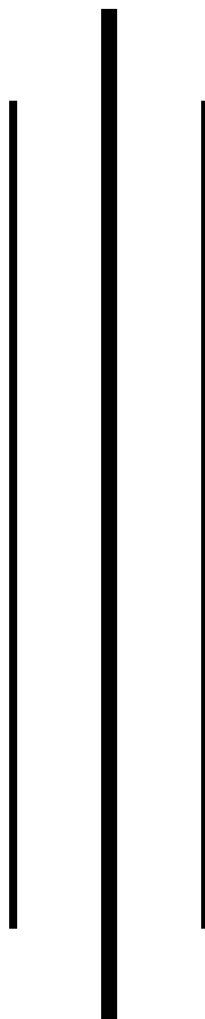


# **National Human Rights Action Plan**



**His Majesty's Government  
Office of the Prime Minister and Council of Ministers  
Singh Durbar, Kathmandu, Nepal  
April, 2004**

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## Preface

His Majesty's Government of Nepal (HMG/N) is committed to the protection and promotion of human rights as defined by the Constitution of the Kingdom of Nepal, 1990, Universal Declaration of Human Rights and by the other national and international instruments. The United Nations convention on human rights held in Vienna in 1993 called on member nations to promote a culture that respects human rights and it appealed for national plans be formed and implemented effectively to protect and promote such rights. HMG/N, in order to fulfil its commitment to human rights, proposed that a national plan be implemented with the coordination and cooperation of the government, the civil society, and the private sector. The United Nations Development Programme (UNDP) offered support to this process. HMG/N accepted this support and activities were initiated to begin the process with the help of the Government of United Kingdom and Swiss Government.

The National Human Rights Action Plan (NHRAP) is formulated through a participatory process that was involved discussions and consultations at the district, regional, and national levels. The representatives of governmental organizations, non-governmental organizations, human rights organizations, civil societies, labour organizations and social organizations legal practitioners, media people, other experts and professionals and general people were involved in the formulation process of the NHRAP and they made significant contributions to it.

The Universal Declaration on Human Rights (UDHR) including other international instruments related to human rights were used to identify the needs of the Nepali people and the NHRAP is being formulated to act as a means to fulfil these needs. Multiple sectors have been involved by the NHRAP in order to protect and promote the human rights of the Nepali people. There have been concerted attempts to coordinate the Action Plan with the policies and programs of the Tenth Five-year National Plan. It is believed that the implementation of the NHRAP will benefit all sectors of the society.

HMG/N would like to thank all of them who have participated in the process of formulation of NHRAP. HMG/N would also like to thank the Office of the UN High Commissioner of Human Rights, the UNDP Nepal, Government of the United Kingdom, DFID, the Swiss Government and SDC for their support extended to formulate NHRAP.

Finally, HMG/N would also like to acknowledge the contributions made by the members of Steering Committee and Advisory Group for giving present shape of NHRAP. National Project Director (NHRAP Project)/Under Secretary Mr. Kesab Prasad Bastola has also contributed a lot during the process of formulation of NHRAP.

HMG/N is hopeful that all the sectors of Nepalese society will assist in implementing NHRAP for the betterment of life and respect, protect and promote Human Rights of the people of Nepal.

June 21, 2004

Dr. Bimal Prasad Koirala  
Chief Secretary  
Office of the Prime Minister and Council of Ministers,  
His Majesty's Government of Nepal

## **PART - 1**

### **Chapter-1**

#### **Preliminary**

##### **1.1.1. Background**

Human beings are born with certain inalienable fundamental rights. Right to equality and peaceful existence are basic and inseparable rights of the human being. The United Nations Convention held on December 10, 1948 to formalize the Universal Declaration on Human Rights (UDHR) identified human rights as fundamental to the achievement of peace and progress. This declaration has been taken as a primary document to define the birthright of human beings to certain innate and inalienable rights. Based on the United Nations Charter and the UDHR, various international covenants on human rights have been declared that incorporate various aspects of human rights. Nepal, as an active member of the United Nations (UN), has signed and ratified such international agreements and is working to assimilate them into the mainstream development effort and implement them effectively. Nepal is a party to sixteen such human rights covenants and is in the process of ratifying more such conventions.

In 1993, the UN Human Rights Convention took place in Vienna, Austria. The Convention called on member states to help develop a human rights culture in the world. It asked that national plans that protect and promote human rights be formulated and implemented effectively. A UN workshop on human rights was held in Bangkok in 1999 involving nations in Asia Pacific. The UN members in the Asia Pacific agreed to respect, promote, and protect human rights and fulfil their commitments to the UN in a systematic manner. HMG/N proposed to formulate and implement a coordinated National Human Rights Action Plan (NHRAP) involving His Majesty's Government of Nepal (HMG/N), civil society, and the private sector at this workshop. The present NHRAP has been prepared and is being implemented on this basis.

The NHRAP has been prepared on the basis of the UDHR and other international agreements related to human rights. It has taken into consideration the problems and the needs of the Nepali people and it aims to minimize these problems and fulfil the people's essential needs.

The NHRAP has been developed through the process of discussions and consultations at the district, regional, and national levels. Government and non-government sectors, human rights institutions, the civil society, labour organization representatives, legal practitioners, as well as social workers have made important contributions to this plan. It has been taken on a multi-disciplinary task of protecting and promoting the human rights of the Nepali people.

The NHRAP has been prepared in such a manner that it integrates human rights perspectives in the development process and conscious effort has been made to relate it

with the Tenth Five Year Plan. It is believed that all sectors of the society will benefit through the effective implementation of the NHRAP.

Because the Plan has been prepared at the national level and it incorporates extensive areas related to human rights, it is somewhat different from specific programs, projects, and efforts. It can even be taken as a guideline while preparing specific action plans for the various themes of human rights.

The action programs specified in the NHRAP are responsibilities of not just one agency but that of various central and local government bodies, national and international agencies, bilateral and multilateral donors and development partners that work to support HMG/N's policies and programs. The national and local non governmental organizations (NGOs), civil society groups, the private sector, and various federations and associations have to be involved in the implementation of this Action Plan. The NHRAP has been presented in the Log Frame format and does not lay out the necessary technical and financial resources. Various agencies/bodies will have to implement the Action Plan by mobilizing necessary resources and infrastructure as required according to geographical and topical needs.

### **1.1.2. Goals of the NHRAP**

The NHRAP has been prepared with the aim of establishing a culture of human rights in Nepal. Its main goals are to protect and promote the inalienable rights of the citizens as established by the Constitution of the Kingdom of Nepal, 1990, to guarantee human rights according to international agreements entered into by the nation by undertaking necessary activities, policy formulation, and program implementation. The NHRAP incorporates civil, cultural, economic, political, and social rights in an organized manner and aims to improve all these aspects of human life. Its effective implementation will not only help improve human rights situation but also help the greater goal of eliminating poverty as envisaged by the Tenth Five-year Plan. The specific goals of the NHRAP are as follows:

1. Improve the human rights situation and to spell out HMG/N's commitment to human rights through actions.
2. To improve the current status of human rights for all Nepali citizens, particularly the poor, marginalized, vulnerable, dalit, indigenous and ethnic communities and those living in the backward and remote regions of the country.
3. To mainstream human rights in the development plans and programs.
4. To foster collective ownership of all sectors related to the NHRAP and increase awareness and understanding.
5. To further mobilize national and international resources in order to protect and promote human rights.

### **1.1.3. Subjects covered by the NHRAP**

Human rights are not limited to a single subject, topic, sector, or body. In general, it cuts across all subjects, a variety of sectors, and many agencies. Therefore, the NHRAP has identified that protecting and promoting human rights requires the coordination and involvement of twelve subjects outlined below:

1. Education and culture



2. Health
3. Environment and sustainable development
4. Indigenous, ethnic, Dalit, specially-abled, and senior citizens
5. Women's empowerment, gender equality and equity, and women's rights
6. Children's rights and development
7. Law reform
8. Justice administration and management
9. Prison management and reform
10. Labour and employment
11. Conflict management
12. Institutional strengthening

#### **1.1.4. Potential Problems and Difficulties in the Implementation of the NHRAP**

Because the NHRAP has not been prepared for a specific body, ministry, or sectoral organization and is to be collectively implemented, responsibilities may be shifted or they may not be taken seriously by the concerned agencies. The ongoing conflict, too, has damaged essential service structures of the country and this will make it difficult to provide effective social services to people. There is need to re-establish or improve essential services in the nation in order to implement the NHRAP effectively. The nation's weakening economic status may result in the lack of financial resources to implement the efforts recommended by the NHRAP.

The following are some of the possible problems that may hamper the effective implementation of the NHRAP: lack of political commitment; lack of financial resources; delay in reform and formulation of legal parameters; delay in structural and procedural reform within organizations; lack of ownership, (too) long-term approaches, lack of good governance; lack of prioritisation in human rights protection and promotion; inadequate human resources, lack of adequately efficient technical administration and tools in essential service sectors; and unavailability of adequate fund.

## **Chapter-2**

### **National Development Plan and NHRAP**

#### **1.2.1. Introduction**

In the past, Nepal had not had a system of inclusion and implementation of human rights related activities in the national development process separately. However, the concept has been changed now and it is revealed that all related persons and agencies are being positive and motivated to include the subject of human rights in the national development process.

During the process of formulation of NHRAP, the then Prime Minister instructed related ministries of HMG/N, National Planning Commission (NPC), and other bodies to incorporate the NHRAP in the Tenth Five-year Plan. Besides the Prime Minister, the then vice-chairperson and member of NPC highlighted the need to coordinate the NHRAP with the Tenth Plan and stressed the need and importance of the plan. Such constructive suggestions resulted in the Tenth Plan, which incorporates clear policies related to the protection and promotion of human rights separately.

The Constitution of the Kingdom of Nepal, 1990 guarantees inalienable, fundamental human rights to the people. Various commitments made at the international level by the country also guarantee the people's fundamental human rights and call for effective protection and promotion of such rights. Based on this, all efforts will be made by HMG/N to coordinate human rights efforts with sectoral development programs, according to the tenth Plan.

The NHRAP is to be implemented side by side with the Tenth Plan. Against this backdrop, it is important to have the Tenth Plan incorporate human rights chapter in it.

#### **1.2.2 Review of the Ninth Plan by tenth Plan**

Even though the Ninth Plan did not include separate policies related to human rights, its many development priorities related to children, women, indigenous and ethnic communities, the minority and the Dalit, labour, education and culture, environment and development, health, etc. included human rights aspects. The Human Rights Commission Act, 1996, was promulgated during this period and the National human Rights Commission (NHRC) was also established during this time.

#### **1.2.3 The Human Rights Objectives of the Tenth Plan**

The Tenth Plan has policies and programs related to women, children, the specially-abled, and senior citizens as well as a separate policy and program on human rights.

According to the Tenth Plan, the inalienable human rights enshrined in the Constitution of the Kingdom of Nepal, 1990, and the provisions of human rights outlined by international agreements to which Nepal is a party will be practically assured. Due to the limitation set by inadequate resources, human rights programs will be integrated with the National Development Program to help eliminate poverty.

