuram Chaoudhary	Shripur V.D.C. -2, Kanchanpur	Chotelal Chaoudhary (14), Janga Bahadur Choudhary and Nathuram Chaoudhary were arrested by security force and disappeared on 2059/06/02	Security force	Recommendation for the interim relief amount of NRs. 100,000 to the victim's family	Cc of the letter dispatched by the Office of the Prime Minister and Council of Ministers to the MoHA and Peace Ministry received	No compensation received by the victim's family
2.	Kumari Damai (13)	Musariya V.D.C. -1, Dhangadi	Kumari Damai (13) was arrested by security force and detained in Sukkhad Base Camp in 2059/06/08 but her whereabouts is still unknown thereafter.	Security Force	Recommendation for the interim relief amount of NRs. 100,000 to the victim's family	Cc of the letter dispatched by the Office of the Prime Minister and Council of Ministers to the MoHA and Peace Ministry received	No compensation received by the victim's family

Forced Disappearance: Recommendation of 2067

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Prem Kumar Tharu, Shiva Prasad Tharu, Kaliram Tharu	Mahamadpur V.D.C.-8, Bardiya	Complaint registered claiming Prem Kumar Tharu aged 18, Shiva Prasad Tharu aged 18 and Kaliram Tharu aged 15 were forced-disappeared.	Unknown	Decision of 2067/3/30 to recommend Nepal Government to make public whereabouts of the disappeared persons and to compensate Nepalese rupees One hundred thousand to heirs of each victim and to identify culprit and to take legal action.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/6/14 for the implementation of NHRC recommendation	

Forced Disappearance: Recommendation of 2068

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Paramlauti Choudhary, Hiran Choudhary and Jyoti Choudhary	Dekhatmuli-9, Katan, Kanchanpur	File number 540, complaint registered on 2064/2/13; Paramlauti Choudhary (13 yrs) of Dekhatmuli-9, Katan, studying in grade 6, Hiran Choudhary of Krishnapur-5, Maouwaphant and Jyoti Choudhary of Bardiya were arrested by then Royal Nepal Army, Majgaun Barrack army patrol and their whereabouts is still unknown since then.	Security force	Decision of 2068/03/28 to recommend Gon to provide compensation amount of NRs. 100,000 to victim's family.	Cc of the letter dispatched by the Office of the Prime Minister and Council of Ministers to the MoHA and Peace Ministry received	No compensation received by the victim's family

Violation of Right to Education: Recommendation of 2068

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Sapana B.K. and Alisa Nepali	Lekhnath Municipality-9, Kaski	Sapana B.K. aged 6 and Alisa Nepali aged 4, living with Aankura Single Women and Women Infected by HIV-AIDS, were admitted to Diamond model English Boarding School. After Some days of school, these two children were restricted to continue their studies at that school. Complaint was filled as children's right to education was violated.		Decision of 2068/03/31 to recommend GoN and Education Ministry to ensure children's unhindered access to education and to spread information about HIV and AIDS.	Cc of the letter dispatched by Office of the Prime Minister and the Council of Ministers to the Ministry of Health, Education received	Not implemented

Violation of Right to Health: Recommendation of 2068

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Jamuna Budhamagar	Kanda-5, Serawang, Rukum	This malnourished girl, Jamuna Budhamagar who was undergoing her treatment at Bheri Zonal Hospital had no resources to continue her expenses for further medical services.	State	Recommendation to GoN for launching programmes to reduce malnourishment of children in Nepal	Programmes going on	

Other Child Rights Violation: Recommendation of 2068

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Subash Bhandari	Pakwadi-8, Syanjha	Subash Bhandari's daughter four grader Kabita Bhandari, aged 13, was beaten by her teacher in hand by a bamboo stick at The Excellant Boarding School and her hand fractured.	School/ teacher/ State	Recommendation to the GoN to adopt a child protection policy that ensures children's rights against torture at schools.	implemented	Implemented
2.	Krishna Bahadur Dhakal	Lekhnath-7, Kaski	Krishna Bahadur Dhakal was in detention with adults from 2064/01/13 in District Prison Section, Kaski and complaint to be shifted in the juvenile reform house in 2065/01/06	state	Recommendation to the GoN in 2068/03/31 not to keep juvenile delinquents in prison with adults and to formulate separate policy to keep such juveniles separately after they reach the age of maturity till they complete their sentence	Letter dispatched to the Ministry of WCSW.	Not implemented
3.	Twenty female students of New Millennium School	Pokhara -17, Birauta	Sexual harassment of 20 students of grade 8 of New Millennium School, Pokhara by teacher.	School/ teacher/ state	Recommendation to the GoN to adopt a child protection policy that ensures children's rights against sexual harassment and torture at schools.	implemented	Implemented

ANNEX 2

B. Cases of rights violation of children due to other incidents and violations

Displacement: Recommendation of 2059

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Supari Mijar	Lalitpur-14	Complaint was lodged on 2057/08/02 for the compensation as Supari Mijar who was residing in Lalitpur-14 was forcefully displaced by Municipality	Lalitpur Municipality	Recommendation to the Municipality of 2059/02/21 to ensure shelter to Supari Mijar	not implemented	

Displacement: Recommendation of 2065

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Displacement due to damage of Koshi Barrage	Sunsari	Complaint on 2065/05/09 to provide food, cloth, shelter and other things of necessity for the displaced due to damage of Koshi Barrage		Recommendation on 2065/05/12 to the GoN to ensure various reparation package, including things of basic necessities and rehabilitation of displaced	Letter circulated by the Office of the Prime Minister and the Council of Ministers	

Extra-judicial killing: Recommendation of 2061

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Bikram Lama	Pokhari Narayan- stan-Kavre	20 years old Bikram was arrested and shot dead by the security forces while going to get money of the buffalo he sold	Security forces	Decision on 2061/05/01 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees One Hundred thousand Rs. 100,000 and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter sent to the Office of the Prime Minister and Council of Ministers on 2061/05/25, follows-up on 2062/01/28	

	Kumar Thapa Magar, Gokarna Gurung, Tanka Bahadur Gurung, Sanu sunuwar, kumar sunuwar, Tek Bahadur Sunuwar, Dil Bahadur Praja, Bikash Praja, Gyan Bahadur Magar, Budhha Bahadur Praja, Koshrang Kanchha Praja, Ram Bahadur Praja, Ram Bahadur Praja, Sher Bahadur Praja, Kumle Praja, Chitra Bahadur Praja, Rajau Shrestha, Kanchha Giri, Bhim Bahadur Magar, Manju Thapa Magar, Janatare Lata Magar, Pradeep Rai, Prem Lama, Harke Tamang, Pasang Lama, Buddhaman Chyangba, Chitra Bahadur Rai, Nir Kumar Khati, Krishna Thapa, Lal Bahadur Kathayat, Bhim Bahdur Kathayat, Gorkhe Kathayat, Tek Bahadur Bista, Ganga Bista, Ganesh Bista, Tenjing Norbu Sherpa and Laxman Bhandari	Kotwada, Kalikot	These victims were killed on 2058/11/12 the way to work on the construction site of airport in Kotwada, Kalikot. All 37 were killed by the security forces.	Security forces	Decision on 2063/03/06 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees 275,000 and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased. Also recommendation to ensure compulsory insurance of al workers before they are hired in work.	No record was found of 17 victims, not implemented	
3.	Tirtha Raj Poudel	Saipu-4, Ramechhap	37 years old Tirtha Raj Poudel was killed by the firing by the security forces	Security Force	Decision on 2064/10/21 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	As per the decision of MoHA of 2065/10/05, 150,000 was to be provided to the family of victim. Letter of DAO to release 100,000 on 2066/10/22	

Extra judicial killing Recommendations made by the NHRC in 2065

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Khadga Bahadur Bohara	Barchen V.D.C, Doti	Khadga Bahadur Bohara was shot dead by the Security force while he was on the way to home	Security force	Decision on 2064/10/21 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees. 250,000.00 and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated by the Office of the Prime Minister and the Council of ministers for 100,000 to be received by the victim's family through District Administration Office	
	Dal Bahadur Thapa, Parbati Thapa	Naubasat V.D.C Ward-8, Banke	Dal Bahadur Thapa and Parbati Thapa were shot dead in their own house by the security force	Security force	Decision on 2065/3/8 recommended Nepal government to compensate heirs of deceased with Nepalese Rupees 2,00,000 and to identify the culprits to bring them to justice, further recommendation to manage free education for the children of the deceased.	On 2067 Jestha 13 "ayoog ko eak dashak oojuri upar ayoog ka sifarish B.S 2057-2067 " published that the recommendation has been implemented.	
	Narad Pandey	Baitadi Basulinga V.D.C. Ward-7, Dhangadi	Shot dead by security force	Security force	Decision on 2065/3/11 recommended Nepal government to compensate deceased heir Nepalese Rupees 3,00,000 and to identify the culprit to bring them into justice , further recommendation was made to manage free education for the children of deceased.	Home ministry had circulated letter for compensation. Peace and Reconciliation Ministry replied that there was no name of the victim registered. . Education Ministry provided children with free education.	

	Dal Bahadur Chand, Lokendra Bahadur Chand, Rana Bahadur Chand, Tek Bahadur chand and Dabal Bahadur Sarki (killed) and Chakra Bahadur Mateli injured	Barchen V.D.C, Doti	Dal Bahadur Chand, Loken-dra Bahadur Chand, Rana Bahadur Chand, Tek Bahadur chand and Dabal Bahadur Sarki were killed and Chakra Bahadur Mateli was injured on a firing by security force	Security force	Decision on 2065/03/11 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated by the Office of the Prime Minister and the Council of ministers on 2066/10/22 for NRs. 100,000 to be received by the victim's family through District Administration Office	
5.	Hira Bahadur Magar	Ranichuli V.D.c. Ward-9,	On the suspicion of Hira Bahadur Magar got killed in the custody of security force mere suspicion being a combatant of Moist	Security force	Decision on 2065/4/23 recommended Nepal Government to compensate heirs of deceased with Nepalese Rupees 3,00,000 and to identify the culprit to bring them to justice and provide free education for the children of deceased.	The amount which the family of the deceased was supposed to get was sent to that district to give to the victim's family. Responsibility of Investigation regarding the killing of the victim was given to Nepal police.	

6.	Setu B.K.	Bageshwori V.D.C.-3, Banke	Killed by security force	Security force	Decision on 2065/3/19 recommended Nepal Government to provide free education to the children of deceased as the compensation amount was already provided to the family member of the deceased..	Setu B.K has been declared one of the martyrs by Peace and Reconstruction Ministry and provided with Nepalese rupees 60,000 and children of deceased were provided with free education.	
7.	Rambinaya Yadav	Inarwamal V.D.C. -6, Bara	Killed by Security force in their custody	Security force	Decision on 2065/11/2 recommended Nepal government to compensated Nepalese rupees 3,00,000 and to provide free education for the children of deceased	1lakh was provided by the respective district but 2 lakh has yet to be provided .The culprit is still at large.	
8.	Hari Prasad Kandel	Birwas V.D.C.-1, Gulmi	Hari Prasad Kande was shot dead by the security force on 2060/10/04 while running away for his life	Security force	Decision on 2065/11/08 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated to the Office of Prime minister and the Council of Ministers on 2066/07/16	

Recommendations made on Extra-judicial killings 2066

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Krishna Bahadur Lama	Baramchi V.D.C.- 4, Sindhupalchowk	The investigation team of the NHRC reveled that Krishna Bahadur Lama resident of Baramchi V.D.C.- 4, Sindhupalchowk was working as technician assistant in the same V.D.C. He was arrested by Nepalese army and later killed on 2060/07/19.	Nepalese Army	Decision on 2066/07/19 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees 100,000 and further 200,000 for the education of victim's children and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Rupees 100,000 was provided to the family member of the victim before the NHRC recommendation. Remaining 100,000 was yet to be provided. The children of the deceased was provided free education.	
2.	Chandrakala B.K. (12 Yrs), Devisara B.K. (35 yrs) and Amrita B.K. (32 yrs)	Basapani of Bardiya National Park	Chandrakala B.K. (12 Yrs), Devisara B.K. (35 yrs) and Amrita B.K. (32 yrs) were killed by the security forces while gone to collect fodder	Nepal Army	Decision on 2066/12/19 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter dispatched to the Office of the Prime minister and the Council of ministers on 2066/12/19	