#### **1.2.4. Action Plan in the tenth Plan**

As per the Tenth Plan, the inalienable human rights guaranteed by the Constitution of the Kingdom of Nepal, 1990, and the provisions of human rights outlined by international agreement HMG/N has entered into will be effectively protected, promoted, and respected and an action plan that develops a human rights culture will be adopted. The process of formulation and implementation of law will be modernized; it will be far sighted, and made qualitative. Besides, the judicial system will also be strengthened institutionally.

#### **1.2.5. Policies**

1. As the country's fiscal budget permits, the human rights program will be integrated with the National Development Program to protect the inalienable human rights specified by the Constitution of the Kingdom of Nepal, 1990, and the provisions of human rights outlined by international agreement HMG/N has entered.
2. Basic infrastructure and institutional and human resource capacity building will be improved so that present laws and justice administration can be standardized as per international agreements.
3. The physical infrastructure of country as well as organizational and human resource capacities will be developed.

#### **1.2.6. Human Rights Protection and Promotion Program**

1. The human rights protection and promotion program will be implemented through the formulation of the NHRAP.
2. Children, women, ethnic and indigenous, minority and Dalit, labour, education and culture, environment and development, health, prison, justice administration, law and legislation, and conflict are related to human rights. These programs will be run on available limited resources and will be coordinated with the human rights program.
3. Awareness programs will be run to involve people's participation in the implementation of the NHRAP and the Human Rights Program and to achieve the international commitments made by Nepal.
4. The laws of the nation will be reformed to bring them up to contemporary international standards.
5. National Human Rights Commission, National Women's Commission, Dalit Commission, Academy for Indigenous People, and other human rights related bodies would be institutionally strengthened and reformed.
6. In order to obtain greater respect for human rights and to develop a culture of human rights, educational establishments and government run training programs and skill-oriented agencies will over time include human rights in their syllabus.

Instead of looking at the NHRAP as an isolated entity, it has been prepared so that it is convergent with the National Development Plan.

## **PART - 2**

### **Chapter-1**

# **NATIONAL HUMAN RIGHTS ACTION PLAN**

## **2.1.1. Subjects covered by the NHRAP**

Human rights are not limited to a single topic, sector, or body. In general, it cuts across all topics, a variety of sectors, and many agencies. Therefore, the NHRAP has identified that protecting and promoting human rights requires the coordination and involvement of twelve topics outlined below:

1. Education and culture
2. Health
3. Environment and sustainable development
4. Indigenous, ethnic, Dalit, specially-abled, and senior citizens
5. Women's empowerment, gender equality and equity, and women's rights
6. Child rights and development
7. Law reform
8. Justice administration and management
9. Prison management and reform
10. Labour and employment
11. Conflict management
12. Institutional strengthening

## **Chapter-2**

### **2.2.1. Education and Culture**

#### **2.2.1.1. Background**

Quality education is fundamental to the preparation of reliable, committed, and productive human resource, and thus to a nation's development process. The overall development of a country often depends upon the education policy it adopts. Equal access and opportunity, qualitative improvements, internal and external capacity building, and job-related education contribute to the progress of a nation. Lifestyles, languages, cultures, arts and crafts, and religions also enrich a country. Conservation and preservation of the cultural heritage including paintings, metal sculpture, stone sculpture, architecture as well as historical and archaeological sites and monuments benefit a nation's overall development. For Nepal, being a signatory to national and international conventions that stipulate that education as one of the basic rights of all people, it is very important to improve the overall access and quality of its education system and preserve and promote its historical culture, beliefs, heritage, and traditions.

#### **2.2.1.2. Current Situation**

Realizing that education is an important influence on a nation's development, Nepal has emphasized on education for its people from the inception of its development process. Consequently, the overall literacy rate in Nepal has reached 55%. However, the female literacy rate is still only 35%. Enrolment at every educational level is also on the rise, but also with wide gender disparity. The participation of the private sector in formal education is encouraging and the role of non-government organizations in non-formal education is praiseworthy. Technical and vocational training courses are available though not enough to meet the growing demand for it. Increased awareness and empowerment, and scholarships provided by women oriented education programmes have contributed to the increased enrolment of women and girls at all levels of education. There has been a significant rise in the number of private and government institutions operating from pre-primary to university levels. However, only 81% of the primary school age children are enrolled in schools and more dismally, only 54% of them complete their primary school education. Hence, the MDG to ensure that, by 2015, all children, boys and girls alike, will be able to complete a full course of primary schooling is very important for Nepal. The school enrolment rate is much lower among girls and children from Dalit, poor, marginalized and indigenous families and in remote and relatively backward parts of the country. As envisaged in the Local Self-Governance Act, 1999, the policy of decentralizing health services has led to the handing-over of about one hundred primary schools to local communities; and this process will be continued and expanded further. However, much still needs to be done to improve the quality of education in the nation.

Nepal is a multiethnic and multilingual country with a wide diversity in language, dress, custom, religion, song and music, festival, art, sculpture, craft, architecture and historical monument throughout the country. Many religious and historical sites (palaces, temples, museums, and other monuments) have and are being renovated. Development and growth of tourism, international trade and industry, cultural exchanges and globalisation of the

Western culture are, as everywhere else, some of the major external factors influencing Nepali culture. Government organizations, NGOs and the civil society are actively contributing to preserve and promote the cultures of indigenous and ethnic communities. Continuing these efforts, with even more intensity, is necessary to preserve Nepalese culture and way of life. Preserving these integral elements of a rich Nepali culture has not only intrinsic human value but also a significant development dimension.

### **2.2.1.3. Problems**

Notwithstanding achievements made in the field of education, Nepal has a long way to go just even to be able make the primary education universal. Insufficient resources and lack of effective management of available resources get in the way of providing education for all, especially girls and children from Dalit, marginalized, poor and indigenous communities and in remote and relatively poor parts of the country. Public schools have been the major vehicles in the rapid growth of education in the country. However, the quality of education in many of these institutions is questionable.

While efforts are being made to preserve and promote the Nepalese culture, outside influences continue to impact local cultures. In-depth research and documentation of indigenous and ethnic culture is required for conservation purposes. Religious and historical monuments, even in accessible areas, are in need of protection and renovation. Statues, artwork, and items of historical and cultural importance are being stolen and smuggled out of the country. Many craft styles, art processes, indigenous techniques, and indigenous cultures and dialects are in danger of disappearing. The problems related to education and culture, as identified during the process of formulation of NHRAP, are presented below.

1. Ineffective implementation of policies, programmes, rules and regulations relating to education.
2. Lack of an effective education policy that addresses contemporary national needs.
3. Lack of free primary education despite the HMG/N policy to provide it (there exists a fee structure even at the primary level in many schools).
4. Lack of awareness among parents regarding children's right to education.
5. Negligence and irregularity in some government schools.
6. Inadequate educational opportunities in technical fields.
7. Lack of physical infrastructure and resources.
8. Lack of adequate financial resource to provide primary educational in the first language of the child.
9. Still prevalent family attitude to give less priority to girl's education.
10. Accessibility problems resulting from educational facilities that are physically far away and/or unfriendly to certain ethnic, poor, marginalized and specially challenged groups.
11. Lack of awareness about the importance of education, arts, and culture.
12. Significant qualitative difference between government and private school education.
13. Commercialisation of education.
14. Inability to make education professional and productivity oriented.
15. Inability to make education sensitive to the needs of the specially challenged.
16. Inability to make education easily accessible.
17. Gender and other biases in teacher employment process.
18. Inadequate number of subject-specific trained teachers.

19. Tradition of issuing and renewing licenses to schools that do not meet minimum quality and infrastructure requirements.
20. Inadequate educational programme implementation and monitoring capability.
21. Lack of authority of local bodies and communities to manage, operate, regulate, and monitor educational institutions.
22. Lack of incentives to provide quality education.
23. Inadequate prioritisation of education programmes targeted to poor, marginalized, Dalits people and people from remote areas.
24. Inaccessibility of vocational and skill oriented education.
25. Lack of awareness about human rights.
26. Inability of the government to allocate adequate budget to education sector, especially primary and vocational education.
27. Excessive impact of outside cultures in urban areas.
28. Inadequate research and documentation of indigenous cultures and ethnic groups.
29. Lack of adequate financial resources to preserve and protect the cultures, religions, and historical monuments even in accessible areas.
30. Theft, smuggling and international sale of artefacts of religious, cultural, and historical importance.
31. Disappearance of traditional and indigenous skills, technologies, and cultures.
32. Lack of strong legal regime to protect the intellectual rights of writers, artists, and musicians.

#### **2.2.1.4. Objectives of National Action Plan**

1. To reform education laws to bring them up to international standards.
2. To guarantee education as a basic and inherent human right.
3. To make quality education easily accessible to everyone.
4. To preserve, protect, promote and publicize Nepali arts and culture.

#### **2.2.1.5. National Action Plan**

The following national action plan on education and culture related to human rights shall be implemented to protect and safeguard people's right to education and culture in the country in coming three years.

## National Action Plan

**Topic:** Education and Culture

**Implementing Ministry:** Ministry of Education and Sports (A)

**Monitoring and Evaluation Agency:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee of the Parliament

S.N.	Objectives	Programme	Actions	Cooperating Agencies	Implementation period	Means of verification	Risk factor
1	Amend existing laws and enact new laws in conformity with international human rights norms and standards	Review and amend laws to bring them up to international norms and standards	-Conduct a study on existing laws in relation to international human rights norms and standards.  -Amend existing Education Act and Education Regulation in conformity with international human rights norms and standards	MoLJPA	2061/62  2062/63	Study reports  Newly formulated and amended laws	Absence of the Lower House of Parliament  Lack of prioritization
2	Provide free/compulsory primary education to children from families that are socially and	-Formulate and implement policies to guarantee education to children of	-Form a Taskforce to formulate policies and transparent guidelines for implementing free as well as	DoE  Teacher's organizations,	2061/62	Produced policies and guidelines  EMIS	Lack of prioritisation  Inadequate



	economically deprived and living below poverty line	specified groups -Develop transparent criteria/guidelines for the expansion of educational system.	compulsory education -Ensure pre primary class of one year in every primary school with a dalit or female facilitator (25000 schools).  -Initiate voucher system to help poor children to have access in private schools (8000 children)  -Standardize educational approach, physical infrastructure, and fee structure of private schools	Private school associations	2061/62-2063/64  2062/63 Continuous  2062/63	Plans and reports  No beneficiaries of	budget  Private schools' practice of making their own decisions
3	Strengthen respect for human rights in education system	Review and rewrite text books used in primary to higher secondary level in order to incorporate human rights content	-Conduct studies to assess and recommend the present status of human rights contents at primary to higher secondary level  -Implementation at primary level	UGC, HSEB, CDC DoE	2061/62-2063/64  2063/43 Continuous	Reports produced  Newly produce textbooks and other learning materials	Institutions may have their own timeframes for revising and improving the textbooks and other learning materials
4	Minimize and eventually	Establish special awareness	-Intensify incentive and scholarship	DoE	2061/62-2063/64	Gender disaggregated data	Difficulty in changing

	eliminate gender based discrimination in education and training	generation, scholarship programmes targeted to girls to increase their school enrolment  -Establish minimum quota of one female teacher at the secondary school level  - Establish a system of reservation of 33% seats for women in training	program (2,00,000/yr)  -Develop and implement policy for the recruitment of at least one female teacher at the Secondary-Level.  -Introduce a system of reservation of 33% of the seats for women in training courses	NCED	2062/63  2062/63	on student enrolment at the secondary level education.  Reports of different agencies	prevailing social attitudes and traditions  Lack of identification and prioritisation of target groups
5	Formulate and implement policies designed to achieve universal literacy, specially targeted to families living below poverty line	Non-formal education programmes	-Conduct an impact and a need assessment studies  -Conduct non-formal education programmes in low literacy districts	DoE  NFEC	2061/62  On going	Study reports	Lack of adequate budget
6	Formulate and implement policies to improve educational attainment of Dalit, marginalized and	Provide scholarship/free education programmes up to the secondary school level for Dalit, marginalized and	-Implement inclusive education approach  -Make provisions for scholarship/free education for targeted groups up to secondary level	DoE  SEDP	Continuous  2061/62-2063/64	Reports published by DoE	

	indigenous people living below poverty line	indigenous people living below poverty line	(10,000/yr)				
7	Formulate and implement policies to eliminate discrimination in access to education of people with special abilities	-Provide scholarship/free education up to the secondary level for people with special needs.  -Reserve quota for people with special needs in technical education programmes	-Initiate the scholarship schemes  -Activate quota reservation policy for students with special needs in technical education programmes.	MoWCSW DoE  CTEVT	2062/63-2063/64 Continuous 2062/63 Continuous	No beneficiaries of  Reports of different agencies including DoE and CTEVT	Infrastructure and financial constraints
8	Formulate and implement policies to elimination of physical abuse, mistreatment and sexual harassment in educational institutions	-Establish an effective legal system that sanctions/punishes physical abuse, mistreatment and sexual harassment  -Establish awareness programmes on existing rights and available legal remedies	-Form a Taskforce to study the effective ways for the introduction of legal system  -Conduct awareness programmes that discourages physical abuse, mistreatment and sexual harassment in educational institutions	UGC  HSEB  I/NGOs  Student Organizations	2062/63    2063/64 Continuous	Published Reports	Lack of sufficiently sensitive social attitude toward these abuses
9	Protect and promote people's	Provide primary education in	-Develop reading materials to promote	DoE	2061/62-	Newly produced	Lack of adequate

	right to education in children's mother's tongue	children's mother's tongue	children's education in their mother tongue  - Conduct teacher education programmes to promote and facilitate children's education in their mother tongue	CDC	2063/64  2061/62-2063/64	reading materials  Reports published by DoE/CDC	budget  Unavailability of sufficiently qualified teachers
10	Review and amend laws related to promotion, protection and preservation of all cultures and cultural practices in conformity to international norms and standards	Review laws related to promotion, protection and preservation of cultures and traditions of all different ethnic, linguistic and cultural groups	-Study on existing laws related to cultural rights -Amend and/or make new laws, if necessary, for better protection of cultural rights of the people  -Make policies and implement them to promote, protect and preserve prevailing cultures of Nepal.	MoLJPA LRC  Civil society including concerned NGOs	2062/63-2063/64  2062/63-2063/64	-Newly amended and enacted laws  - Reports prepared by agencies concerned with protection and preservation of culture and cultural practices	Lack of financial resources  -Lack of sufficiently sensitive social attitudes

## **2.2.2. Health**

### **2.2.2.1. Background**

Based on the commitments made to the international forums, Nepal recognizes the health services as vital to human life and considers the right to good health as an important part of human rights.

There have been improvements in the health sector of the country since it has embraced an organized development strategy. In spite of many of these improvements, Nepal is still far away from making health services rights oriented and improve the general health of its citizens. Women and people from Dalit, marginalized, indigenous communities, especially those living in remote and rural areas still cannot access vital health services.

### **2.2.2.2. Current Situation**

During the Ninth Plan period (1997-2002), there have been policy improvements in the essential health services sector; health services have been decentralized, government, non-government, and private sector participation has increased, and a mid-level action plan on regional health administration has been put in place for the amalgamation of core health issues. Through this plan, twenty essential health areas are being addressed through specific programs, safe motherhood and reproductive health related policies and action plans have been prepared, the National Drug Financial Policy has been implemented, gender issues are being incorporated, and curative, preventive, promotional, and rehabilitative health services are being expanded among rural communities. As per international commitments, the country is shaping the health service so as to be able to address special needs of people in different phases of their lives and is improving its health service quantitatively and qualitatively. As envisaged in the Local Self-Governance Act, 1999, the policy of decentralizing health services has led to the handing-over of sub-health posts to local bodies; and this process will be continued and expanded further. Health insurance program is also being expanded and strengthened.

As a result of improvement in health services, tuberculosis, leprosy, goitre, malaria, and diarrhoea have been significantly reduced. Life expectancy has increased to 62 years (61.8 among men and 62.2 among women), and infant and child mortality rate has gone down to 64 and 91 respectively. Child delivery services of trained health workers have reached 37% of expectant mothers. HIV/AIDS and sexual disease awareness programs have led to the use of preventive and curative methods. There is an increasing involvement of the private sector in providing health facilities, especially in urban areas. Government health services are being expanded from national to community levels through institutions like hospitals, primary health care centres, health posts, and sub-health posts. Health services based on the Ayurveda, natural and herbal cures, homeopathy, and Yunani are also expanding in the country. However, the level of health services available in the country is far from satisfactory as evidenced by the fact that only 70% of the population has access to basic healthcare services.

### **2.2.2.3. Problems**

Despite improvements, health service in Nepal is still inadequate considering the international commitments that it has made in this sector. The problems related to health, as identified during the process of formulation of NHRAP, are presented below.

1. Insufficient number of health workers in the districts and difficulty in filling vacant positions.
2. Unequal access to health care service, especially either very limited or almost non-existent health facilities in remote areas.
3. Inability to provide quality health services.
4. Lack of medical equipment in central, district, and primary health care centres and health posts.
5. Unavailability of essential drugs in rural areas and inability to make proper use of available drugs.
6. Inadequate distribution of free medicine by HMG/N.
7. Lack of knowledge regarding basic and reproductive health among women and men, women, in particular are suffering more from health related problems.
8. Lack of easy access to maternity and child health care service.
9. Inadequate health services for senior citizens, people with special abilities, and the poor.
10. Either prohibitively expensive or unavailable health care services.
11. Common occurrence of malnutrition.
12. Less satisfactory health care service in government intuitions due to inadequate income incentives to the healthcare professionals.
13. Infiltration of low quality and fake drugs.
14. Lack of attraction to homeopathic, Ayurvedic, and Yunani health services.
15. Persistent in traditional beliefs in superstitious and faith healing practices, especially in remote rural areas.
16. Lack of attraction towards among local bodies and non-governmental organizations to provide health care services.
17. Inability to increase the capacity of rural health workers.
18. Ambiguity in the Health Services Act and other regulations and inability to implement laws and regulations effectively.
19. Lack of coordination, supervision, and evaluation of health service management and service delivery.
20. Other problems related to the health sector include the inability to improve institutional capacities, financial management, human resource usage, health worker dispersal (now concentrated in city areas), and credibility of government health institutions.

### **2.2.2.4. Objectives of the National Action Plan**

- To reform existing laws in accordance with international standards.
- To ensure the human rights to good health.
- To expand essential health facilities at the community level.

- To provide quality health services.

#### **2.2.2.5. National Action Plan**

The following national action plan on health related to human rights shall be carried out to protect people's right to good health in the country in coming three years.





## National Action Plan

**Topic:** Health

**Coordinating Agency:** Ministry of Health

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other committees of Parliament

S. N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard people' right to good health	Review and amend laws to bring them up to international norms and standards	-Review and amend the existing health sector related laws.  -Formulate Tobacco Control Act and Child Protection Act	MoLJPA  LRC	2062/63  2062/63 and 2063/64	-Amended and newly formulated laws  -Joint agencies for report revisions - Reports of committees for revisions	Delay in the General Election of the Lower House of Parliament  Tendency to exclude legitimate stakeholders during law revision
2	Ensure people's right to good health services by increasing availability of essential healthcare service to all and with priority to	- Build additional primary health care facilities and strengthen and better equip existing rural health care centres  - Expand basic and	-Kit boxes with essential drugs distribute in 13 remote districts  -Establish 5 Ayurvedic Dispensaries	Local bodies  Community centres	2062/63  2062/63 onwards	- Availability of essential drugs  -Number of Ayurvedic, healthcare providers  -Population within	-Law and order situation, especially in remote districts  -Difficulty in expanding programmes to

	rural/remote/poor/marginalized population	primary health services at the community level				one hour walking distance of health care centres  -Availability of skilled health workers and subsidized medicine in health care centres.	the local level because of delay in the election to local bodies  -Inadequate budget  -Lack of priority
3	Increase awareness about the right to good health and right to reproductive health in rural areas	-Conduct awareness programmes in rural areas about the human right to good health and right to reproductive health  -Coordinate and collaborate with NGOs on reproductive health  -Awareness programmes that include sanitation and cleanliness, HIV/AIDS, sexual	-Publicity of health information through electronic media (800 times)  -Identify NGOs working in local community in the field of right to the reproductive health and mobilize them to promote such right.  - Strengthen School Health Program	DoHS  NHEI  CC  FHD	2062/63          2062/63          2061/62 Ongoing	Analysis of health reports on use of media  Increase in the use of family planning methods  Coverage of health education in school curriculum	Possibility of programme discontinuity  Insufficient resources and material  Possibility of less public participation  Possibility of political interference in local bodies

		health and immunization as a part of the school curriculum					
4	Make quality medicines and services available to the people	<p>-Maintain drug and equipment quality, control prices, and establish monitoring programmes</p> <p>-Effective control of HIV/AIDS and sexually transmitted diseases</p> <p>-Provide counselling and reproductive health education to adolescents</p>	<p>-Develop effective monitoring mechanism to maintain quality of drugs and quality health care in private sector</p> <p>-Integrated HIV/AIDS control program in 10 districts</p> <p>-Establish youth friendly service centres in 15 districts</p>	<p>DDA</p> <p>DoHS</p> <p>NCA</p> <p>SC</p> <p>FHD</p> <p>Federation of drug sellers</p> <p>NGOs</p> <p>DACC</p>	<p>2062/63 ongoing</p> <p>2062/63 ongoing</p> <p>2062/63 ongoing</p>	<p>Progress report on availability of essential medical drugs</p> <p>Analysis of various reports</p> <p>Reports of HIV/AIDS control activities</p> <p>Report on service provided</p>	<p>Lack of priority</p> <p>Ineffective implementation</p> <p>Poor monitoring</p>
5.	Protect child's right to good health	<p>-High vaccination coverage programmes,</p> <p>-Programmes to supply Vitamin 'A' and micronutrients</p>	<p>-90% coverage of DPT</p> <p>-Vitamin 'A' capsule distribute to 32,00,000 children</p>	<p>DoHS</p> <p>CHD</p> <p>NGOs</p> <p>Communities</p>	<p>2061/62 ongoing</p>	<p>Reports of different government and non-government organizations</p> <p>Surveys</p>	<p>Inadequate budget</p> <p>Lack of public awareness</p> <p>Poor monitoring</p>
6.	Help the formulation and implementation of new health policies and programmes	Research in the health sector	Conduct research and make analysis of health services focusing on benefit to the poor	DoHS	2063/64	Reports	<p>Lack of budget</p> <p>Lack of priority</p>