	Dalbhakta Lopchan	Rajkut V.D.C. -7, Baglung	On 2059/3/19 Dalbhakta Lopchan was taken from his home by Nepal army while all were asleep . The army were from <i>Bhim Gothay camp</i> and the captain of that camp was Bishwash Bikram Singh who took him for the investigation on their way they tied his hand and was beaten then they threw him into the river which they denied saying that he escaped from them and jumped into river ,therefore the family of deceased did not even get the body.	Nepal Army	Decision on 2066/9/23 recommended Nepal Government to provided free education for the children of deceased, Nepalese rupees 3,00,000 is to be given and criminal charge to be carried out to Bishwash Bikram Singh.	Only 1lakh has been provided by peace and reconciliation ministry and 2 lakh is still to be given.	
4.	Bhim Bahadur Thapa Magar	Ruchang V.D.C. -8, Nawalparasi	Bhim Bahadur Thapa Magar was killed and buried by security force who were gone for patrollong on 2060/07/04	Nepal Army	Decision on 2066/10/03 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter dated 2069/09/19 received from the Relief and Rehabilitation unit of Peace and Reconstruction to provide 300,000 to the victim's family	

5.	Nara Bahadur Rana Magar and Tulsi Gaha Magar	Ruchang V.D.C. -6, Nawalparasi	In the complaint of extra-judicial killing of Nara Bahadur Rana Magar and Tulsi Gaha Magar, the investigation team of the NHRC revealed that these two persons were arrested and taken away by the security forces while waiting to catch porcupine in their field. Ten others were also arrested. The incident occurred on 2061/7/2	Security force	Ten other persons were released on the same day but Nara Bahadur and Tulsi Gaha Magar were killed. The NHRC recommended to the GoN to provide 300,000 to the family of each of the deceased. Further, recommended to provide free education to the children of the victims and to find perpetrators to bring them to justice.	Rupees 100,000 was provided to the family of each of the deceased. Rs. 200,000 was yet to be provided. The victim's children were provided free education.	
6.	Bishnu Kumar Miyanbo	Dhechambu V.D.C. -6, Khalte, Taplejung	compliant registered that Bishnu Kumar Miyanbo was killed by the security force while he was running to save his life from them	Security force	Decision on 2067/2/3 recommended Nepalese Government to provide Nepalese Rupees 3,00,000 as compensation and to find out the culprit as soon as possible plus free education to the children of deceased is to be provided.	Only 1lakh has been given, 2 lakh is still to be given. There is no record of offender been arrested..	

Extra-judicial Killing: Recommendations of 2067

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Bishnu Kumar Menyangbo	Dhechambu-6, Khalte, Taplejung	Complaint registered against security forces for killing Bishnu Kumar Menyangbo on 2062/7/1 while running to save his life from security forces	Security forces	Decision on 2067/2/3 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/3/12 Letter dated 2067/8/19 received of the Peace and Reconstruction Ministry, Relief and Rehabilitation Unit deciding to compensate NRs. 300,000.	
2.	Shiva Prasad Parajuli	Lekhnath-2, Kaski	Complaint against security force for extra-judicial killing	Security force	Decision on 2067/3/30 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/3/14	
3.	Range Gandarva (Badi)	Chainpur-1, Gandarvatol, Bajhang	Complaint against security force for extra-judicial killing	Security force	Decision on 2067/7/11 to recommend Nepal Government to compensate heirs of deceased Nepalese Rupees One Hundred thousand (Rs. 100,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for the children of the deceased.	Letter circulated to the Office of Prime Minister and the Council of Ministers on 2067/8/29	

Extra-judicial Killing: Recommendations of 2068

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Sukamaya Bal and Rajkumar Ghalan	Hadikhola-4, Bhiman, Makawanpur	File num 1569, complaint on 2060/12/3; 80 years Sukamaya Bal was killed in military operation and Rajkumar Ghalan was killed by army while going to father-in-laws' house in the same incident	Security Force	Decision on 2068/3/21 to recommend Nepal Government to compensate heirs of each deceased Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for girl child of the deceased Rajkumar Ghalan.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/4/17	
2.	Ram Bahadur Pariyar	Chuwa-5, Parbat	File number 622/444, Complaint on 2064/4/14 on killing of Ram Bahadur Pariyar on 2059/1/11 by security force	Security Force	Decision on 2068/3/31 to recommend Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 deducting the amount if provided earlier and to identify culprits to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/10/18	

3.	Tej Bahadur Bhandari	Simpani-3, Bhalam, Lamjung	File number 488, complaint on 2058/10/18 on the forced disappearance of ex-teacher and village level secretary of Nepal Communist Party Marxist Leninist while going to the CDO office for pension and to meet CDO	Security Force	In the investigation of NHRC, it is seen that unarmed Tej Bahadur Bhandari was arrested by security force. The excuse of security force about shooting him dead in accusation of running away beyond the security-line is not reliable. He was unarmed and could be arrested. Decision on 2068/3/31 to take legal action as per chapter on Murder of <i>Muluki Ain</i> against then CDO Shiva Prasad Nepal, Major of Lamjung Army Santosh Singh Thakuri, DSP Pitambar Adhikari and other commanders and personnel involved. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 deducting the amount if provided earlier and to identify culprits to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/10/18	
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4.	Amber Bahadur Gharti Magar and Rim Bahadur Thapa Magar	Aragal Lower Secondary School, Baglung	File number 350, complaint on 2063/2/24; Teachers duo were arrested by security forces from Aragal Lower Secondary School, Baglung on 2058/11/26 and subsequently killed on 2058/11/28	Security Force	Decision on 2068/3/31 to recommend Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to identify personnel involved in the murder to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/10/18 and Letter of Home Ministry dated 2068/11/22 to the PHQ	
5.	Ganga Gauchan and Palbir B.K.	Tara-5, Baglung	File number 2332, complaint filed on 2061/8/27; Ganga Gauchan and Palbir B.K. were arrested by security forces and subsequently killed on 2061/8/17.	Security Force	Decision on 2068/3/31 to recommend Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to heirs of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to identify personnel involved in the murder to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/10/18 and Letter of Home Ministry dated 2068/11/22 to the PHQ	

6.	Khim Lal Pariyar	Rising, Rani Pokhari, Tanahu	File number 437/180, complaint filed on 2063/5/9; Khim Lal Pariyar aged 42 was arrested by security force on 2061/1/21, taken to Kaule of Ghang V.D.C-3, Tanahu and killed on 2063/5/9.	Security Force	Decided to recommend Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to heirs of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to identify personnel involved in the murder to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/10/18 and Letter of Home Ministry dated 2068/11/22 to the PHQ	
7.	Dhalindra Basnet	Tara V.D.C-5, Baglung	File number 1709, complaint filed on 2061/8/17; Dhalindra Basnet of Tara V.D.C-5, Baglung was arrested and subsequently killed by Unified Command deployed by <i>Khadka Dal Gulma</i> of Sile, Argal V.D.C. Baglung	Security force	Decision on 2068/3/31 to take legal action as per chapter on Murder of <i>Muluki Ain</i> against Nanda Ram Dhungel of Tara V.D.C.-5, Baglung for abetting the crime and to identify security personnel involved in the murder to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 deducting the amount if provided earlier and to identify culprits to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/11/9 for the implementation of recommendation and that Letter dated 2068/11/15 received by Home Ministry, Peace Ministry and Defense Ministry. Letter circulated by Home Ministry dated 2068/11/22 received by the PHQ	

8.	Sekhernath Ghimire and Chetnath Ghimire	Ishaneshwor -4, Lamjung	File number 239/311/310/875, complaint filed on 2059/1/29 and on 2062/12/7 requesting for finding out whereabouts of Chetnath Ghimire and Sekhernath Ghimire mentioning that Chetnath Ghimire and Sekhernath Ghimire of Ishaneshwor -4, Lamjung were arrested and detained while they went to Lamjung Bhorletar Barrack in a request of the Army of the Barrack to meet them. Chetnath Ghimire was called on 2058/10/20 and Sekhernath Ghimire was called on 2058/10/25. The family was denied to meet and detainee's whereabouts is unknown.	Security Force	Decision on 2068/3/31 to take legal action as per chapter on Murder of <i>Muluki Ain</i> against Head of Bhorletar Army Barrack and other security personnel involved in the murder to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 deducting the amount if provided earlier and to identify culprits to bring them to justice. Further recommendation to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/11/9 for the implementation of recommendation and that Letter dated 2068/11/15 received by Home Ministry, Peace Ministry and Defense Ministry. Letter circulated by Home Ministry dated 2068/11/22 received by the PHQ	
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9.	Toyanath Pokhrel, Bishnu Prasad Adhikari and Tirtharaj Ghimire	Hulayakharka V.D.C. 3, Lamjung	File number 500/499/501, complaint filed 2063/10/4 to find the whereabouts of Toyanath Pokhrel, Bishnu Prasad Adhikari and Tirtharaj Ghimire as Toyanath Pokhrel and Bishnu Prasad Adhikari of Hulayakharka V.D.C. 3 were arrested on 2058/11/17 from their own house and Tirtharaj Ghimire of Hulayakharka V.D.C. 4 was arrested from Gyanodaya Secondary School-Vayalkharka, on the same date by military deployed by Harmi Base camp-Gorkha. They were taken to Harmi base camp and later forced disappeared.	Security forces	Decision of 2068/3/31 to recommend Human Rights Cell of Nepal Army to send written reply from the team leader of the army arresting the victims, Bal Bahadur Thapa, and from then head of Harmi Base Camp, Gorkha, Lieutenant Ramesh Mahat and other involved personnel for detaining victims in the base camp and their forced disappearance. Further recommended to the Nepal Government to compensate Nepalese Rupees One Hundred thousand (Rs. 100,000.00) to the heir of deceased and to manage free education for children of the deceased.	Letter circulated to Nepal Army on 2068/11/9 recommending the implementation of NHRC decision. Letter circulated to the Ministry of Prime Minister and Council of Ministers on the same date. Reference of letter circulated to the Home, Defense and Peace Ministry received on 2068/11/15.	
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10.	Khor Bahadur Choudhary	Panchnagar-3, Nawalparasi	File number 2567, complaint registered on 2061/9/27 for investigation of killing of Khor Bahadur Choudhary and for compensation to the victim's family. The victim was arrested on 2060/12/6 by the security forces and subsequently killed.	Security forces	Decision on 2068/3/31 to identify culprit army officer and other personnel involved and to take legal action against them as per chapter on Murder of <i>Muluki Ain</i> to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/12/6 for the implementation of NHRC decision. Reference of letter circulated to Home, Defense, Education and Peace Ministry received on 2068/12/13.	
11.	Raju Bishwokarma	Baglang Municipality -11, Baglung	File number 483, complaint registered on 2059/6/11 and on 2063/3/18; Raju Bishwokarma, aged 29 of Baglang Municipality -11, Baglung was arrested on 2058/11/27 by security force and later his dead body was handed over to the family in local hospital on 2058/11/20.	Security force	Decision on 2068/3/31 to identify culprit army officer and other personnel involved and to take legal action against them as per chapter on Murder of <i>Muluki Ain</i> to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/12/6 for the implementation of NHRC decision. Reference of letter circulated to Home, Defense, Education and Peace Ministry received on 2068/12/13.	