## **2.2.3. Environment and Sustainable Development**

### **2.2.3.1. Background**

The Nairobi Conference, 1985, and the United Nations Conference on Environment and Development (Rio World Summit), 1992, have declared policies and action plans related to the environment and sustainable and equitable development and laid ground for an agenda on a common approach to women's development and environmental protection. The International Conference on Population and Development held in Cairo in 1994 stressed the role of women in environment and sustainable development. The Fourth World Conference on Women Development held in Beijing, 1995, also included women and environment among twelve critical issues. The Social Conference held in Copenhagen in 1995, the Millennium Development Goal (MDG), and the Eleventh SAARC Summit held in Nepal in 2002 have also emphasized environmental protection and sustainable development. The World Summit on Sustainable Development held in Johannesburg in 2002 particularly emphasized conservation of natural resources. Environmental preservation and protection and sustainable use of natural resources have been of great concern to the world, and hence integrating the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources by 2015 has been one of the MDGs.

### **2.2.3.2. Present Situation**

Nepal has expressed its commitment to environment preservation and protection, and sustainable development in international forums and is currently working to prepare policies, laws, and institutions in order to live up to its commitments. The National Conservation Action Plan was implemented in 1987. A twenty-five year Forest Development Master Plan was implemented in 1989. People's participation in the management and conservation of forest areas has been accorded a high priority. Clause 4 of Article 26 of the Constitution of the Kingdom of Nepal, 1990 states, "(T)he state will increase awareness among the general public regarding the environment and its needs, it will prioritise environmental protection and prevent damage through by development activities, the state will especially protect and conserve wildlife, forest, and vegetation." The Nepal Environment Policy and Action Plan, prepared in 1993, was amended in 1998. The Nepal Bio-diversity Conservation Strategy and Action Plan was prepared and implemented in the year 2000. Many other Acts and directives have been implemented since 1991. Realizing that the environment is multi-dimensional and effected by multi-sectoral issues, HMG/N formed the Environment Conservation Council comprising of ministers and environmental experts under the chairmanship of Prime Minister.

Besides these activities, Ministry of Population and Environment was established in 1997 and the Environment Impact Evaluation System has been institutionalised. The Nepal Vehicle Mass Emission Standard, 1999, has been implemented to reduce pollution in urban areas and a national action plan prepared in 1998 with the help of governmental and non-governmental agencies. The action plan outlines three strategic objectives related to women and environment. The government has been formulating policies,

developing plans and programmes, and collecting information and building up human and infrastructure resources. HMG/N has recently adopted Sustainable Development Agenda for Nepal that incorporates institutional mechanisms for implementation, monitoring periodic review of the national strategy for sustainable development. Environment is now a part of the curriculum for primary and secondary school going students.

### **2.2.3.3. Problems**

Despite ongoing efforts and a lot of achievements, there is still a need to learn as to how to use natural resources so that people can benefit from the use of the natural resources, while at the same time preserving and protecting the environment. It is the right time for recognizing environmental right as fourth generation of human rights in Nepal. Notwithstanding the fact that local user groups and NGOs have been quite active in mobilizing people at the grassroots, participation of grassroots people is minimal in policy formulation, and programmes implementation, monitoring and evaluation. Problems relating to urbanization, particularly solid waste and air and water pollution need to be eliminated. The problems related to environment and sustainable development, as identified during the process of formulation of NHRAP, are presented below.

1. Weak implementation of environment laws and action plans.
2. Lack of adequate awareness about the environment and sustainable development.
3. Shortage of economic resources for programmes relating to the protection and preservation of environment and ineffective use of available resources.
4. Formulation of development plans without proper identification of regional problems.
5. Unsystematic urbanization and industrialization of the country.
6. Rapid population growth.
7. Inability of government and non-government organizations to reach remote areas.
8. Inadequate commitment of related organizations.
9. Absence of rewards for environment preservation and of fines and other forms of punishment for its destruction.
10. Weak coordination between and monitoring of concerned agencies.
11. Unacceptably high dependence on forest for fuel wood, fodder and construction leading to a widespread deforestation.
12. Unsystematic clearing forests for human settlements.
13. Managerial problems at the local level.
14. Lack of organized cremation facilities.
15. Inadequate preservation of natural resources.
16. Increasing squatter-related problems.
17. Lack of knowledge of appropriate technology and inability to incrementally modernize traditional technology.
18. Inadequate participation of local bodies in environment related action plan formulation.
19. Lack of proper utilization and preservation of indigenous herbs.
20. Urban air pollution resulting from lower quality fossil fuel use.

21. High prevalence of acute respiratory infection resulting from heavy indoor air pollution in rural areas.
22. Solid waste management related problems.
23. Excessive utilization of pesticides and chemical fertilizers.

#### **2.2.3.4. Objectives of National Action Plan**

- To improve environmental laws so that they meet contemporary international standards.
- To benefit from the sustainable use of natural resources.
- To ensure people's right to live in healthy environment.
- To ensure equitable access to the natural resources.

#### **2.2.3.5. National Action Plan**

The following national action plan on environment and sustainable development related to human rights shall be carried out to preserve and protect environment and promote sustainable development in the country in coming three years.

## National Action Plan (A)

**Topic:** Environment and Sustainable Development

**Implementing Ministry:** Ministry of Population and Environment

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other committees of Parliament

S.N	Objectives	Programme	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard peoples' rights to clean environment, equitable access to natural resources and sustainable development	Review and amend laws to bring them up to international norms and standards	-Carry out a national level workshop on "Environmental Laws and its Enforcement"  -Formulate/Amend laws, rules and regulations on polluting agents.	MoLJPA	2061/62  2062/63	Workshop finding   Newly formulated and amended laws	Delay in the General Election of the Lower House of Parliament
2	Reduction in environmental health hazards to improve the quality of life of poor, marginalized and vulnerable people	-Reduction of urban air pollution  -Reduction of indoor air pollution  -Improve effectiveness of	- Monitoring of vehicular emissions and the phasing out of polluting vehicles through strict inspection in urban area  -Implementation of sticker emission standards for new	MoLTM  MoHA  Local bodies	2061/62   2062/63	Air quality monitoring findings  policies and rules enforced	Lack of cooperation from other related stakeholders  Lack of adequate

		environmental impact assessment process	<p>vehicles.</p> <p>-Provide subsidies from fiscal policy for the Promotion of Improved cooking devices.</p> <p>-Strengthen stakeholder consultation and public participation.</p> <p>-Revision and amendment of EIA related laws, regulations, guidelines and standards</p> <p>-Improvement of database systems.</p> <p>-Development of an effective system for networking and information sharing.</p>		<p>2061/62</p> <p>” ”</p> <p>2062/63</p> <p>2063/64</p> <p>” ”</p>	<p>According to budgetary provision of subsidies</p> <p>Reports of different agencies</p> <p>Reports on monitoring and evaluating laws</p> <p>Available data</p>	<p>financial resources</p> <p>Lack of health hazard awareness, especially among people at high risk</p>
3.	Reduce vulnerability to natural and man-made environmental disasters	<p>-Programme to avoid land degradation</p> <p>-Promote eco-friendly construction technology</p> <p>Promote eco-friendly energy and sustainable construction Methods</p>	<p>-Mobilize concern agencies for prevention of land degradation.</p> <p>-Conduct a workshop on eco-friendly construction technology.</p> <p>-Develop strategies for sustainable construction technology.</p>	<p>MoWR</p> <p>MoLTM</p> <p>MoFSC</p> <p>MoLD</p> <p>Local bodies</p> <p>Civil Society</p>	<p>2061/62</p> <p>Continuous</p>	<p>Data verification</p> <p>Recommended strategies</p> <p>Plans and reports</p>	<p>Lack of financial resources</p> <p>Lack of priority</p> <p>Difficulty in adopting new technology</p>



4	Raise environmental awareness of stakeholders	Conduct awareness programmes that highlight the interrelationship between environment, development, and human rights	<p>-Provide support for non-profit making organizations to organize environmental education program</p> <p>-Launch information dissemination and research projects, as well as community awareness programmes.</p> <p>-Undertake and promote media campaign to increase general environmental awareness</p> <p>-Include environmental related curricula in school education</p>	<p>MoFSC MoLD MoES</p> <p>Local bodies</p> <p>Civil Society</p> <p>Educational institutions</p>	2061/62 Continuous	Reports	<p>Lack of financial resources</p> <p>Lack of priority</p> <p>slack due to not meeting the time frame</p>
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## National Action Plan (B)

**Topic:** Environment and Sustainable Development

**Implementing Ministry:** Ministry of Forest and Soil Conservation

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S. No.	Objectives	Programme	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard people' rights to clean environment, equitable access to natural resources and sustainable development	Review and amend laws to bring them up to international norms and standards	Review and amend conservations policies and national laws to identify gaps in light with the provisions of human rights	MoPE MoLJPA Local bodies	2061/62	Amended and newly formulated laws  Report	Delay in the General Election of the Lower House of Parliament  Tendency to exclude legitimate stakeholders during law revision
2	Reduce environmental health	Improve effectiveness of environmental impact assessment process	.-Develop IEE/EIA report  .-Review Criteria to make	MoPE	2062/63	Reports	Lack of resources Lack of health

	hazards to improve the quality of life of poor, marginalized and vulnerable people		<p>compatible with laws in forestry sector .</p> <p>-Finalize and implement IEE manual on forestry sector .</p> <p>-Develop and implement procedures for environmental monitoring in forestry sector</p> <p>-Integrate conservation and biodiversity management in community forestry programme and promote the access of poor and marginalized people in forest resources.</p>	<p>Local bodies</p> <p>NGOs</p>	2063/64		hazard awareness,
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Note: NR = Natural Resources; SD = Sustainable Development; LA = Lead Agency; EPR = Environment Protection Rules

## **2.2.4. Rights of Dalits, Indigenous People, People with Special Ability, and Senior Citizens**

### **2.2.4.1. Background**

#### ***a) Dalit People***

Nepal, like many other countries around the world, is a signatory to United Nations' Declaration on Human Rights, Covenant on Civil and Political Rights, Covenant on the Elimination of All Forms of Racial Discrimination as well as other international instruments. HMG/N is committed to fulfil its commitments towards democracy and human rights and protect the rights of Dalit people.

Most of the Dalit people have been forced to live in very poor and desolate conditions. Most of human development statistics relating to their living conditions is quite bleak. They are not able to enjoy the basic human rights. For the overall development of the country, HMG/N has a responsibility to put an end to the practice of discrimination against Dalits. Their rights must be protected. They should be brought into mainstream of the national development through social inclusion by supplementing normal development activities by targeted program.

Because of a long feudalistic rule, there is still discrimination and disparity between people of different races, religions, and castes in Nepal even after more a decade of democratic rule. Many minority groups face danger of losing their languages, scripts, religions, cultures, arts, and technologies. It needs to develop programmes for protecting cultural values.

#### ***b) Indigenous People***

Indigenous communities, peoples are those which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

Indigenous Peoples worldwide number between 300-500 million, embody and nurture 80% of the world's cultural and biological diversity, and occupy 20% of the world's land surface. The Indigenous Peoples of the world are very diverse. They live in nearly all the countries on all the continents of the world and form a spectrum of humanity, ranging from traditional hunter-gatherers and subsistence farmers to legal scholars. In some countries, Indigenous Peoples form the majority of the population; others comprise small minorities. Indigenous Peoples are concerned with preserving land, protecting language and promoting culture. Some Indigenous Peoples strive to preserve traditional ways of life, while others seek greater participation in the current state structures. Like all

cultures and civilizations, Indigenous Peoples are always adjusting and adapting to changes in the world.

The Universal Declaration of Human Rights (1948), the United Nations International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, Draft Declaration on the Rights of Indigenous Peoples, Convention on the Prevention and Punishment of the Crime of Genocide (1951), Convention on the Elimination of All Forms of Racial Discrimination (1966), International Labor Organization (ILO) Convention 169 (1989), Convention on the Rights of the Child (1990), Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992), Rio Declaration of Environment and Development and Agenda 21 (1992), Convention on Biological Diversity (1992), Vienna Declaration and Programme of Action (1993), Report of the International Conference on Population and Development (1994), Durban Declaration and Programme of Action (2001) are major international instruments relating to protection of rights of the indigenous people.

As mentioned above, Nepal, as a signatory to UDHR, Covenant on Civil and Political Rights, Covenant on the Elimination of All Forms of Racial Discrimination as well as other international instruments, must end discrimination of indigenous people and remove hurdles to their full-fledged enjoyment of social and cultural rights.

### ***c) People with Special Abilities***

UDHR, 1948; UN General Assembly declaration on the Rights of Mentally Retarded Persons, 1971; Rights of Disabled Persons, 1975; Asia and Pacific Decade of Disabled Persons, 1993-2002; Salamanka Declaration, 1994; UN Standard Rules on Equalization of Opportunities, 1994; BIWAKO Declaration, 2000, along with other international instruments related to the rights and development of people with special abilities have focused on their rights to education, training, good health, employment, and other basic services. They stress the need for the state's to take special action, consolidate efforts, and help organizations working with people with special abilities.

Citizens with special abilities have the same rights as the rest of citizens of the country. It is the responsibility of the government to ensure that these rights are protected through the implementation of constructive policies and programmes. It is also up to the government to ensure that people with special abilities have support structures and opportunities and enjoy their right to live dignified lives.

### ***d) Senior Citizens***

Nations around the world are facing emerging challenges owing to the unprecedented growth in the percentage of an ageing populace. The rights of senior citizens have been the focus of important covenants and declarations. UDHR, 1948; Covenant on Civil and Political Rights, 1966; Vienna Conference on the Senior Citizen, 1982; UN Principles on Senior Citizen, 1992; Macao Conference, 1997; and the Second World Conference on

Senior Citizen (Madrid), 2002; among others, have stipulated senior citizens' right to health care, social security and involvement, economic improvement, and dignified life.

HMG/N has expressed its commitment to work towards the achievement of the aims and plans of action outlined by these declarations, covenants, and forums. It is the responsibility of the government to implement programmes that protect and promote the rights of senior citizens and ensure that their human rights are safeguarded. Its responsibilities towards the senior citizen include the preservation of their right to lead a dignified life, the provision of life's necessities such as food and shelter, equal opportunities and equal rights as other citizens of the nation.

#### ***2.2.4.2. Existing Situation***

##### ***a) Dalit People***

The Development Committee for the Upliftment of the Neglected, Suppressed, and Dalit People was established in 1997 and the National Dalit Commission was established in 2002. Scholarships that help Dalit students receive to study from primary school to higher education are being increased. Awareness programmes are being implemented to educate the general public about the rights of Dalit communities. Sixty-five income and skill oriented projects are being run in 37 districts. Local Self Governance Act, 1999, provides for the nomination of the representatives of indigenous and Dalit community to the local bodies. During the Ninth Plan period (1997-2002), only 513 Dalit students received scholarship for college education and 5,183 Dalit students received scholarship for school education under the program for upliftment of oppressed, marginalized and Dalit people. Notwithstanding these modest efforts and programs, Nepal still needs to do a lot to bring Dalit people to the national mainstream and fulfil its national and international commitments.

##### ***b) Indigenous People***

Despite international recognition Indigenous Peoples continue to face serious threats to their basic existence due to systematic government policies. In many countries, Indigenous Peoples rank highest on such underdevelopment indicators as the proportion of people in jail, the illiteracy rate, unemployment rate, etc. They face discrimination in schools and are exploited in the workplace. In many countries, they are not even allowed to study their own languages in schools. Sacred lands and objects are plundered from them through unjust treaties. National governments continue to deny Indigenous Peoples the right to live in and manage their traditional lands; often implementing policies to exploit the lands that have sustained them for centuries. In some cases, governments have even enforced policies of forced assimilation in efforts to eradicate Indigenous Peoples, cultures, and traditions. Over and over, governments around the world have displayed an utter lack of respect for Indigenous values, traditions and human rights.

In international discussions on the protection and promotion of Indigenous People's human rights, some States have argued that a more conscientious application of human

rights standards would resolve the issue. On the other hand, Indigenous Peoples argue that such international human rights standards have consistently failed to protect them thus far. What is needed, they argue, is the development of new international documents addressing the specific needs of the world's Indigenous Peoples.

Nepal is multilingual, multiracial, and multicultural country. Languages, religions, lifestyles, and other aspects of cultures and livelihoods need to be protected and fostered. National unity, tolerance, and understanding contribute to the overall development of the country. Therefore, it is necessary to protect and safeguard the interest of its diverse indigenous communities so that they can fully participate in the process of nation building. Indigenous Community Upliftment National Academy Act, 2001, seeks to protect the rights of the indigenous people. Fifty-nine indigenous communities have been identified and a National Indigenous Community Upliftment Academy is established and being operated according to the guidelines of this new Act. Various government agencies as well as non-government organizations have been working in this arena. In spite of a variety of programs to improve economic and social conditions of marginalized indigenous people, these people have not been able to benefit much out of these programs. As already mentioned, Local Self Governance Act, 1999, provides for the nomination of the representatives of indigenous and Dalit community to the local bodies.

### ***c) People with Special Abilities***

The Country Code; the Constitution of the Kingdom of Nepal, 1990; the Education Act, 1971; Regulations for the Educational Sector, 2002; the Protection and Welfare of People with Special Abilities Act, 1982; Regulations for the Protection and Welfare of People with Special Abilities, 1995; the Children Act, 1992; the Labour Act, 1992; and the Local Self Governance Act, 1999; among others stipulate the rights of people with special abilities.

HMG/N established an eight million fund for people with special ability in 1981 to educate, train, and rehabilitate them. Scholarships of Rs.100 to 250 are provided to the children with special abilities. Various training programmes have been provided to people with special abilities through this fund. Special classes are being run. The Social Welfare Council provides individual loans amounts of Rs.5, 000 to 8,000 without guarantees for income generation activities for the people with special ability.

A Para Olympic Committee was formed in 1995 to encourage people with special ability to take part in international sports. Special Education Council organizes sports and cultural programmes every year for children with special ability. Association for the Welfare of the Mentally Challenged conducts regular sports programmes through Special Olympic Committee for people with special abilities. HMG/N has also been providing general, preventive, and curative health facilities to them.

Employment opportunities for people with special abilities are on the increase, particularly in the private sector. The Transport Professionals' Association provides discount for people with disabilities.

A National Coordination Committee for people with special ability has been formed under the chairmanship of the Minister of Women, Children, and Social Welfare. NGOs working with people with special ability have formed a National Federation of NGOs working with people with specially ability. The federation receives support from the government in the form of an annual grant.

There are NGOs and federations working to ensure the rights of people with special abilities. Work specific to the sightless, mentally challenged, the deaf, and the physically challenged is also ongoing. HMG/N has been providing, in each of the 75 districts, a monthly allowance of Rs.100 per person for 50 most vulnerable people with special ability from among those 16 years of age or above.

#### ***d) Senior Citizens***

HMG/N is operating old people's homes at several locations. Widows above the age of 60 are provided an allowance of Rs.100 per month. Men and women of 75 years of age or above receive monthly allowances of Rs.150 each. HMG/N has declared the policy of forming a central level committee responsible for reforming the laws directly relating to the senior citizens, for utilization of their experience, skills, and capabilities, and carrying out social security programmes senior citizen, and for coordination, monitoring and evaluation of these efforts. Making separate legislation to protect the rights of the senior citizen is underway. The Tenth Five Year Plan incorporates detailed programmes and policies that target the welfare of senior citizens.

### **2.2.4.3. Problems**

The problems related to Dalits, Indigenous People, People with Special Ability, and Senior Citizens, as identified during the process of formulation of NHRAP, are presented below.

#### ***a) Dalit People***

1. Ineffective implementation of laws related to Dalit people.
2. Inadequate access to development facilities.
3. Inadequate access to development facilities.
4. Inability to penetrate the development mainstream.
5. Impractical and unequal investment in Dalit community development.
6. Difficulty in leading a dignified life.
7. Poverty caused by displacement and migration from ancestral homes.
8. Low levels of education and awareness.
9. Poor overall health conditions.
10. Neglect and abuse by the rich and the so-called higher castes.
11. Continued practice of being considered untouchable.
12. Dismally low participation in policy-making, and programmes planning, implementation, monitoring and evaluation.
13. Dismally low participation in all organs of the state.



14. Absence of an affirmative action system.
15. Ineffectiveness of programmes relating to Dalit people.
16. Dismally low access to mass media.
17. Lack of practical implementation of the provision for the nomination of Dalit people to local bodies.
18. Highly unacceptable general social attitude towards Dalit people.