12.	<p>Krishna Prasad Gautam,</p> <p>Bijaya Subedi, Khadga Bahadur Kunwar, Mohan Singh Gaha Magar and Kubija Parajuli</p>	<p>Huwas-3, Paiyun, Hatiya, Parbat</p> <p>Thumpokhara-Syanjha</p>	<p>File number 2504, complaint filed on 2061/9/15 and in 2063/3/18; Krishna Prasad Gautam (36 yrs) of Huwas-3, Paiyun, Hatiya,</p> <p>Bijaya Subedi (27 yrs) of Pipaltari-3, Khadga Bahadur Kunwar (35 yrs) of Biyadi-5, Mohan Singh Gaha Magar (60 yrs) of Saligram and Kubija Parajuli (29 yrs) of Thumpokhara- Syanjha were arrested from Sirsekot V.d.C.-6, Dum-rechhapa of Syanjha District by security force on 2061/9/15 and subsequently killed.</p>	Security forces	<p>Decision on 2068/3/31 to identify culprit army officer and other personnel involved and to take legal action against them as per chapter on Murder of <i>Muluki Ain</i> to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to manage free education for children of the deceased except Bijaya Subedi.</p>	<p>Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/12/6 for the implementation of NHRC decision. Reference of letter circulated to Home, Defense and Peace Ministry received on 2068/12/13.</p>	
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13.	Dilli Prasad Sapkota,	Baglung-2, Hadepakha, Baglung	File number 91, complaint registered on 2062/4/26 against Inspector Binod Ghimire of District Police Office, Baglung and then Second Lieutenant of Khadga Dal Gulma Shiva Poudel for illegally arresting Dilli Prasad Sapkota of Baglung-2, Hadepakha, Baglung and subsequently killing him.	Security force	Decision on 2068/3/31 to identify the involvement of Inspector Binod Ghimire of District Police Office, Baglung and then Second Lieutenant of Khadga Dal Gulma Shiva Poudel and other personnel involved and to take legal action against them as per chapter on Murder of <i>Muluki Ain</i> to bring them to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per Rule 17 of NHRC (Complaint, Action and Determination of Compensation) Regulation 2057 and to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2068/12/6 for the implementation of NHRC decision. Reference of letter circulated to Home, Defense and Peace Ministry received on 2068/12/13.	
14.	Taparaj Joshi	Raikabar, Bichawa-7, Rajghat, Kanchanpur	Complaint number 897 dated 2063/10/5 to bring culprit to justice as Taparaj Joshi of Raikabar, Bichawa-7, Rajghat, Kanchanpur was shot dead by patrolling armed police on 2058/1/11.	Armed police	Decision on 2068/11/23 to identify culprit police officer to take legal action against him as per chapter on Murder of <i>Muluki Ain</i> to bring him to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees Three Hundred thousand (Rs. 300,000.00) to the heir of deceased as per NHRC Act section 16(5) and to manage free education for children of the deceased.	Letter circulated to the Ministry of Prime Minister and Council of Ministers on 2069/1/10 for the implementation of NHRC decision.	

15.	Gyan Bahadur Rasaili	Rinpata-6, Chaud, Bajhang	Gyan Bahadur Rasaili was arrested by security force on 2058/9/1 while staying at home saying him that he has been called by Bajhang District Police Office. On 2058/9/2 family members were called by saying that Gyan Bahadur is ill. But at the police office the family members were said to receive his dead body. The family denied and filed a complaint.	Security force	Decesion of 2068/10/23 to recommend GoN to provide heirs of the deceased with Nepalese Rupees 300,000 as Gyan Bahadur was shot dead in police custody. Further decided to recommend GoN to provide free education to the children of deceased.	Letter to the Office of Prime Minister and the Council of Ministers was dispatched on 2069/1/10. No information of the execution of the recommendation.	
16.	Bam Bahadur Malla	Rayal-1, Bajhang	Complaint was lodged at the NHRC on 2064/11/1 mentioning that Bam Bahadur was arrested and later shot dead by security force on 2059/2/30	Security force	Decesion of 2068/10/23 to recommend GoN to provide heirs of the deceased with Nepalese Rupees 300,000 as Gyan Bahadur was shot dead in police custody. Further decided to recommend GoN to provide free education to the children of deceased.	Letter to the Office of Prime Minister and the Council of Ministers was dispatched on 2069/1/10. No information of the execution of the recommendation.	

Killed by Maoists: Recommendations made by the NHRC in 2065

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Gokarna (Gopi) Subedi	Kathar V.D.C.-4, Chitwan	The compliant registered against the Maoist that on 2060/7/7 Gokarna subedi was kidnapped and later killed while coming back home from Makwanpur district after doing his work. After one year of his killing, the Maoists in a <i>Corner Assembly organaized</i> near by his house (chitwan district V.D.C-4) claimed that they killed Gokarna.	Maoist	Decision on 2065/3/19 recommended Nepal government to provide Nepalese Rupees of 3,00,000 and to find out the culprit, further provide children of deceased with free education.	The amount that is to be provided to the family members of deceased has been given to his respective district. The culprit has not yet been arrested.	
2.	Top Bahadur Shrestha	Dudhrakshya V.D.C. -9, Rupandehi	The complaint filed on 2058/3/26 mentioning that the Maoist captured and later killed Top Bahadur.	Maoist	Decision on 2065/9/20 recommended Nepal government to find out the persons who were involved in killing of the victim, Nepalese Rupees 3,00,000 shall be given to the deceased family, further the children of the deceased are to be provided with free education.	Only 1lakh has been provided 2 lakh is still to be given to the family of deceased. The offender has not been arrested. Children are provided with free education.	

3.	Ghanashyam Bhandari	Bishrampur V.D.C. -9, Rautahat	The complaint filed on 2061/1/13 Ghanshyam Bhandari who was the chairperson of Rautahat District, Bishrampur V.D.C -9 was taken by Maoist and shot dead.	Maoist	Decision on 2065/11/2 to recommend Nepal Government to find out the offenders and bring them to justice. Further recommendation to provide the victim's family with the NRS. 1,50,000 as well as the children of deceased are to be provided with free education.	The families of deceased were given the amounts that were supposed to get, children are provided with free education and no record of offender being arrested.	
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Recommendations made by the NHRC in 2066: Killed by Maoists

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Uddhav Shivakoti	Lamidanda V.D.C. -6, Dolakha	On 2060/5/10 at 7:00 pm Uddhav was taken by the Maoists from his home and later killed	Maoists	Decision on 2066/5/17 to recommend Nepal Government to provide free education for two sons of deceased; further to find out the culprits and bring them to justice.	The family members were provided with 1lakh. Children are provided with free education. No record of the offender being arrested.	
2.	Indra Raj Dhakal	Otham V.D.C.-8, Panchthar	Complain no -253 stated that the investigation by the team of NHRC revealed that Indra was killed by the Maoist.	Maoists	Decision on 2066/9/23 to recommend Nepal GoN to provide Nepalese Rupees 3,00,000 since it is the violation of human rights. Further children of deceased are to be provided with free education and find out the culprits and bring them to justice.	Only 1lakh has been provided, 2 lakh still remains to be provided. The children are provided with free education. No record of offender being arrested.	

3.	Jayalaxmi alias Saraswoti Pandey	Hanku-7, Jumla	A complaint was filed at NHRC on 2063/6/5 mentioning that Jayalaxmi alias Saraswoti Pandey was severely beaten by the Maoists cadres Ganesh Gautam alias Himal and Manikesh Gautam alias Parbat on 2059/5/29 and later he died by the cause on the same day.		Decision on 2068/10/18 to recommend Nepal GoN to provide Nepalese Rupees 3,00,000 to the family of victim since it is the violation of human rights. Further recommendation to provide children of deceased with free education and find out the culprits and bring them to justice.	Recommendation letter was dispatched to the Office of the Prime minister and the Council of Ministers on 2068/11/4. A circular dispatched to the Police Headquarter by the Home Ministry dated 2068/11/22 was Cc'd to the NHRC.	
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Killing by Maoists: Recommendations of 2068

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
	Raju Sharma	Bhimad-3, Bhawor, Tanahu	A complaint dated 2063/4/24 claiming that Raju Sharma resident of Bhimad-3, Bhawor, Tanahu was abducted on 2062/4/2 and later killed on 2062/4/6 by the Maoist cadres.	Maoists	Decision of 2068/3/31 to recommend Nepal GoN to provide Nepalese Rupees 3,00,000 to the family of the victim since it is the violation of human rights. Further recommendation to provide children of deceased with free education and find out the culprits and bring them to justice.	A recommendation letter was sent to the Office of the Prime Minister and the Council of Ministers on 2068/10/18. A circular dispatched to the Police Headquarter by the Home Ministry dated 2068/11/22 was Cc'd to the NHRC.	

	Laxmilal Poda	Ugrachandi, Nala-4, Lagantol, Kavre	A complaint on 2062/7/29 claiming that a group of 10-15 Maoist cadres shot on the head of Laxmilal Poda on 2062/7/15 and he died while taken to Sheer Memorial Hospital, Banepa.	Maoists	Decision of 2068/9/7 to recommend Nepal GoN to provide Nepalese Rupees 3,00,000 to the family of the victim since it is the violation of human rights. Further recommendation to provide two daughters of the deceased with free education and find out the culprits and bring them to justice.	A recommendation letter was sent to the Office of the Prime Minister and the Council of Ministers on 2068/10/11. There is no report on the further progress made on the recommendation.	
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Killed and Displaced by unidentified persons: Recommendation of 2064

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Abdul Mohit Khan, Hasan Puri, Hiramani Kharel, Hari Bahadur Basnet, Jhabindra Bahadur Khanal, Arjun Thattel, Shovaram Sunar, Dile sunar, Maita Bahadur Pun Magar, Dhana Bahadur Thapa, Chandra Bahadur Gharti, Rameshwar Choudhary, Dudhnath Teli, Nasiruddin Musalman killed; many other injured	Birpur-3, Kudervetuwa, Kapilbas-tu.	Abdul Mohit Khan was killed on the way while riding on motorcycle. After his death people from Madesh community attacked and killed people from Pahade community.	Unidentified	Recommendation for the safety, safe return, medical health, to identify culprit to take legal action as per chapter on Murder of <i>Muluki Ain</i> to bring him to justice. Further recommended to the Nepal Government to compensate Nepalese Rupees 100,000.00 to the heir of deceased to manage free education for children of the deceased.	Letter circulated by the Office of the Prime Minister and the Council of Ministers to the District Administration Office the compensation amount of 100,000 to be received by each family of deceased	

Killed in cross-fire Recommendation of 2066

S.N	Name of victim	Address	Short description of complaint	violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Ashok Thapa	Butawal Municipality-5, Rupandehi	Ashok was killed in a cross fire between security forces and Maoists. Complaint was lodged for the compensation	Security force and Maoists	Decision on 2068/3/31 to recommend Nepal Government to compensate family of the victim with Nepalese Rupees Rs. 300,000.00 Further recommendation to manage free education for children of the victims.	Decision was made by the Relief and Rehabilitation Unit of Peace and Reconstruction Ministry on 2067/07/19 to provide 300,000 to the family of victim	
2.	Bidhara Budha	Seri V.D.C. -2, Mugu	Bidhara was killed in a cross fire between security forces and Maoists. Complaint was lodged for the compensation on 2060/05/04	Security force and Maoists	Decision on 2066/10/03 to recommend Nepal Government to compensate family of the victim with Nepalese Rupees Rs. 150,000.00 Further recommendation to manage free education for children of the victims.	Decision was made by the Relief and Rehabilitation Unit of Peace and Reconstruction Ministry on 2066/10/03 to provide 150,000 to the family of victim	

Killed in Explosion Recommendation made in 2066

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Chaturmani Rai	Khartamcha V.D.C -9, Khotang	Chaturmani Rai found an iron ball and brought at home without knowing it an explosive. While playing with it, it exploded and he was killed. Complaint was lodged for compensation.	Security force	Decision on 2068/3/31 to recommend Nepal Government to compensate family of the victim with Nepalese Rupees Rs. 150,000.00 Further recommendation to manage free education for children of the victims.	Recommended to the Office of the Prime Minister and the Council of Ministers for the implementation of NHRC recommendation on 2066/06/06	

Forced Disappearance: Recommendation of 2068

S.N	Name of victim	Address	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Dharmaraj Parajuli, Tika Ranabhat, Janaki Ranabhat and Ramchandra Mishra	Ruchang-9, Nawalparasi	Complaint on 2064/05/13 against the arrest, detention and subsequent forced disappearance of Dharmaraj Parajuli, Tika Ranabhat, Janaki Ranabhat and Ramchandra Mishra from Ruchang-9, Nawalparasi by the security forces on 2055/09/29	Security forces	Decision on 2068/3/31 to recommend Nepal Government to compensate heirs of each victim with Nepalese Rupees One hundred thousand (Rs. 100,000.00) and to identify culprits to bring them to justice. Further recommendation to manage free education for children of the victims.	Letter circulated to Human Rights Cell of Nepal Police for the implementation of the recommendation on 2068/11/15	