### ***b) Indigenous People***

1. Legal discrimination based on race, language, religion, and culture.
2. Ineffective implementation of laws related to indigenous citizens.
3. Lack of legal deterrents for those involved in racial discrimination.
4. Inadequate access to development facilities.
5. Inability to penetrate the development mainstream.
6. Impractical and unequal investment in indigenous community development.
7. Difficulty in leading a dignified life.
8. Poverty caused by displacement and migration from ancestral homes.
9. Lack of rights to assure equal access to natural resources.
10. Lack of equal rights to tangible and intangible ancestral property.
11. Low levels of education and awareness.
12. Loss of traditional skills and culture.
13. Poor overall health conditions.
14. Lack of participation in policy-making, and programmes planning, implementation, monitoring and evaluation.
15. Lack of adequate participation in all organs of the state.
16. Lack of adequate data.
17. Absence of an affirmative action system.
18. Ineffectiveness of programmes relating to indigenous people.
19. Disappearance of indigenous languages, scripts, arts and cultures.
20. Lack of proper identification and recognition of indigenous communities.
21. Inadequate access to mass media.
22. Outside incursion on the cultures of indigenous groups through the mass media.
23. Lack of practical implementation of the provision for the nomination of indigenous people to local bodies.
24. Indifferent general social attitude towards indigenous people.

### ***c) People with special abilities***

1. Lack of timely reform the laws relating to people with special abilities.
2. Inadequate national commitment.
3. Ambiguity in the identification and definition of people with special abilities.
4. Lack of clear policies and programmes relating to people with special abilities.
5. Inadequate protection of the people with special abilities.
6. Discriminatory attitude towards people with special abilities.
7. Weak implementation of policies and programmes.
8. Inadequate services and facilities.

9. Lack of welfare oriented service delivery system.
10. Lack of awareness regarding special abilities.
11. Prevalence of public places, buildings, and roads those are unfriendly to people with special abilities.
12. Inadequate training and rehabilitation programmes.
13. Lack of action to increase economic and employment opportunities.

#### ***d) Senior Citizens***

1. Lack of unambiguous legal provisions relating to the welfare of senior citizens.
2. Inadequate national commitment.
3. Lack of clear policies and programmes relating to senior citizens.
4. Inadequate protection of senior citizens and the immobilized.
5. Inadequate publicity and awareness programmes designed to dignify senior citizens.
6. Weak implementation of policies and programmes.
7. Lack of services and facilities oriented towards the senior citizen.
8. Lack of adequate programmes oriented to rehabilitate senior citizens.
9. Lack of economic empowerment programmes oriented towards the senior citizen.
10. Lack of entertainment venues and institutions dedicated to senior citizens.

#### **2.2.4.4. Objectives of National Action Plan**

- To protect and promote the fundamental freedoms and rights of the indigenous, Dalit, people with special abilities and senior citizens.
- To eliminate all forms of discrimination and inequalities based on race, language, religion, culture, and geographical location.
- To protect and promote the existence, identity, language, script, religion, and culture of indigenous and Dalit communities.
- To accord greater access, control, and ownership of natural and economic resources to indigenous, Dalit, people with special abilities, and senior citizens.
- To protect and promote the right of the indigenous, Dalit, people with special abilities and senior citizens to lead dignified live.

#### **2.2.4.5. National Action Plan**

In order to ensure the rights of indigenous, Dalit, people with special abilities, and senior citizens as per commitments made by HMG/N recommendations were sought during the process of formulation of NHRAP. The National Action Plan has been shaped on the basis of the recommendation of the consultations and standards set by international forums.

The following national action plan on rights of indigenous, Dalit, people with special abilities, and senior citizens shall be carried out to promote and protect rights of the indigenous, Dalit, people with special abilities, and senior citizens in the country in coming three years.

## National Action Plan (A)

**Topic:** Rights of Indigenous, Dalit, People with Special Ability, and Senior Citizens

**Implementing Ministry:** Ministry of Local Development

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other committees of the Parliament

### Rights of Dalit People

S.N	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1.	Enact and/or reinforce laws to protect and safeguard equal rights of Dalit people in conformity with international human right norms and standards	Review of existing laws/ formulation of new laws related to Dalits so as to end disparities and ambiguities, and fulfil Nepal's obligations as a signatory to UN conventions and declarations	-Review and amendment of laws related to Dalits  -Formulation of Act related to upliftment of Dalits  -Conduct awareness raising programmes by using media.	MoLJPA  MoWCSW  NCD	2061/62  2062/63  2061/62-2063/64	Reports	Delay in the General Election of the Lower House of Parliament  -Tendency to exclude legitimate stakeholders during law revision

2	Ensure the rights of Dalit women and children affected by conflict	Rehabilitate Dalit women and children displaced by conflict	Skill development training and provision of grants to DDCs for micro-credit without interest (15 most affected districts and 10 districts with high number of Internally Displaced due to the conflict situation)	NPC MoHA MoES NGOs MoWLocal bodies	2061/62-2063/64	Analysis and monitoring reports	Lack of adequate budget Lack of priority
3	Discourage and abolish the tradition that terms and treats Dalit people as untouchables	-Awareness generation programmes,  -Establish appropriate legal sanction against to end the practice of treating of Dalit people as untouchable and provide legal aids	Undertake Publicity, and people's awareness programmes including media campaign, to end the practice of and superstitious belief of treating Dalit people as untouchables  -Establishment of units to provide legal aid to cases related to Dalit (25 districts)	MoHA MoIC MOWCSW MoES NCD DCUSND Local bodies NGOs	2061/62-2063/64	Reports	Inactivity of concerned agencies
4	Protect the right to education of Dalit children and adults	Implement programmes to increase the access of	Scholarship for technical and vocational	MoES	2061/62-2063/64	Monitoring evaluation reports	Lack of financial

		Dalit people in technical and vocational education	education and assistance in educational materials	Local bodies DCUSND NGOs			resources  Lack of priority
5	Update statistical database on Dalit people to monitor incidence of poverty	Collection of data to obtain information on various aspect of life, including vital statistics and major poverty indicators, of Dalit people	Mapping of the Dalits (0.5 million x 75 districts)	CBS NCD Local bodies DCUSND	2061/62-2063/64	Analysis and monitoring Reports	Lack of adequate budget  Lack of priority
6.	Increase employment opportunities for Dalit people	Provide skill development training and micro-credit to Dalit communities and implement programmes to increase employment opportunities, both domestic and foreign, Dalit people	-Preparation of employment plan  -Entrepreneurship development  -Micro-credit without any security bond or interest (25 districts having high number of Dalits)	MoLTM MoF Employment promotion board Local bodies NGOs	2061/62-2063/64	Reports	Lack of financial resources  Lack of coordination

## Rights of Indigenous People

S.N.	Objectives	Programmes	Activities	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws to protect and safeguard equal rights of indigenous people in conformity with international human right norms and standards	Review of existing laws and formulation of new laws related to indigenous people	-Formulation/ revision of laws related to Indigenous people and ethnic groups after a review of the existing laws  -Formulation of policies related to upliftment of indigenous people and ethnic groups	MoLJPA  LRC  MOWCSW  Indigenous community  NGOs	2061/62-2063/64	Reports	Delay in the General Election of the Lower House of Parliament Tendency to exclude legitimate stakeholders during law revision
2	Ensure the rights of indigenous women and children affected by conflict	Rehabilitate indigenous women and children displaced by conflict	Skill development training and micro-credit without any security bond or interest (15 districts with effect of conflict and 10 districts with high number of Internally Displaced)	NPC  MoHA  MoES  NGOs  Local bodies	2061/62-2063/64	Analysis and monitoring reports	Lack of adequate budget  Lack of priority

3	Protect the way of life, culture, and identity of indigenous Communities	<p>-Protect heritage, languages, scripts, cultures, and historical and religious sites of the indigenous people</p> <p>-Establish a programmes that protect endangered indigenous groups, their languages, scripts, and cultures</p> <p>-Establish museum to preserve and promote indigenous cultures</p>	<p>Protection and enhancement of mother tongues, scripts and cultural heritages,</p> <p>-Study researches,</p> <p>-Establishment of cultural museums,</p> <p>-Literacy programmes in mother tongues, teachers training, preservation and enhancement of ethnicities on the verge of extinction, institutional development, publications etc.</p>	<p>MoCTCA</p> <p>MoHA</p> <p>MoES</p> <p>Local bodies</p> <p>NGOs</p> <p>Royal Nepal Academy</p> <p>Cultural Academy</p>	2061/62-2063/64	<p>Reports</p> <p>Progress reports</p>	<p>Lack of financial resources</p>
4	Protect the right to education of indigenous children and adults	Implement programmes to increase access of indigenous people to the technical and vocational education	Scholarship/educational materials aid for technical and vocational education	<p>MoES</p> <p>Local bodies</p> <p>NGOs</p>	2061/62-2063/64	<p>Progress Reports</p>	<p>Lack of financial resources</p> <p>Lack of priority</p>

5	Update statistical database on indigenous people to monitor incidence of poverty	Collect data on a regular basis to obtain information on various aspect of life of indigenous people	Mapping of the indigenous people and ethnic groups	CBS Local bodies	2061/62-2063/64	Progress Reports	Lack of adequate budget Lack of priority
6	Increase employment opportunities for indigenous people	Formulate and implement policies to increase employment opportunities, both in domestic and foreign sectors for indigenous people	-Preparation of employment plan -Development of entrepreneurship -Micro-credit without security bond and interest (25 districts)	MoLTM Employment promotion board Local bodies NGOs Indigenous community organizations	2061/62-2063/64	Progress Reports	Lack of financial resources Lack of coordination
7	Protect and promote the indigenous technologies, skills, knowledge, arts and crafts	Protect indigenous technologies, skills, knowledge, arts and crafts	Identification, protection and enhancement of the skills, knowledge, technology and wisdom of the indigenous people and ethnic groups	MoLTM MoST Employment promotion board Local bodies NGOs Indigenous community	2061/62-2063/64	Progress reports	Lack of budget Lack of priority



## Rights of People with Special Abilities

**Implementing Ministry:** Ministry of Women, Children and Social Welfare in coordination with Ministry of Local Development

S.N	Objectives	Programme	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws to protect and safeguard the human rights of people with special abilities	Review of existing laws and formulation of new laws related to persons with special abilities and formulate new laws, as necessary to protect their rights as per the nation's international commitments	-Study and Reviews the discriminatory Act/laws related to Disability  -Conduct 3 workshops to make laws more human rights based.	MoLJPA  MOLD  Federation for the People with special abilities	2061/62	Reports	Delay in the General Election of the Lower House of Parliament  -Tendency to exclude legitimate stakeholders during law revision
2	Protect right of people with special abilities to education	Provide special education and training to people with special abilities	Provision of a special grant to the DDCs to provide education and training and conduct development programmes to the People with special abilities	MoES  MoLD  Local bodies  Federation of the Disabled  NGOs	2061/62-2063/64	Progress Reports	Lack of adequate budget  Lack of priority
3	Protect the human right of people with special abilities to good health	Expand preventive and curative programmes that prevent disabilities	Social mobilization	MoH  MoLD	2061/62-2063/64	Progress Report	Inadequate of financial resources

				Local bodies NGOs Health care organizations			Lack of priority Lack of sufficiently responsive Social attitude
4	Raise awareness on the rights of persons with special abilities	Awareness raising programmes on legal provisions and the rights of persons with special abilities	Conduct awareness raising activities and workshops and produce IEC materials and disseminate	MoLD Local bodies NGOs Federation of the Disabled	2061/62 (2 districts) 2062/63 (3 districts) 2063/64 (3 districts)	Progress Report	Inadequate of financial resources Lack of priority Lack of sufficiently responsive social attitude
5	Increase access of people with special abilities to economic resources	-Provide income generation skill training to people with special abilities -Provide low-interest micro-credit for people with special abilities	-Income-generating programmes and skill and vocational development training (100 per year) -Micro-credit without security bond and interest	MoLD Local bodies NGOs Federation of the Disabled	2061/62 (3 districts) 2062/63 (5 districts) 2063/64 (5 districts) 2061/62-2063/64	Progress Report	Lack of budget Lack of priority



			citizens -Conduct Social security programme				legitimate stakeholders during law revision
2.	Improve the quality of life of senior citizens	-Economic support programme -Housing programme -Health care programme -Awareness raising programme	-Provide monthly allowances for the widows of 60 years and above and senior citizens of 75 years and above. -Operate residential home for senior citizens -Provide social security including health care facility to the senior citizens -Mobilize NGOs and media for raising awareness on the rights of the senior citizens	MoLD MoH MoHA SWC Local bodies NGOs	2061/62- 2063/64	Progress Reports	Lack of financial resources  Lack of priority

## **2.2.5. Women's Empowerment, Gender Equality and Equity, and Women's Rights**

### **2.2.5.1. Background**

Globalisation, development of new technologies, and commitments and actions at the international level for women's development, empowerment, and gender equality are some of the major factors contributing to the improvement of the situation of women. However, looking from the human rights perspective, women's situation could be better. Patriarchal thought processes, male-centred social structures, discriminatory legal systems have led to lack of education, poverty, superstitious beliefs and this, in turn, has led to the exploitation, suffering, and discrimination of women and has put their security in jeopardy.

Women's rights, empowerment, and gender equity are crosscutting topics within ministries. They need sustained attention and inclusion in the development process. In order to make the present efforts more effective, laws and policies and institutional, executive, and ownership issues need reform to make them contemporary.

### **2.2.5.2. Existing Situation**

HMG/N is committed to constitutional and legal provisions established by the state of Nepal as well as the international declarations, covenants, and other agreements that it has signed. It is sensitive to women's rights and gender equity and equality. Some improvements have been made to correct laws that discriminate between women and men. The government agencies, non-government agencies, the civil society, private institutions as well as United Nations and international development organizations are making important contributions to the activities and policies set by previous programmes related to gender rights.

Some ministries have established Women Development Section while all ministries now feature contact centres for gender issues. National Commission for Women has been formed and central as well as district level task forces have been assigned to control women and girl trafficking. Non-government agencies are working from the national to the local level to help attain women's rights, gender equity, greater levels of awareness, and greater economic independence through micro-credit schemes that support income-generation activities.

Much effort has been made to increase gender rights related awareness. Women's access to education, health service, political rights, forest management, credits and other economic resources and opportunities are increasing. Female life expectancy has increased in comparison to male life expectancy (life expectancy is now 61.8 among men and 62.2 among women). However, women are behind men in economic and other social areas. For example, female literacy rate is 42.5% compared to male literacy rate, which is

65%. Likewise, only 26% all teachers are female while the rest 74% are male. Women's enrolment at every level of education, from primary to the university level, is less than that of men. Hence, the MDG to eliminate gender disparity in primary and secondary education preferably by 2005 and to all levels of education no later than 2015 has an important significance in Nepal. Only 10.9% women do own land and 5.5% own homes. Women's involvement in agricultural practices that have limited economic prospects is 60.5%. Maternal mortality rate of 415 per 100,000 in Nepal is one of the highest in the world. Women's status, socially and culturally, appears to be weak. Hence, the MDG to reduce by two-thirds, between 1990 and 2015, the maternal mortality ratio has a vital significance in Nepal.

### **2.2.5.3. Problems**

The problems related to women's empowerment, rights, and gender equality and equity, as identified during the process of formulation of NHRAP, are presented below.

1. Inability to enact laws that protect the rights granted by the constitution.
2. Inability to reform laws so they live up the nation's international commitments.
3. Lack of programmes that support women's empowerment.
4. Ongoing gender discrimination.
5. Widespread domestic and sexual violence and the perception that they are of lower status.
6. Lack of awareness regarding women's rights.
7. Low levels of women's participation in policy formation and political and governmental processes.
8. Inadequate capacity building activities targeted towards women representatives.
9. Proportionately inadequate participation of women in most areas of public life.
10. Lack of representation policy for Dalit and indigenous women in government.
11. Discrimination in wage rate between women and men for the same work especially in informal sectors.
12. Lack of appreciation of women's contribution to productivity.
13. Inadequate participation of women in civil service, the army, the police, and other government and non-government organizations and lack of affirmative actions to correct it.
14. Discrimination in the education of women by families and lack of access to education.
15. Lack of family-oriented legal system.
16. Inappropriate use of women in advertisements.
17. Lack of provision for the women to register childbirth and obtain citizenship for the offspring based on her citizenship.
18. Pervasive trafficking in women and girls, and lack of effective laws to control and prevent such trafficking.
19. Inadequate protection of the woman's right to reproductive health and inadequate attention to women's health.
20. Inconvenient childcare and breast-feeding situations in the workplace.
21. Legal requirement for women to take along male guardians while working or

- travelling overseas.
22. Lack of separate prisons for women and inadequate facilities for pregnant women in prison.
  23. Inadequate access to and control over economic resources, disproportionately higher attachment of women to unproductive work and women's inability to enjoy the right to spend their own earnings as they wish.
  24. Existence of harmful cultural traditions, e.g., treating woman as witch, the dowry system, the veil, the Devaki tradition, etc.
  25. Social problems like women being accused of being witch or having demon craft or being labelled a person who brings misfortune. The existence of child marriage, sexual abuse and exploitation.
  26. Low participation in social decisions.
  27. Lack of self-determination in choosing a life partner.

#### **2.2.5.4. Objectives of National Action Plan**

- To reform existing laws to bring them up to international women's rights standards.
- To empower women and to minimize gender discrimination.
- To enact legal provisions that will strongly and adequately protect women's well being and their human and constitutional rights.
- To control crime and violence against women by raising awareness at the grassroots level.
- To develop institutional framework and partnership to ensure full and unfettered enjoyment by women of their rights.

#### **2.2.5.5 National Action Plan**

It is of great importance that women's empowerment and rights and gender equality and equity be attained. The following national action plan on women's empowerment and rights and gender equality and equity shall be carried out to protect and promote rights of the women in the country in coming three years.





## National Action Plan

**Topic:** Women's Empowerment, Gender Equality and Equity, and Women's Rights

**Implementing Ministry:** Ministry of Women, Children, and Social Welfare

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; National Commission for Women; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S.N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard equal rights of women, including right to property	Review and amend laws to bring them up to international norms and standards	Formulate laws to avoid all kinds of discrimination against women.	MoLJPA NCW NHRC LRC	2061/62(immediate)	Amended and newly formulated laws  Reports of committees for revisions	Delay in the General Election of the Lower House of Parliament  Tendency to exclude legitimate stakeholders during law revision
2	Enact and/or reinforce laws, as per international commitments, to punish the practice of subjecting women and girls to	Adopt appropriate laws and other measures, including sanctions where appropriate, to control domestic and social violence against women Formulate laws to end	-Enact law on domestic violence against women  -Enact law on social violence	MoLJPA MoHA NCW	2061/62 -2063/64 (immediate)	Amended and newly formulated laws  Reports	Delay in the General Elections of the Lower House of Parliament  Tendency to

	any form of violence and redress victims	forced prostitution and the flesh trade	against women  -Enact law on forced prostitution and flesh trade	NHRC  LRC  MoLD  Local bodies			exclude legitimate stakeholders during law revision
3	Protect women's rights during conflict	Rehabilitate female victims of conflict	Rehabilitate female victims through NGOs participation	MOHA  MoLD  NGOs  Local bodies	2061/62 -2063/64 (immediate)	Progress reports	Inadequate finances and resources
4	Formulate and implement policies to establish equality of access of rural, marginalized and vulnerable women to public service	Undertake training programmes targeted to increase employment opportunities for women in the public sector	Special preparatory training classes (public service commission) for female candidates)  Gazetted level III class 150  Non Gazetted level 360 nos		2061/62 -2063/64 (immediate) (long term)	Policy analysis  Progress reports  Monitoring and evaluation reports	Inadequate budget
5	Raise awareness on human, civil, constitutional and legal rights of rural, marginalized and vulnerable women	Awareness raising programmes on women's human and constitutional rights from the central level to the local level	Awareness raising program 21 districts	MoLD  NCW  Local bodies  NGOs	2061/62 -2063/64 Continuous (long term)	Progress report	Inadequate budget  Prejudiced attitude towards women

6	Free women at high risk from domestic and social violence	Providing free legal and counselling service to women suffering from sexual, domestic and social violence and exploitation	Providing free legal and counseling to women suffering from social violence 5 districts (one from each region)	MoH MoLD Local bodies NGOs	2061/62 -2063/64 Continuous (long term)	Collection and analysis of reports	Lack of confidence in cost free legal service
8.	Formulate and implement policies to eliminate trafficking in women	Programmes on the protection of women from trafficking	-Protection of women from trafficking  -4 additional district task force to be constituted  -Strengthen 26 existing district task force to work extensively	NHRC NCW	2061/62 -2063/64 Continuous (long term)	Implementation reports	Lack of budget  Prejudiced attitude towards women

## **2.2.6. Child Rights and Development**

### **2.2.6.1. Background**

After the end of the First World War, many initiatives have been taken to ensure child welfare, development and rights. In an important move to protect the child, a five-point declaration was signed in 1923. In 1924, the Child Rights Declaration was signed, the UDHR was signed in 1948 and an Optional Protocol on Child Rights was signed in 1959. The United Nations General Assembly adopted the Convention on the Rights of the Child (CRC) on November 20, 1989 and World Declaration on the Survival, Protection, and Development of Children (World Summit for Children) was adopted on September 30, 1990. Most recently, the United Nations General Assembly Special Session on Children (UNGASS) was held in New York in May 2002. As a part of Nepal's involvement in global campaigns for the development and rights of the child, HMG/N ratified CRC, 1990 that establishes special provisions relating to child rights. In addition, HMG/N has also signed two optional protocols of CRC.

### **2.2.6.2. Existing Situation**

Preserving and protecting child rights requires legal, institutional, and administrative reform. The Children's Act and the Labour Act were enacted in 1992 specifying child rights. Institutional capabilities were improved. Ministry of Women, Children, and Social Welfare, Central Child Welfare Board, District Child Welfare Board (as per the Children Act, 1992), and the Juvenile Bench of the District Court were established.