ANNEX 3

C. Policy-related recommendations

S.N	Short description of complaint	Violator	Decision and Recommendation made by the NHRC	Status of implementation	Remarks
1.	Deployment of children as labour by government employee	government employee/ State	Decision of 2060/08/09 to recommend GoN not to and not let anyone including Nepal Army, Nepal Police and other security agencies, government officers, offices to violate child rights by enrolling children as labour.	Policy relating to Children has been adopted	
2.	Field study of Makawanpur District on the status of trafficked women and children returned from circus on 2061-4-20 to 2061-4-23. Many women and children are still in Indian circus. Despite several attempts made by their parents and guardians, they have not been success to return them.	State	Decision of 2061/07/17 to recommend GoN to conduct regular monitoring of the NGOs and to activate government agencies to be active to take action against the perpetrators. Also to recommend government to create employment opportunities for poor parents and to adopt policies for the rescue, return, reintegration and reparation for the trafficking survivors.	National Policy on Human Trafficking has been adopted	

3.	Complaint/application from Child Rights Monitoring Group, Federation of NGOs for Child Rights-Nepal to draw attention of international community for the release and rehabilitation, social integration of around 2973 child soldiers staying in various camps. Children's fundamental rights are violated as they are kept in camps where armed groups are staying. No effective efforts have been made by Nepal Government as well as Nepal Communist Party (Maoists) despite commitments made.	NCP-Maoists	Decision of 2065/3/9 of the Commission to recommend GoN to withdraw child combatants from the camps of CPN-Maoists and to re-integrate, re-habilitate and reconcile them including providing opportunity of education, training and employment.	In the support and presence of UNMIN, unqualified combatants were taken out of the Camp. Letter dated 2067/11/15 from the Peace and Reconstruction Ministry The recommendation has been implemented.	
4.	Complaint lodged in Commission regarding sexual harassment of students by a scout teacher at Budhanilkantha school	Scout teacher of the school	Decision of 2065/4/14 of the Commission to write to the GoN to formulate policy to protect children from abuse and sexual harassment in the schools, hostels and other residential homes.	The perpetrator teacher was expelled from the job after necessary investigation. To prevent these types of incidents in future, Teachers' Code of Conduct has been introduced in Education Rules. child policy has been formulated and introduced.	
5.	<i>Suo Motto</i> initiative by the Commission on the news published about Nepal Armed Police residing in building of Liliya Thakur National Primary School, Hanuman Nagar of Saptari District and its effect on school children	Armed Police	Decision of the Commission of 2064/10/2 to recommend the GoN to remove the APF from the premise of the school.	no information on the implementation status from the relevant agency	

6.	<p><i>Suo Motto</i> initiative by the Commission on the news broadcasted and published in various media about existing custom of <i>Kamalari</i> and discrimination, domestic violence, torture and exploitation of such children</p>	Nepal Government	Decision of 2065/9/23 to recommend GoN to intervene to eliminate <i>Kamali</i> practice	<p>To promote human rights culture by respecting and promoting fundamental and basic human rights ensured by the interim constitution, Nepal Government has drafted and brought to implementation of Three Years Human Rights National Plan of Action (2067/68-2069/70) This plan of action has brought programs that aims to end these types of defective cultural practices.</p> <p>The program is being implemented.</p>	
7.	<p>Complaint Number 3513 on 2063/12/02 to restrict the practice of security officers entering inside examination halls as it creates environment of fear among examinee students.</p>	Security officers	Decision of 2065/7/5 to write to the GoN, Cc'ing the ministry of Education mentioning that though this incident has been already resolved, this type of situation may occur in future days. Thus, the GoN and the Education Ministry should arrange the security of the examination center without disturbing the examination	Examination Control Office, Sanothimi has issued SLC Exam Regulation and Management Directives 2065 which regulates the security of exam centers and exam papers. Higher Secondary Education Council Examination Directive, 2068 has also been introduced.	

PART II

**IMPLEMENTATION STATUS
OF CHILD RIGHTS RELATED
UNIVERSAL PERIODIC REVIEW
RECOMMENDATIONS FOR NEPAL**

PART II

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INTRODUCTION

Background

On the 15th March 2006 the United Nations General Assembly passed resolution 60/251, a significant step that replaced the ‘Human Rights Commission’ with the currently existing ‘Human Rights Council’ (HRC).¹ One of the reasons this change was significant was due to the introduction of the innovative ‘Universal Periodic Review’ (UPR) which the Council swiftly brought into force. The UPR is a unique “*co-operative process*” which enables the HRC to review human rights records of all the United Nations (UN) member states.² Upon examination of reports submitted by each state as well as relevant sources such as Non-Governmental Organisations, the HRC then provides every state with concluding observations and recommendations. Ultimately the UPR process is an attempt to ensure equal accountability of all the UN member states regarding human rights and to “*address human rights violations wherever they occur.*”³

When the UPR was initially established, the HRC determined that reviews were to occur over a four-year period with 12 sessions per cycle to ensure that all then 192 UN members could be reviewed once every four years. This set procedure was followed for the first UPR cycle which lasted from 2008-2011; however the cycle has now been amended. Due to the slight change in the number of UN member states from 192 to 193 in 2011⁴, the HRC has adapted the UPR cycle. Thus, the next cycles are set to last four and a half years with 14 sessions per cycle.⁵

As the UPR is equally applicable to each and every member state of the UN, Nepal (a UN

1 UNGA Res 60/251 (15 March 2006) UN Doc A/RES/60/251

2 <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> last visited 25th July, 2012.

3 *Ibid*

4 Sudan split into two, Northern Sudan and Southern Sudan in 2011. South Sudan became an independent state on 9 July 2011, following a referendum that passed with 98.83% of the vote. Now it is a United Nations member state and a member state of the African Union. Source: http://en.wikipedia.org/wiki/South_Sudan

5 <http://upr-info.org/-UPR-modalities-.html> last visited 25th July, 2012.

member) was duly reviewed by the HRC in the first UPR cycle. Nepal's review was conducted on the 25th January 2011⁶, the product of which was a report addressing various human rights issues in Nepal through conclusions and recommendations.

To ease the entire review process, troika of Republic of Moldova, Cuba and Qatar were selected on 10/06/2010 (Jestha 27, 2067). List of questions from Canada, Czech Republic, Denmark, France, Germany, Ireland, Maldives, Netherlands, Norway, Slovenia, Sweden, Switzerland and United Kingdom that would to be posed to Nepal were handed to Nepal through troika.

Although the study has been conducted within a limited time frame, it has tried to cover all relevant recommendations and has given analysis of the level of progress of the Nepalese government in the implementation of those recommendations.

Objective

This study's objective is to examine the recommendations provided in Nepal's UPR report in relation to child rights and subsequently discover whether and to what extent the recommendations have been implemented by the Nepalese government.

Method of Study

This study was carried out with the help of UN UPR outcome document, Nepal Government's UPR Action Plan, documents on UPR prepared by Save the Children, Informal Sector Service Center, National Human Rights Commission and other organisations and individual researchers. To come to a conclusion and generalize the finding, reports of Nepal government as well as other INGOs/NGOs have been consulted and concerned civil society organizations including non-governmental organizations and media, National Human Rights Institutions including National Human Rights Commission, National Women's Commission and National Dalit Commission, were also consulted. Likewise, officials from concerned government agencies and from civil societies were also consulted.

Media, both printed and electronic have been important source to cross check government statements and provisions of law.

⁶ *Universal Periodic Review Introductory Booklet*, National Human Rights Commission, 2012, p. 6 Also see, <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf> last visited August 2012.

Many of the recommendations are related to more than one responsible agencies and action is to be taken by various agencies in a coordinated manner. Attempt has also been made to analyze how far these line agencies plan and work in a coordinated way.

Limitation

Only the recommendations directly related to child rights have been analysed. The recommendations made on civil and political, economic, social and cultural rights, torture or other issues that may have indirect link to child rights have not been reviewed.

ROLE OF THE NATIONAL HUMAN RIGHTS COMMISSION IN THE UPR PROCESS

NHRIs have special role and opportunity to provide reliable information in UPR report and in throughout the process. NHRC's are national institutions that have the responsibility of protecting and promoting human rights within their respective states. They are fully independent of the government and are required to adhere to the five Paris Principles regarding the status and functioning of national human rights institutions. As the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights note, due to the independence, their role and compliance with the Paris Principles, NHRC's "*are able to contribute effectively to all stages of the UPR process.*"⁷ Thus, the HRC expressly permits through Resolution 5/1 for national human rights institutions such as NHRC's to actively participate in the UPR process.⁸ The Resolution notes that the UPR shall "*ensure participation of all relevant stakeholders, including NGOs and NHRIs.*"⁹

NHRI may contribute crucially as one of the stakeholders in the UPR process. NHRI's participation is valued throughout the UPR process and they are supposed to contribute in numerous ways; however the most crucial contributions occur at three stages of the UPR process. These are: **the reporting stage, the review stage** and **the monitoring stage**.

7 'National Human Rights Institutions and Universal Periodic Review Follow-Up', International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights, <http://nhri.ohchr.org/EN/IHRS/UPR/Documents/FINAL%20ICC%20paper%20on%20NHRIs%20UPR%20follow%20up.pdf> last visited 25th July, 2012.

8 A/HRC/RES/5/1 Institution-building of the United Nations Human Rights Council

9 *Ibid*

Reporting Stage: At the initial stage, every NHRI has a very important role to produce a report clarifying the human rights record of their respective state. The report is first received and reviewed by the Office of the High Commissioner for Human Rights (OHCHR). The OHCHR then compiles a summary of credible and reliable information highlighted in the NHRI reports.

NHRC report predominantly highlights the pressing problems with regards to the human rights issues in that particular state ranging from individual rights, such as right to liberty, to collective rights, such as women's rights. Fitting examples of this can be seen in reports provided by NHRC's in New Zealand¹⁰, Scotland¹¹, Australia¹² and Nepal¹³. Moreover, the report can also go a step further by subsequently suggesting recommendations in order to address the particular human rights issues. The addition of recommendations can be seen in reports provided to the OHCHR by New Zealand¹⁴, Scotland¹⁵ and Australia¹⁶. The involvement of NHRC's at the initial reporting stage is arguably the most valuable because it ensures that information submitted to the OHCHR for the purpose of UPR review is not one-sided. The state's report may lack the desired level of impartiality or certain facts may not be fully disclosed and therefore the NHRC's supplementary report provides the necessary independent and impartial perspective. Without an overall thorough and independent account of every state's human rights situation, the UPR process would be wholly ineffective.

The review stage: The UPR review stage occurs after the reporting stage when there is an interactive dialogue between the state under review and the UN member states. The state being reviewed is able to introduce its report and other countries are able to ask questions and make recommendations for the state to consider and implement.¹⁷ At this stage the NHRC of the state under review cannot actively participate as they are only granted under observer status, however this does not mean their attendance is irrelevant. Though they cannot speak in order to set the state under review any questions or recommendations,

10 *Report on New Zealand's Human Rights Performance*, New Zealand Human Rights Commission, http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/21-May-2009_12-17-36_Report_on_NZ_HR_Perf_A4.pdf last visited 25th July, 2012.

11 *The Scottish Human Rights Commission Submission to the Universal Periodic Review of the UK*, Scottish Human Rights Commission, <http://www.scottishhumanrights.com/international/uprinternational> last visited 25th July, 2012.

12 *Taking Stock of Australia's Human Rights Record*, Australian Human Rights Commission, http://www.hreoc.gov.au/upr/upr_submission2010.html last visited 25th July, 2012.

13 *The Report of the NHRI of Nepal on the UPR processes*, National Human Rights commission of Nepal, National Women Commission of Nepal and National Dalit Commission of Nepal, http://idsn.org/fileadmin/user_folder/pdf/New_files/Nepal/NHRI_Nepal_UPR_Report_2010.pdf last visited 25th July, 2012.

14 n8 above

15 n9 above

16 n10 above

17 *A Practical Guide to the United Nations Universal Periodic Review (UPR)*, Human Rights Project at the Urban Justice Centre, <http://www.hrpujc.org/documents/UPRtoolkit.pdf> last visited 25th July, 2012.

their ability to merely observe the review is crucial. The NHRC can note the various comments and recommendations made by the different countries as well as any voluntary commitments made by the country under review. The significance of this is that each NHRC will then be able to hold their respective state accountable at a later stage in cases of non-compliance.

The monitoring stage: Lastly, after the HRC issues the states with their respective reports containing concluding observations and recommendations, this is where another vital role of the NHRC comes into play. It is certainly necessary and important to have reports and also to ensure a review stage yet neither of these stages will have any meaning if there is no progress of the states' human rights records. Therefore, it is also necessary to ensure that each state is effectively monitored in order to scrutinise their action or inaction post-UPR review. NHRC's can play an important role at this stage by "*acting as watchdog to assess the extent to which their governments have implemented their pledges and recommendations made during the UPR mechanism.*"¹⁸ Moreover, by assessing the state's compliance or non-compliance with the UPR recommendations, the NHRC can actively take steps in order to place pressure on the state to conform to the recommendations. Therefore the NHRCs can play a vital role in assessing and encouraging the implementation of the UPR recommendations with regards to their respective states to achieve the aspired result of the states' improved human rights record.

CHILD RIGHTS RELATED UPR RECOMMENDATIONS AND ITS IMPLEMENTATION STATUS IN NEPAL

All children, whatever nationality, sex, race or religion, should have the right to a proper childhood; a view firmly endorsed and upheld by the Declaration of the Rights of the Child adopted by the UN General Assembly.¹⁹ This means that each child is entitled to certain rights such as the right to develop physically, mentally, socially²⁰; the right to love and understanding²¹; the right to education²²; the right to be free from exploitation²³ and the right to be free from any form of discrimination²⁴. The declaration stands as a standard for the nations of the world, including those who have not ratified the Convention on the Rights of the Child. Now the rights mentioned above have come in a pattern of enforceable rights for

18 n5 above

19 *Declaration on the Rights of the Child* (adopted 10 December 1959 UNGA Res 1386 (XIV))

20 *Ibid.* Article 2

21 *Ibid.* Article 6

22 *Ibid.* Article 7

23 *Ibid.* Article 9

24 *Ibid.* Article 10

the children of the states that have ratified it. Unfortunately, not all children have access to these rights and sometimes lose out on enjoying a childhood altogether. Particularly in a Less Economically Developed Country (LEDC) like Nepal, all children certainly do not enjoy the basic rights they should, such as right to be free from discrimination, exploitation, access to education, food and health. It is thus unsurprising that there are various recommendations and observations made by different countries at the UPR regarding child rights in Nepal.

This section will identify the issues and recommendations regarding child rights that have been addressed in the UPR report and examine the progress of the Nepalese government in responding to those recommendations.

Recommendations and the response of the Nepalese Government:

Lists of questions were raised by Austria, Spain and Egypt, Malaysia, Bhutan, Germany, the Netherlands, Norway, Turkey, Cuba, Finland, Maldives, Poland and by Hungary for Nepal on various issues. Nepal received all together 135 recommendations. Out of which 56 recommendations were accepted, 28 recommendations were already been implemented or in the process of implementation and for 36 recommendations Nepal took time to review and responded that she would submit her remarks in the 17th session of the Human Rights Council. Nepal rejected 15 recommendations. Nepal submitted its response in the 17th Session (June 1, 2011)²⁵.

In Nepal's UPR process, 34 children related recommendations were made by 25 Member States, out of which 15 recommendations were accepted, eight recommendations were accepted which Nepal considered as already implemented or in the process of implementation, ten recommendations were responded as Nepal will examine them and will be responded in due time but no later than the 17th Session of the Human Rights Council. One recommendation was rejected²⁶.

The UPR recommendations related to child rights and their implementation situation is analysed as follows:

Further enhance measures aimed at protecting human rights of children and redouble efforts to protect rights of children:

Nepal has adopted policy for children. Draft Bill for Children's Act was prepared but could not come as an Act. Since the dissolve of Legislative Parliament/Constituent Assembly, there is less hope of promulgation of the new Children's Act soon.

25 A/HRC/17/5, *Report of the Working Group on the Universal Periodic Review-Nepal*, Human Rights Council-17th Session, Agenda Item 6, Universal Period Review.

26 Information disseminated by Save the Children on April 1, 2011

The prevailing Children's Act was enacted just after restoration of multiparty democracy system and after the ratification of the CRC, the provisions of Nepalese Children's Act 1992 are found not written and incorporated in the line with the provisions and principles of CRC. Nepalese laws concerning children's rights do not comply on many issues including the definition of a child. Likewise the Act is inadequate as there are no provisions adequately covering and guaranteeing 'best interest of the child'. The laws do not define corporal punishment to a child is a crime. Nepalese laws need serious review to bring it to a line that ensures juvenile justice and to control illicit transfer of the children. Existing laws should be amended and mechanisms should be reformed as well as strengthened to track illicit transfer of a child within the country and outside the country. The law should further prescribe the monitoring mechanism for the children sent outside of the country through adoption.

Laws of Nepal have ignored the right to expression and opinion, assembly and association and right to religion.

The provisions of Nepalese Children's Act 1992 are found not written and incorporated in the line with the provisions and principles of CRC. Nepal's legislations on children do not comply on the following:

- definition of a child,
- 'Best interest of the child' as Nepalese legislations do not guarantee minimum standard of living, nutrition and healthcare to needy and helpless children by the law. The laws do not define corporal punishment to a child is a crime
- Section 3 of Children's Act ignores 'parental guidance and the child's evolving capacities'
- There is no provision for mandatory registration of birth of a child,
- The laws give high priority to father than mother while giving name to a baby
- Section 11(2) and (3) of Children's Act regarding imprisonment of children needs to be amended to ensure non custodial measures for juvenile delinquents
- The National Code Chapter on Adoption Section 12(a) and (b) are inadequate having loopholes for the illicit transfer of the children. Illicit transfer of a child within the country and outside the country should be made more transparent through effective laws. The law should further prescribe the monitoring mechanism for the children sent outside of the country for any purpose.
- Right to expression and opinion should be clearly mentioned in Children Act
- State's obligation to protect children from harmful materials needs to be clearly mentioned in the laws
- Children's right to information and participation is not ensured

- Amendment in Children's Act and Rules is necessary to ensure that the children those are provided shelter and other services are provided full respect for their cultural background. There should be full guarantee for the essential services for children, not on the discretion on persons of authority.
- There is no provision for the children with disabilities
- Section 14, of Children's Act do not address harmful traditional practices under Healthcare and Services
- Section 4 provisions regarding social security do not address standard of living
- Provisions on quality education, drug abuse and sexual exploitation, children victims of abuse and exploitation, abandoned child also need to be made clearer
- The provisions concerning juvenile justice are inadequate and inconsistent in many parts.
- Child neglect is not a crime in Nepal but it is recognized in the Children's Act in different way which defines an abandoned child as one “who has been neglected by his father, mother or any other member of his family even though they exist.” Child welfare officers and the police are required to hand neglected or abandoned children over to the nearest child welfare home. The parents of a neglected or abandoned child may take the child back from the child welfare home “at any time.”
- Although child abuse is against the law, there is no provision to remove children from abusive situations.

Despite Child Protection Policy was adopted in 2068, implementation part is still challenging. Withdrawal of children from street and their reintegration or rehabilitation needs serious commitment. Protection of children from neglect, especially from poor parents needs employment plans and programmes for parents. Appointment of an ombudsperson or Child Rights Commissioner may better help to ensure children’s rights in Nepal. Nepal’s initiatives for the protection of human rights of children are significant but still Nepal really needs to redouble efforts to achieve result.

Ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict²⁷

This recommendation was accepted by the Government of Nepal and has already been duly implemented. Nepal became a party to the Optional Protocol having proceeded to ratify it on the 3rd January 2007.²⁸

27 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2000 UNGA A/Res/54/263)

28 Source: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en#EndDec last visited 25th July, 2012.

Ensure that all Maoist army personnel disqualified as minors have unhindered access to the rehabilitation packages

Design and implement programmes for protection of rights of children, in particular rehabilitation of children affected by conflict

The decade long armed conflict in Nepal ultimately ended in 2006. Yet its effects are still being felt today. Among the most vulnerable groups, it is the children of Nepal who were the most negatively impacted by conflict and continue to be affected.²⁹ In specific, the widespread practice of recruiting child soldiers by the Maoist rebels in contradiction to international law³⁰ affected thousands of children in Nepal.³¹ In addition, it was reported that more than 74% of the enlisted child soldiers were less than 18 years of age.³²

The first promising step in justice came when the Nepalese government, with the help of the UN, proceeded to discharge those Maoist soldiers who were minors at the time of recruitment. The last of the Maoist child soldiers were discharged on the 8th February 2010.³³ However, the next logical step that must follow in such a circumstance is the effective rehabilitation of those child soldiers. It is the responsibility of the Nepalese government to ensure that those thousands of individuals discharged as minors are able to reintegrate into civilian society. Austria, Spain and Egypt call for exactly this result – the effective reintegration of those disqualified as minors through an accessible rehabilitation process.

Upon release of the child soldiers, the government with UN support offered rehabilitation packages for the disqualified minors which provided “vocational *training, sponsor school education, health education training and support for small business initiatives*”, a scheme “developed by UN agencies including the UN Children’s Fund (UNICEF) and the UN Population Fund (UNFPA)”.³⁴ This rehabilitation package was in place before the UPR of Nepal in 2011 but there was a big question as to its effectiveness and inadequacy, hence the recommendation for an ‘unhindered

29 ‘*Impact of Armed Conflict on Children*’, Sobha Shrestha, 2004 www.arts.ualberta.ca/childrenandwar/.../Shobha_Shrestha_Nepal.doc last visited 25th July, 2012.

30 *Rome Statute of the International Criminal Court* (adopted 17 July 1998 UNGA A/CONF. 183/9); *Convention on the Rights of the Child* (adopted 20 November 1989).

31 ‘*Nepal: Compensation not enough, say discharged ex-Maoist soldiers*’, Integrated Regional Information Networks, 2011, <http://www.unhcr.org/refworld/docid/4d5a1af01c.html> last visited 25th July, 2012.

32 *Ibid*

33 ‘*Rehabilitation of Child Soldiers*’, Sarah Crow and Martin Logan, 2010 http://www.unicef.org/infoby-country/nepal_52791.html last visited 25th July, 2012.

34 ‘*Rehabilitation Challenge for Child Soldiers*’, Integrated Regional Information Networks News, 2010, <http://www.irinnews.org/Report/87704/NEPAL-Rehabilitation-challenge-for-child-soldiers> last visited 25th July, 2012.

access to the rehabilitation packages' was made at the UPR.

Evidence of the ineffectiveness of the government's original rehabilitation packages are numerous but one of the more illustrative examples came a few months after the UPR review of Nepal on the 8th August 2011. On this particular day the discharged minors carried out a protest in Kathmandu and also tried to enforce a two-hour '*chakka jam*' (restriction on vehicular movement) in four major parts of the city.³⁵ The reason for the shared frustration among the discharged child soldiers is two-fold. Firstly, they have frequently expressed their discontent with the label 'disqualified' due to the derogatory term and the negative connotations associated with it.³⁶ The discharged minors express that they feel humiliated by the term 'disqualified' as their claim; the Maoist Party is now in the government because of their contribution, quality and skill in the armed conflict. Secondly, they have expressed that the rehabilitation options provided by the Nepalese government are inadequate. They claim that they feel "*abandoned by all those responsible*" for their rehabilitation and reintegration.³⁷ It is reported that the rehabilitation package which includes a monthly stipend is insufficient to meet living costs.³⁸ It must especially be noted that there are those entitled to the rehabilitation package but who refuse to take it as they are aware of its inadequacy.³⁹ In order to receive the rehabilitation package, the discharged minors were required to contact the UN through a toll-free phone number upon their release. "*However, while almost 60 percent of the ex-soldiers contacted UNICEF, only 818 joined the education training programme.*"⁴⁰

Therefore, it is necessary that the rehabilitation package is revised so that it is both easily accessible and adequate for all those 'disqualified' minors. Only then can successful reintegration follow which will help secure those minors' futures and subsequently perhaps compensate in some way for the loss of their childhood.

In the national action plan produced by the Government of Nepal in April 2011 post-UPR, they noted that they accept the recommendation regarding rehabilitation package of the discharged child soldiers and also noted that the recommendation was to be implemented in 'due course of time'.⁴¹ Unfortunately, it seems that the extent of

35 '*Maoist child soldiers clash with own in peace-time Nepal*', The Times of India, 2011, http://articles.time-sofindia.indiatimes.com/2011-08-08/south-asia/29863705_1_child-soldiers-nepal-bandh-maoist-deputy last visited 27th July, 2012.

36 Ibid; n29 above

37 n26 above

38 *Ibid.*

39 *Ibid.*

40 *Ibid.*

41 *National Action Plan on Implementation of UPR Recommendations*, Government of Nepal, http://www.ncf.org.np/upload/files/417_en_Action_plan_UPR.pdf last visited 27th July, 2012.

the Nepalese Government's implementation seems to be limited to the original pre-UPR rehabilitation packages. The Ministry's Secretary Dhurba Sharma claimed that the government is "*looking for alternatives if the rehabilitation needs to be done differently*" on the 9th March 2012 yet there is no evidence of such a re-analysis and revision of the original rehabilitation initiative.⁴² This claim is supported by news reports of continuing dissatisfaction from the discharged child soldiers this month, July 2012.⁴³ Therefore, the Nepalese government should act promptly in addressing this important issue and review the rehabilitation packages as per the recommendation.

Nepal government in its state report to the CRC mentions that, the GoN has adopted a zero tolerance strategy in relation to child recruitment. National Plan of Action for the Rehabilitation and Reintegration of Children Affected by Armed Conflict was developed by GoN. It was aimed to rehabilitate and reunite the children in the society. The strategy is to ensure comprehensive and long-term support for children affected by the conflict as well as those children who are particularly vulnerable by implementing focused interventions and projects⁴⁴.

The report further mentions that A total of 4008 persons were disqualified and discharged from the cantonments between January and February 2010. About 50 per cent of the Verified Minors and Late Recruits are accessing the different rehabilitation packages offered by the United Nations Rehabilitation Program. The GoN has continued to support the reintegration of other Children Associated with Armed Forces and Armed Groups (CAAFAG) in 34 districts of Nepal.

Nepal's initiatives in rehabilitating and reintegrating of children affected by armed conflict seems encouraging but Nepal still needs to assure unhindered access to the rehabilitation packages and adequacy of such reparation packages as there have been news in media about dissatisfaction of children victims of conflict as well as former combatants.

Ensure that children are not exposed to or forced to participate in violent activities by political parties:

In addition to the former recommendation regarding rehabilitation packages for former child-soldiers, it was also recommended that Nepal should ensure children in

42 'Nepal: "Disqualified" Maoist ex-combatants threaten to step up protests', Integrated Regional Information Networks (IRIN), <http://www.unhcr.org/refworld/docid/4f61af6f2.html> last visited 27th July, 2012.

43 'A hard road for Nepal's one-time child soldiers', Surath Giri, 5 July 2012, http://khabarsouthasia.com/en_GB/articles/apwi/articles/features/2012/07/05/feature-01 last visited 27th July, 2012.

44 *Nepal's Consolidated Periodic Report on the Convention on the Rights of the child* (third, fourth and fifth) p. 51

general exposed to or forced to participate in violent activities by political parties. It could be claimed that this recommendation has been party implemented already by the Government of Nepal. The most important point of reference is the Comprehensive Peace Agreement of 2006 signed by the Prime Minister Girija Prasad Koirala and Maoist Chairman Prachanda.⁴⁵ Though, the peace agreement binds only the warring parties of then armed conflict, it is a milestone for the political parties to be abstain from involving children in armed conflict or any other form of violent activities in future days.

Under the clause 7.6.1, both parties “*completely agree... not to include children below the age of 18 in any form of military force.*”⁴⁶ Moreover it must also be noted that Nepalese Government now has international obligation to prevent the use of child soldiers as a party to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.⁴⁷

Nevertheless, one must keep in mind that the Peace Agreement and the ratification of the Optional Protocol were entered into prior to Nepal’s UPR report. Consequently it is not to conclude that the Nepalese Government is not under an obligation to take further steps to protect children from exploitation of this kind. Instead it should be concluded that although the Government has taken some steps to combat the use of children for violent activities, it can go further still to strengthen the legal framework. Under Section 23 of Chapter 2 the Election Code of Conduct, 2007, political parties and candidates are prohibited from involving children under 16 in any kind of procession, mass meeting or rally, or in any election related publicity activity.

Despite the enactment of Acts and agreement between political parties, there are still practices of organising political assemblies and meeting in school grounds and taking school children in rallies. There is certainly room for more government actions, and commitment from political parties.

Develop a legal framework to protect children from trafficking

Article 3 of the Palermo Protocol states that human trafficking means “*the recruitment, transportation, transfer, harbouring or receipt of persons*” by means such as the threat or use of force or other forms of coercion, abduction, fraud, abuse of power etc, “*for the purpose of exploitation*”.⁴⁸ It notes that exploitation includes

45 *Comprehensive Peace Agreement 2006*, <http://www.satp.org/satporgtp/countries/nepal/document/papers/peaceagreement.htm> last visited 27th July, 2012.

46 *Ibid.*

47 n23 above

48 *Protocol to prevent, suppress and punish trafficking in persons, especially women and children* (adopted 15 December 2000 UNGA Res 55/25)

sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Trafficking of humans in general is a complete violation of human rights and a deplorable act. It deprives people of various rights they are entitled to by virtue of being human beings which are enshrined in numerous international treaties such as: the right to liberty⁴⁹, right to freedom from slavery⁵⁰ and the right to freedom of movement⁵¹. However it is even more appalling when the practice of trafficking children, who are undeniably one of the most vulnerable groups, is concerned. It is thus an unfortunate fact that child trafficking remains a serious problem in Nepal as vulnerable children are coerced or lured into sex trade, child labour and entertainment business both within Nepal as well as abroad.⁵² It is reported that although the traditional targets are children from socially marginalised and excluded groups, relatively well-educated individuals from privileged groups also fall to prey.⁵³ It is the duty of the state to ensure that there is an effective legal framework for the prevention of child trafficking and punishment of the traffickers responsible for such a heinous crime.

The Nepalese Government has willingly accepted the recommendation to strengthen the protection of children against child trafficking but has the government made any progress since the UPR report? Within the government's national action plan it has rightly noted that effective implementation of domestic anti-human trafficking law is in already in place.⁵⁴ By this the government is referring to the *Human Trafficking and Transportation (control) Act 2007* and *Regulation 2008*. Section 4 of the 2007 Act creates two separate crimes: human trafficking and human transportation while s.15 provides an extensive list of the various custodial sentences and damages. In addition to creating distinct crimes and stating the level of punishment and compensation, Part 3 of the Act also covers rescue, rehabilitation and reconciliation. It places an obligation on the Nepalese government to rescue Nepali citizens in foreign land as well as requiring rehabilitation centres for physical and mental treatment. Though the 2007 Act does not distinguish between trafficking of adults and children, it no doubt encompasses child transportation and trafficking.

49 *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

50 *Ibid*, Article 8

51 *Ibid*, Article 12

52 'Child Trafficking in Nepal: An Assessment of the Present Situation', Terre des Hommes, <http://reliefweb.int/sites/reliefweb.int/files/resources/90D747F199783971C1256D48005FAF36-tdh-nep-2jun.pdf> last visited 28th July, 2012.

53 11th Annual Trafficking in Persons (TIP) Report, 2011, <http://www.state.gov/documents/organization/164457.pdf> last visited 27th July, 2012.

54 n36 above

It must be acknowledged that the Human Trafficking Act 2007 is a rather comprehensive piece of domestic legislation that successfully covers numerous forms of human trafficking and also both internal and cross border human trafficking. However, the Nepalese government cannot claim that the 2007 Act and its Regulation alone constitute "a comprehensive legal framework to protect those affected from trafficking including women and children".⁵⁵ Firstly, the Act contains certain loopholes that need remedy but yet have not been revised, as correctly identified by the American Bar Association⁵⁶:

- It fails to address particular issues such as the prevention of human trafficking, witness protection, repatriation of victims and border measures
- It shifts the burden of proof on the accused, a violation of the essential component of a fair trial: the presumption of innocence

Secondly, in addition to the defects within the 2007 Act, the government cannot claim there exists a 'comprehensive legal framework' already as a strong and comprehensive legal framework exists only where its implementation and enforcement is also effective. Unfortunately, it is often noted that it is precisely here, at the enforcement and implementation stage that the legal framework for protecting children from trafficking falls weak. In addition, many sources cite the same recurring problems within the legal framework that need to be addressed. One most commonly cited problem is that government officials such as politicians, state officials and the police are in fact complicit in child trafficking.⁵⁷ This is a critical issue as it results in the absence of necessary prosecution of responsible traffickers despite a fully applicable domestic legislation. It provides the traffickers not the children with security and this clearly is evidence of a defective legal framework. Another key problem is the lack of reported trafficking cases in general brought to the police and subsequently to the courts. It has been reported that the average number of human trafficking cases filed in Nepal Police between 2005/06-1009/10 was a meagre 134, "a much lower number compared to what is believed to be the actual scale of trafficking in women and

55 *Responses of the Government of Nepal to the recommendations contained in the report of the Working Group on the Universal Periodic Review (A/HRC/17/5)*, Part II, Paragraph 108,

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/136/74/PDF/G1113674.pdf?OpenElement> last visited 27th July, 2012.

56 'Human Trafficking Assessment Tool Report for Nepal', American Bar Association, 2011, http://www.americanbar.org/content/dam/aba/directories/roli/nepal/nepal_human_trafficking_assessment_report_2011.authcheckdam.pdf last visited 27th July, 2012.

57 n47 above

children".⁵⁸ This is no doubt a sign of an ill-functioning legal framework of protection which the Nepalese government must remedy.

Nonetheless in the recent years it must be recognised that the Nepalese government has taken some commendable steps to reduce human trafficking in Nepal, focusing particularly on women and children. These encouraging signs come in the form of initiatives such as:

- The ratification of the SAARC Convention on Prevention and Combating Trafficking in Women and Children 2002⁵⁹ which provides a general legal framework for combating child trafficking⁶⁰
- The establishment of the Office of the National Rapporteur on Trafficking in Women and Children (ONRTWC) positioned within the NHRC. It has the responsibility for monitoring trafficking and co-ordinating national and regional efforts to combat the trafficking of women and children
- The establishment by the Ministry of Women, Children and Social Welfare (MoWCSW) of District Committees on Controlling Human Trafficking in 49 districts. These committees are responsible for controlling human trafficking and rehabilitating the victims.
- The formulation by the MoWCSW of a draft National Plan of Action (NPA) 2011-2016 against Trafficking in Persons

The positive steps taken by the Nepalese government noted above must not be ignored but there is certainly much room for improvement in order to satisfy the UPR recommendation regarding child trafficking. This can be done by ensuring that the new establishments such as the OSRTWC and the District Committees function in line with their responsibilities. The Nepal government must also strengthen the legal framework by addressing issues noted above such as:

- Amendment of the Human Trafficking Act 2007
- Combating the involvement of state officials in the trafficking business
- Encouraging the reporting of trafficking cases by building the trust of victims in the police and the judicial system

58 *Trafficking in persons especially on women and children in Nepal*, National Report 2009-10, http://human-securitygateway.com/documents/NHRC_TraffickinginPersonsEspeciallyonWomenandChildreninNepal.pdf last visited 28th July, 2012.

59 SAARC Regional Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2000-2004

60 n6 above

It is only if the Nepalese government commits to undertake such steps that the UPR recommendation will be met and child trafficking will become a problem of the past.

Strengthen measures to eradicate child abuse, sexual exploitation of children:

The system of protection of children from abuse and sexual exploitation is not very strong. There is tendency of settling the cases out of court than going for legal remedy. Social values of taking sexual incidents as stigma and long term consequence, people hide and tolerate such abuses and exploitation. Families and societies do not encourage victims to go for legal recourse. Victims and families do not have proper and adequate protection system offered by the state.

There is no regular medical check-up system in schools or in health-posts as to identify whether the children are being abused and exploited.

Various existing child-related bodies need clearly defined mandates and responsibilities and accountabilities both at central and district-levels and provide them with the necessary resources, guidelines, protocols and procedures to enable and guide their action at central and district-levels.

The optional protocol to the CRC on the sale of children, child prostitution and child pornography (OPSC) has not yet been adequately disseminated among all relevant professional groups, especially members of the police, judges, prosecutors, representatives of the media and social workers, and members of the Central Welfare Board and the District Child Welfare Boards.

Nepal needs to strengthen systematic gender-sensitive education and regular training on the provisions of the OPSC for all professional groups working with child victims of offences under the protocol, inter alia the police, lawyers, prosecutors, judges, medical staff, social workers, migration officials and the media.

Nepalese laws do not adequately all aspects of sexual exploitation including child prostitution and child pornography. There is still a need to establish mechanisms for the identification, reporting, referral, investigation, treatment and coordination of cases of child victims of sale of children, child prostitution and child pornography.

Victim and witness protection system should be strengthened to eradicate abuse and exploitation of children.

Ensure primary education becomes free and compulsory for all children:

Article 28 of the Child Rights Convention recognises the right of the child to education calling on all state parties to make primary education compulsory and available free to all.⁶¹ Nepal's obligation to provide compulsory free primary education thus is not a new one; it has been under this obligation since 1990 after it ratified the Child Rights Convention. Every child in Nepal therefore is entitled to demand their right under the Convention from the Nepal government. They are entitled to demand the right to have access to the instrument that will help them develop within and contribute to the society.

This recommendation has been placed by the Nepalese government under the 'yes category' which list the recommendations examined by Nepal and enjoy its support.⁶² Moreover, in its response the government expresses that "*universalising primary education is an explicit priority of the Government of Nepal*".⁶³ This is certainly a true statement provided by the Nepalese government. As the research study by Tribhuvan University notes, the government "*has been making efforts for free and compulsory primary education since the beginning of the nineties*",⁶⁴ for instance:

- The commitment to the 'World Declaration on Education for All' in 1990
- The adoption of the Dakar Framework of Action in 2000 for achieving the goals of Education for All (EFA) by 2015
- The affirmation in the Interim Constitution 2007 that every citizen should have the right to free education from the state up to the secondary level as provided in the law

In addition to the commitments above, the Nepal government has also undertaken practical steps in order to realise its goal of ensuring free compulsory primary education. Firstly, it prepared the Education for All National Plan of Action in 2001 which aims to ensure basic education of quality for all children through free and compulsory primary education in Nepal by 2015. It also implemented the School Grants Operational Guidelines in 2004 which has led to annual scholarships to Dalits and 50% of the girls to achieve maximum enrolment of girls and disadvantaged children.⁶⁵ Lastly the government also took over the 'Welcome to School' program (which aims

61 *Convention on the Rights of the Child* (adopted 20 November 1989, UNGA Res 44/25)

62 n36 above

63 n49 above

64 '*Ensuring Free and Compulsory Basic Education for Disadvantaged Groups in the Context of Education for All*, Tribhuvan University Study Report 2009

65 n58 above

to bring children previously deprived of education to schools) in 2005 after it was initiated by United Nations Children's Fund (UNICEF) in 2004.⁶⁶ The scheme has been successfully launched and applied in all 75 districts of the country by the Nepal government since 2005. It is reported that primary school enrolment rose from the usual annual 2% to 11.7% and Sumon Tuladhar, education specialist at the UNICEF Kathmandu office states that "*net enrolment has shown quite a jump from 70% in 1996 to 93.7% in 2010.*"⁶⁷

Overall with regards to free compulsory primary education, Nepal can rightly claim that primary education at least has been made free to all children as per section 16(d) Education Act 2001 (Seventh Amendment). The Government has therefore adhered in principle to the first part of the recommendation by Norway, Turkey, Cuba and Finland. However the government has not adhered to its free primary education policy in practice in certain situations. For instance in the Tribhuvan University research study in 2009 notes that some primary schools under its observation were in fact charging annual and examination fees.⁶⁸ This is a plain contradiction of the Education Act 2001 and government policy yet those primary schools were functioning freely in violation of domestic legislation. Clearly the government's responsibility is not only to enact the policy but also monitor primary schools for any violations of its policy and domestic legislation. Yet there has been no evidence of such monitoring initiative and this is the case even post-UPR recommendation.

The most significant lack of action of the government in this area post-UPR recommendation however has been in relation to the second part of free and compulsory primary education – 'compulsory'. While there is a legal provision and policy requiring primary education to be provided for free, there is no such scheme emplacing a legal obligation on anyone or any institution to ensure children attend primary school and continue their education. This gap in the law and policy has resulted in two persisting problems: ensuring children come into primary education and making sure that they continue their studies. It is claimed that approximately 348,000 children are still out of primary school in the country⁶⁹ while between 2008-09, out of 4.5 million children enrolled in primary education, about a million didn't appear in the final school examinations.⁷⁰ Therefore, in order to achieve this particular recommendation regarding 'free and compulsory primary education', the Nepal government must take legal

66 '*Nepal's new initiative welcomes children to school*', OneWorld South Asia, 2010, <http://southasia.oneworld.net/fromthegrassroots/nepals-new-initiative-welcomes-all-children-to-school/> last visited on 28th July, 2012.

67 *Ibid.*

68 n58 above

69 n58 above

70 '*Education for all – can Nepal achieve the goal?*', Ram Balak Singh, The Himalayan Times, 2010, <http://www.thehimalayantimes.com/fullTodays.php?headline=Education+for+all+-+Can+Nepal+achieve+the+goal%3F&NewsID=249841> last visited 28th July, 2012.

and/or non-legal action to ensure education becomes compulsory and not only free. Parents must be encouraged and obliged to send their children to primary school once they are of age and at the same time, schools must be encouraged and obliged to ensure that children of age in the area attend and remain in school.

Enact a Juvenile Justice Law compliant with international standards to ensure the proper functioning of a juvenile justice system in the country

The reason for the adoption of a juvenile justice system worldwide in numerous countries is the belief that children are not fully mature and therefore it is unjust to hold them to the same standards as adults. Moreover, a juvenile justice system also ensures that where children are convicted of criminal offences, they are still nurtured and able to develop. The main purpose of a juvenile justice system above all is rehabilitation; after all, children are a product of their upbringing and background, able to adapt and change.

It is not the case that Nepal does not have a juvenile justice law in place. As a party to the Child Rights Convention it adopted the Children's Act, 2048 (1992) which provides for a juvenile justice structure and process in Nepal and the government also introduced the Juvenile Justice (Procedure) Regulation 2006 which a view to put into practice the relevant provisions of the Children's Act. However, the reason for this recommendation regarding a juvenile justice law is due to the incompatibility of Nepal's juvenile justice law with international standards.

The first incompatibility is the maximum age of individuals that are afforded protection by the juvenile justice law. The general consensus in international law is that a child is an individual under 18 years of age. For instance, the UN Rules for the Protection of Juveniles Deprived of their Liberty⁷¹ as well as the Child Rights Convention⁷² defines a child as "every person under the age of 18." However, the law in Nepal identifies children as those under the age of 16.⁷³ Another incompatibility between Nepali and International law is regarding the minimum age of criminal responsibility. It is noted that the Committee on the Rights of the Child established under the Child Rights Convention considers that the minimum age should not be set too low and that it should not be set below 12 years of age.⁷⁴ However, section 4 (11) Children's Act establishes the minimum age at 10 years.

71 *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (adopted 14 December 1990 A/RES/45/113)

72 n55 above

73 *Children's Act 1992*, Article 2

74 'Torture of Juveniles in Nepal: A serious Challenge to the Justice System', Advocacy Forum, June 2010

Despite the incompatibilities with international standards, Nepal's law on juveniles remains unchanged. Although the Government of Nepal officially accepted this recommendation by Maldives to bring national law in accordance with international standards, it has not taken any steps towards the fulfilment of its promise.⁷⁵

Moreover, another lack of action by the Nepal government regarding juvenile justice law in the country can be seen in the implementation of the Children's Act and the 2006 Regulation. Although it has taken some positive steps such as the establishment of the Juvenile Justice Co-Ordination Committee for "strengthening the juvenile system with co-ordination"⁷⁶, implementation measures need revision. It is only if the government takes active to enforce the juvenile justice law of Nepal that it can achieve the UPR recommendation of ensuring the proper functioning of a juvenile justice system in the country. The issues of ill-implementation or lack of implementation altogether are briefly examined below and whether the government has acted in response post-UPR report.

- a) Article 37 of the Child Rights Convention calls for state parties to ensure that no child is "*subjected to torture or other cruel, inhuman or degrading treatment or punishment*"⁷⁷ and this has been enshrined in Nepal within section 4 (7) of the Children's Act 1992. However, this is a theoretical rule that seems ill-practiced in reality as it is often noted that "*children have been put behind bars and have been treated unlawfully.*"⁷⁸ The shocking truth is that juvenile detainees are more frequently tortured in Nepal than adult detainees, subject to arbitrary detention, torture and other ill-treatment.⁷⁹ It is an even more disturbing fact that between 2009 and 2010, 1 in 4 juveniles arrested were tortured by the police.⁸⁰ This widespread practice is a clear violation of both national and international law which must be addressed. But the problem is that there is no nationwide mechanism to monitor places of detention in Nepal.⁸¹ There is no evidence to suggest that the Nepalese government is remedying this defect.

- b) Article 37 (c) of the Child Rights Convention calls for every child deprived of his/her liberty "shall" be separated from adults.⁸² This is followed by the Children's Act as s.15 calls for children to be separated from "*a prisoner who has attained*

75 n49 above

76 *Juvenile Justice Co-Ordination Committee*, <http://jjcc.gov.np/main.php?f=roles> last visited 28th July, 2012.

77 n55 above

78 '*Juvenile Justice*', Aakriti Raymajhi, May 2010, <http://www.ekantipur.com/the-kathmandu-post/2010/05/04/oped/juvenile-justice/207936/> last visited 28th July, 2012.

79 n68 above

80 *Ibid.*

81 *Ibid*

82 n55 above

maturity” and s.50 requires juveniles to stay in children rehabilitation centre or in the guardianship of any person or organisation both during the investigation process and after sentencing. However, the Act is not followed in practice. In a case study by UNICEF it was discovered that the children were kept in the central jail with adult prisoners after the prosecution with “no provision for a separate lodging and food facility for the children.”⁸³ In terms of statistics, recently in 2010 it was reported that “approximately 99% of juvenile detainees were being held in adult facilities”.⁸⁴ The problem perhaps lies in the fact that there are hardly any child rehabilitation homes for juveniles. In 2010 it was reported that there was only one such home in the whole country.⁸⁵ The government has remained mostly silent on this issue as yet again there is no evidence of any moves to address the issue of juvenile separation from adult prisoners.

Juvenile Justice Procedure Regulation 2007 was enacted under the power prescribed in Article 58 of the Children Act 1992. The regulation has provided some important provisions relating to investigation and prosecution of juvenile delinquents. The provisions like, police should be plain cloth, notification of cause of arrest to children and the guardian, medical check-up of arrestee, investigation in the presence of father and mother or guardian.⁸⁶

The provisions like deposition in the presence of father and mother or guardian,⁸⁷ no inquiry more than one hour at a time and in the night time,⁸⁸ hearing by sociologist, child expert, and psychologist,⁸⁹ in-camera hearing⁹⁰ are some significant provisions.

Following amendments is deemed essential in Juvenile Justice Procedural Regulation 2007:

- a. Rule 4: should ensure that no child shall be handcuffed
- b. Rule 5: should ensure that child shall not be forced to respond or answer, s/ he shall have right to remain silent

83 ‘Street Children and Juvenile Justice in Nepal: A Case Study’, Indra Lal Singh, UNICEF-Kathmandu, http://www.unicef-irc.org/portfolios/documents/486_nepal.htm last visited 28th July, 2012.

84 n68 above

85 n68 above

86 Juvenile Justice Procedure Regulation 2007, Section 4

87 *Ibid.* Section 5

88 *Ibid.* Section 5(4)

89 *Id.* Section 11

90 *Id.* 12

- c. Rule 8: the training that the social worker, child expert and child psychologist should have is abstract. The type of training, whether formal course or informal, the duration (credit hours) of such training and the contents of training, and basis or grounds of recognition of such training should be prescribed in law. If the training is provided by the ministry or Child Welfare Committee, it should be written in law.
- d. Rule 24: in the place of 'translator may be provided' there should be guaranteed mentioning 'translator shall be provided wherever necessary'.
- e. The regulation is silent whether the person(s) representing in juvenile bench can practice or represent any case in the same court or other courts or not. It is recommended to make provision to prevent such persons to make representation in any case in the same court or any other court. There may be undue influence.
- f. The regulation is further silent in addressing to the consequence of any case of an expert or psychologist that is being heard in the same court where a person is representing in juvenile bench as an expert or psychologist. It is recommended to shift the case to any other court or to transfer such person in any other court.

Overall it must be emphasised that there is little use for law that is of no consequence in practice. Therefore, the government cannot sit quietly with regards to ensuring a properly functioning juvenile system. It must begin working towards achieving the UPR recommendation by taking national initiatives and ensuring effective monitoring schemes to make sure that the law is fully duly followed by authorities.

Abolish all forms of child labour and take measures to ensure no person under 18 is allowed to perform hazardous work

Strengthen implementation of Child Labour Act 1999:

Child labour can be named as one of the worst forms of exploitation of children. Certainly not all work carried out by children constitutes child labour. Rather, child labour refers to work that deprives children of a proper childhood, their potential and dignity, and that is harmful to physical and mental development. Examples of work that would constitute child labour are as follows⁹¹:

91 'Child Labour in Nepal: Education Combating Unjust Labour', Santosh Varghese, Youth Advocate Program International, 2004

- Working as domestic servants
- Working in agriculture
- Working in public transportation as conductors and ticket collectors
- Working in the streets as rag pickers, beggars, shoe shiners/makers etc.
- Working in the commercial sex industry as prostitutes, in massage parlours etc.
- Working in the entertainment business e.g. in circuses

Moreover, it is also internationally recognised that certain forms of child labour fall under the category of ‘the worst forms of child labour’. The International Labour Organisation (ILO) Convention 182 defines some practices of child labour as worst forms which should be eliminated immediately which include:⁹²

- Child slavery
- Forced labour
- Debt bondage
- Prostitution
- Pornography

Child labour is an international problem that exists in numerous countries worldwide and it is regrettable that it remains a critical problem in Nepal. It is reported that while 69.2% of children between 5 and 14 are attending school in Nepal, the remaining 39.6% are engaged in work.⁹³ Furthermore, works that constitutes child labour as well as work that constitutes worst form of child labour both are currently prevalent in Nepal. Thus it is unsurprising that many countries call on Nepal to eliminate all forms of child labour and ensure children below 18 do not perform hazardous work. While Nepal has ratified both the ILO Convention 138 on Minimum Age (in 1997) and Convention 182 on the Worst Forms of Child Labour⁹⁴ (in 2002) as well as enacting domestic legislation, The Child Labour (prohibition and Regulation) Act 2000 (CLA), it is far from achieving elimination of child labour. Labour Act and Child Labour Prohibition Act recognize any person of age above 14 years as capable to work.⁹⁵ However the same Act defines the person below 16 is a child.⁹⁶ Civil Rights Act 1954, section 14, Tea Garden Labour Regulation 1994 Rule 3(1) are some of the provisions that recognize the age of 14 as workable age. Despite the fact that Nepalese standard

92 *International Labour Organisation Convention No. 182 on the Worst Forms of Child Labour* (adopted 17 June 1999)

93 n65 above

94 *International Labour Organisation Convention No. 138 on the minimum age for admission to employment and work* (adopted 6 June 1973)

95 *Child Labour Prohibition and Regulation Act 2003* section 3

96 *Ibid.* 2(a)

on child rights is not contrary to the international standard, Nepal's initiatives don't show any progressive step towards reducing child labour.

It is first necessary to examine where the problem lies which enables child labour to freely persist in Nepal and then analyse what the Nepalese government has achieved and the next steps it should take in order to satisfy the UPR recommendation.

The first main problem is the inconformity of the Nepalese law with the international standard with regards to the minimum age for performing hazardous work. Article 3 (1) of the ILO Convention No. 138 states that: "*the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.*"⁹⁷ But Article 3 (3) of the same convention provides a narrow exception where the minimum age can be lowered to 16 for hazardous work.⁹⁸ The CLA 2000, Nepal's domestic legislation adopts Article 3 (3) establishing the minimum age for hazardous work at 16. This provision has not been amended despite the government having accepted the recommendation to raise the minimum age to 18. The inaction of the government has meant that young persons between 16 and 18 can continue to be exploited to perform hazardous work.

The second main problem is the CLA 2000 itself which prevent the attainment of the abolition of all forms of child labour. Although its enactment formally established the minimum age for work at 14 and prohibits formal employment of children under the age of 14, there are deficiencies within the Act. One deficiency has been noted above, that young persons between 16 and 18 are permitted by law to perform hazardous work despite the general international standard calling for the minimum age of 18. As mentioned above, the government has yet to act on this matter but what is also required is a definition of 'hazardous work' within the Act. The CLA 2000 is wholly silent on what constitutes hazardous work so this too must be remedied. Finally, another deficiency is that Act only covers formal employment so informal employment and self-employed child labourers do not come within the ambit of the law. This is an important deficiency that the government has yet to address for it is reported that formal employment agreements account for only 19% of all employment relationships.⁹⁹ If abolition of all forms of child labour is to be achieved, the law must be drafted in such a way to include all forms of child labour. However, this is not the case and the government yet again has not taken steps to redress the incapability of the CLA 2000 to encompass all forms of child labour.

97 *Ibid.*

98 *Ibid.*

99 '*Internationally recognised core labour standards in Nepal: Report for the WTO General Council Review of the Trade Policies of Nepal*', International Trade Union Confederation, February 2012, http://www.ituc-csi.org/IMG/pdf/final-nepal_.pdf last visited 29th July, 2012.

The last main problem that the government of Nepal must seriously and promptly address in order to fulfil the UPR recommendation regarding abolition of child labour is the implementation of the law within the country. It is not that the Nepalese government has failed to take any action in recent years to combat child labour practically. It has in fact begun taking active measures such as:

- The enactment of the CLA 2000 in the first place
- The law that theoretically makes primary education free to all children as described above in the report, which is a tool for combating child labour as it encourages education for children
- The launch in 2001 of a Time-Bound Program (TBP) to end the worst forms of child labour. Nepal was in fact the first country in South Asia and one of the first three countries in the world to launch this program.¹⁰⁰ It provides education services and other support to withdraw and prevent children from exploitive work in sectors such as porters, recyclers/rag-pickers, domestic servants etc.¹⁰¹
- The 3-year 'New Path New Steps' project that began in 2009 that provides new learning and employment opportunities for exploited and at-risk children and aims to withdraw 8,000 children and prevent 7,000 children from commercial sexual exploitation, domestic service, embroidered textile sectors among some.¹⁰²
- The employment of 10 labour inspectors nationwide in 2009 by the Ministry of Labour and Transport Management (MoLTM) who are responsible for handling all types of labour code violations.
- At the local level, the establishment of District Child Welfare Boards (DCWBs) that have some limited legal authority to enforce child labour laws and may level civil fines
- Adoption of child protection policy
- Hoarding boards have been put in many places to raise awareness against child labour
- 5,652 *Kamalaris* have been emancipated and 4,685 *Kamalaris* are yet to be freed¹⁰³.

100 *Ibid.*

101 *Ibid.*

102 *Ibid.*

103 Source: *Central Child Welfare Committee*, 2011

But although the steps taken above are commendable as they show some commitment of the Nepal government for tackling child labour, they are pre-UPR actions. Now post-UPR recommendation the Nepalese government is under a stronger obligation than ever before to abolish child labour and thus, actions of the past must not only be continued but enhanced. For instance, the employment of 10 labour inspectors by the MoLTM is well-received but it is questionable how effective a total of 10 inspectors can be in a country where child labour is so widespread. It was also noted that the MoLTM does not maintain records on the types of labour inspections it conducts or the sanctions imposed, which makes it difficult to determine whether violations were found or perpetrators punished.¹⁰⁴ Likewise, the establishment of DWCBs is also a good initiative but their functions must be enhanced by ensuring effective monitoring of each District Board. A monitoring scheme could not only ensure that effective work is carried out but also ensure accountability. Finally, the Nepalese government has not undertaken any major action since the UPR report was published so it should work towards securing other schemes and mechanisms for effective implementation of the law in order to abolish child labour.

ROLE OF CIVIL SOCIETY ORGANIZATIONS, GOVERNMENTAL ORGANIZATIONS, NHRIs, UN AGENCIES, INGOs AND DONOR AGENCIES

UPR report of Nepal was prepared and submitted by NGO coalition for UPR ((NNC-UPR), National Women Coalition, Human Rights Treaty Monitoring Coordination Committee (HRT-MCC) and Durban Review Conference Follow-up Committee Nepal, representing together 238 civil society organizations¹⁰⁵. It was for the first time in Nepal these many organisations and coalitions preparing report for the same cause.

There was also another Joint Submission by the National Human Rights Commission (NHRC), the National Women Commission (NWC) and the National *Dalit* Commission (NDC)¹⁰⁶. There was also significant contribution made by various INGOs and donor agencies by submitting information to the UPR working group or by submitting separate issue specific report¹⁰⁷.

104 *Ibid.*

105 Human Rights Council Working Group on UPR: A/HRC/WG.6/10/NPL/3

106 *Ibid.*

107 *Id.* The stakeholders information to the UPR Working Group to prepare summary report of Nepal include: Amnesty International, London, UK, The Asian Legal Resource Centre, Hong Kong, China and the Advocacy Forum, Nepal (ALRC_AF), Article 19 – International Centre Against Censorship, London, UK, Blue Diamond Society, Kathmandu, Nepal, The Becket Fund for Religious Liberty, Washington, USA, The International Catholic Child Bureau (BICE), Paris, France, Christian Solidarity Worldwide (CSW), Surrey, UK, Dialogforum für Frieden und Menschenrechte (Dialogue-Forum for the Promotion of Peace and Human Rights in Nepal), Germany, European Centre for Law and Justice (ECLJ), Strasbourg, France, ECPAT

Save the Children submitted its separate report covering child rights issues and concerns.

These coalitions and committees are still active in reviewing and following-up the progress made after the UPR.

CONCLUSION

Overall there seems to be a recurring pattern with where the government is going wrong as well as where it needs to take action to implement the various child rights recommendations.

Firstly, there seems to be the common theme of defective and unsatisfactory domestic law in place, whether it is regards to human trafficking, juvenile justice system or child labour. This calls for the first step for the government in tackling child rights issues – revising and amending the various legislation to ensure they encompass the necessary areas and also bring them in line with international law where required.

The second common theme is lack of implementation of the domestic legislation as usually there is a lack of monitoring scheme for examining whether and how the laws are being followed. This is a critical issue because it is only if the written laws of the land are being practiced and implemented that there can be a strong and effective legal system that can protect individuals. Without effective implementation, the laws are merely written words which have no meaning and no consequence.

Therefore, the Nepalese government must act promptly to meet the UPR recommendations regarding child rights. It must first take into account the issues with the current situation with child rights in various areas, some of which are noted above in this report. It must then subsequently adopt measures, legal or non-legal in order to combat those issues. Children's rights must not be taken lightly for it is children who are the future and who will be the ones to shape the country. If children are valued equally and given equal opportunity to develop, they will be likely to contribute positively to the country as adults. On the other hand, there is little hope for a country that takes no account of the children within its society, ignoring their needs and rights.

International, Bangkok, Thailand, Education International (EI), Brussels, Belgium, Food-first Information and Action Network (FIAN), Global Initiative to End All Corporal Punishment of Children (GIEACPC), International Commission of Jurists (ICJ), Geneva, Switzerland, International Campaign for Tibet (ICT), Washington, USA, Jubilee Campaign (JC), Fairfax, USA, Reporters Without Borders (RSF), Paris, France, Save the Children Nepal, part of International Save the Children Alliance (SCN), London, UK, and The Unrepresented Nations and Peoples Organization (UNPO), The Hague, The Netherlands