There has been improvement in child health due to awareness campaigns, polio-eradication campaigns, and expansion of health services. Infant mortality and child mortality rates have come down to 64 and 91 per 1000 live births respectively and the rate of child immunization increased. There have been noticeable improvements in education. Similarly, literacy (now 53%), school enrolment, and birth registration rates have also increased. Initiatives are being taken in line with the UNGASS declaration. Children's participation, in the policy formation process, has increased and their concerns are being incorporated in the development and planning process. Childcare homes are being run in various places by the government and private and non-government organizations. The number of child clubs is also on the rise. Rehabilitation facilities are being established and expanded in high-risk areas particularly in view of the conflict situation in the country.

### **2.2.6.3. Problems**

Despite many achievements, there is still a long way to go in order to protect and promote the rights of children. Social and economic problems constrain Nepal from attaining all the commitments that it has made to the international community and its children. In order to make the child rights related initiatives efforts more effective, legal, policy related, institutional, ownership, and executive processes need to be further reformed and improved. The problems hindering progress in the protection and safeguard

of child rights, as identified during the process of formulation of NHRAP, are presented below.

1. Lack of adequate legal frameworks for the implementation CRC and weak implementation of already existing laws.
2. Lack of adequate political commitment towards the protection and promotion of child rights.
3. Lack of awareness on child rights.
4. Financial and institutional constraint to make free basic education mandatory.
5. Problems of parents not sending children to school.
6. Inability of formal and informal textbooks and educational materials to cover of child rights issues.
7. Problem of unacceptably high school dropout rate.
8. Inability of children to attend school due to family economic hardships.
9. Insufficient number of pre-primary schools.
10. Inadequate health services.
11. High rate of malnutrition.
12. Lack of adequate hospitals for children.
13. Low rate of birth registration.
14. Lack of rehabilitation facilities (shelter, food, counselling, education, and health services) for helpless, children with special ability or affected by conflict.
15. Prevalence of child-marriage and of inappropriately arranged and/or forced marriages.
16. Difficulty in acquiring a citizenship certificate for abandoned children or children with missing parents.
17. Inability of the society to take responsibility for children.
18. Lack of options forcing imprisoned parents in prison to keep their child with them.
19. Prevalence of child labour and violence.
20. Lack of juvenile courts and lack of child specialists to support juvenile related cases.
21. Lack of children's parks and recreational facilities.
22. Existing sexual abuse and exploitation and child trafficking and the lack of a legal infrastructure to combat and discourage such practices.
23. Use of children in drug trafficking.
24. Lack of counselling for victimized and exploited children.
25. Use of child soldiers in ongoing conflict.
26. Exploitation of children in advertisements.
27. Ineffectiveness of Central and District Child Welfare Boards.
28. Inadequate involvement of children in planning and implementing child related programmes.
29. Lack of policy related to private sector involvement in protection and safeguard of children's rights.
30. Lack of monitoring and evaluation of adopted children.

#### **2.2.6.4. Objectives of the National Action Plan**

- To reform existing child and human rights related laws to protect and safeguard human rights of children and to bring these laws up to the international standards.
- To ensure the rights of children as established by the UN Convention on the Rights of the Child.
- To develop institutional framework and partnership to ensure children's right to education, health and sanitation is protected and safeguarded.
- To protect and rehabilitate children with special ability or children facing difficult circumstances.
- To control crime and violence against children and eliminate child abuse.

#### **2.2.6.5. National Action Plan**

The following national action plan on child rights and development shall be carried out to achieve the objectives identified above and to protect and promote rights of the child in the country in coming three years.

## National Action Plan

**Topic:** Child Rights and Development

**Implementing Ministry:** Ministry of Women, Children, and Social Welfare

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S. N.	Objectives	Programmes	Actions	Implementing Organization	Implementation Period	Means of Verification	Risk Factors
1.	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard rights of child	Review and amend laws to bring them up to international norms and standards	To organize a consultative workshops to review the existing laws to protect the rights of the child.	MoLJPA LRC CCWB	2061/62 (immediate)	Reports  Amended and newly formulated laws	Delay in the General Elections for the House of Representatives
2.	Ensure children's right to education	Reduce school dropout ratios and promote rights of the child	Awareness raising programme for parents, teachers local Govt. officials etc to reduce school drop out ratio and rights of the child (15 Districts)	MoES CCWB DCWB NGOs Local bodies	2061/62-2063/64 (long term)	Survey reports	Lack of guardian's awareness  Lack of budget  Lack of priority
3.	Protection and rehabilitation of	Establish and operate rehabilitation homes	Formation of a net work of NGOs for rehabilitation of	MoHA	2061/62-2063/64 (long term)	Study reports	Inadequate

	displaced, homeless and at-risk children		Children in Need; displaced, homeless	MoLTM SWC Local bodies NGOs CCWB and DCWB			resources  Lack of priority Difficulty in expanding programmes to the local level because of delay in the election to local bodies
4.	Increase child rights awareness among guardians, local government officials, and teachers	District level awareness generation programmes on child rights and implement programmes to control child marriage and child labour	Support DCWBs to conduct awareness raising programme to sensitize about child rights and to combat child marriage	MoHA MoLTM Local bodies NGOs CCWB and DCWB	2061/62-2063/64 (long term)	Progress reports	Lack of Financial resources  Difficulty in expanding programmes to the local level because of delay in the election to local bodies
5.	Eliminate child abuse, including sexual exploitation, and end trafficking in children	-Implement effective programmes on awareness generation on child abuse and trafficking in children	-Sensitizing journalists, Teachers, Students, Stakeholders about child abuse and girls trafficking through various activities/ workshop.  -Production and distribution of IEC materials on Child	MoHA Local bodies NGOs CCWB and DCWB	2061/62-2063/64 (long term)	Progress reports	Lack of Financial resources  Difficulty in expanding programmes to the local level because of delay in the election to local bodies



			abuse/trafficking.  -Establishment of Documentation and information centre.  (30 districts)				
6.	Develop a justice system to efficiently and effectively administer justice in cases related to children	Strengthen juvenile justice system	Coordinate with related ministers	MoLJPA  Court system  CCWB	2062/63 (medium term)	Reports	Lack of budget  Lack of priority
7.	Develop policies to control and regularize child labour and eradicate the worst forms of child labour	Implement programmes to raise awareness on the need to regularize and ban domestic child labour	Prepare a code of conduct on the domestic Child labour for Government officials	MoHA  MoLJPA  MoLTM  MoGA  CCWB and DCWB	2061/62-2063/64 (long term)	Reports	Ineffective coordination among concerned agencies  Lack of budge
8.	Ensure a child's right to birth registration	Raise awareness on the child's first right	Raise awareness on the Childs Rights to birth registration  (15 districts)	MoLD  Local bodies  NGOs  CCWB and DCWB	2061/62-2063/64 (long term)	Progress Reports	Lack of priority

9.	Strengthen institutions that formulate and develop effective and accessible child rights related programmes	Restructure and strengthen Central as well as District Child Welfare Boards	Restructure and strengthen CCWB and DCWB	MoHA CCWB and DCWB Local bodies	2061/62-2063/64 (long term)	Analysis of reports of different agencies  Progress report	Lack of budget  Lack of priority
10	Promote children's right to entertainment	Construct children's recreation and sports centres	-Encourage private sector to establish children park, play grounds  -Promote child literature, child related information in prints and electronic media	MoES NGOs Sports Councils CCWB and DCWB Local bodies	2061/62-2063/64 (long term)	Progress reports	Inadequate financial and physical resources  Lack of priority  Lack of community mobilization
11	Promote private sector participation in the protection and promotion of child rights	Formulate and implement policies to encourage private sector invest in children	Organize consultative workshop/ seminars to develop policies to encourage private sector invest in children	CCWB NGOs	2062/63 (long term)	Reports	Lack of community motivation  Lack of priority

## **2.2.7. Legal Reform**

### **2.2.7.1. Background**

The rule of law is the foundation of a democratic society. It is important that the legal system of a democratic nation is relevant, unambiguous, and contemporary. The citizen's points of view need to be incorporated in the system and laws need to be easily understandable. The rights of the citizen need to be so too. In order to clearly and protect citizen's rights, the system of reforming existing laws and enacting new laws as necessary should be institutionalised.

### **2.2.7.2. Present Situation**

Reforming the legal system requires the study of its administrative, executive, and evaluation processes. HMG/N has created taskforces to look into criminal and civil law and recommend appropriate legal reform. However, because the parliament has been dissolved, it has not been possible to enact the appropriate legal reform. Laws pertaining specific topics and areas have been made. Since 1990, laws have been ratified to ensure that there are built in human rights protection feature in them. It is important that laws and regulations be standardized as per the international commitments made by Nepal through international agreements so as to fully protect human rights. Full protection of human rights is the responsibility of a civilized nation.

### **2.2.7.3. Problems**

The problems related to legal reform, as identified during the process of formulation of NHRAP, are presented below.

1. Lack of awareness.
2. Ineffective implementation of existing laws and regulations.
3. Contradictions and ambiguity in existing laws.
4. Ineffectiveness of law enforcement agencies.
5. Lack of monitoring of implementation bodies and processes.
6. Inability to administrate law and justice equally and impartially.
7. Inability to include human rights education as part of the curriculum right from the primary school level.
8. Lack of interest in improving the quality of legislation and law reformation processes.
9. Inadequate consultation and involvement of stakeholders in the law formulation process.
10. Inability to protect and promote the rights of women, children, marginalized people and people with special ability.
11. Lack of full-fledged protection of human rights in semi-judicial cases.
12. Law enforcement by semi-legal agencies resulting in incomplete protection of human rights.
13. Inadequate implementation of the Local Self-Governance Act.

15. Inadequate action against corruption.
16. Inability of the state to provide basic requirements to the people.
17. Inadequate knowledge of rights and responsibilities at the local level and weakness in prosecution.
18. Inability of local governments to become people-oriented.

#### **2.2.7.4. Objectives of the National Action Plan**

- To develop a legal system capable of protecting human rights
- To reform existing laws and regulations to bring them up to internationally acceptable standards.

#### **2.2.7.5. National Action Plan**

The following national action plan on legal reform shall be carried out to improve the legal system for protecting human rights in the country in coming three years.

## National Action Plan

**Topic:** Legal Reform

**Implementing Ministry:** Ministry of Law, Justice, and Parliamentary Affairs

**Monitoring and Evaluation Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S. N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Sensitise people about human rights guaranteed by the law Raise awareness among agencies and officials responsible for implementation of law (police, lawyers, officials, and human rights judges)	Increase awareness of legal rights Conduct human rights related training and discussion involving the police, lawyers, officials and judges	-Preparation of training manuals.  -Conduct training for trainers (5 nos.)  -Conduct trainings (5 nos.)  -Publication of posters, leaflet and so on.	Nepal Bar Association  NGOs  NHRC  Media	First year onwards (long term)	Report on the state of awareness programmes Impact Evaluation of the effectiveness of the programme in the society	Inertia to change in attitudes
2	Formulate and reform laws to bring them up to the international agreement standards	Evaluate and reform laws and formulate new laws as required	-Survey of the existing laws  -Organize workshops  -Preparation of	LRC  Concern Ministries	Within the third year (medium term)	Analytical study on the state of revised, reformed, and newly formulated laws	Delay in the General Election of the House of Representatives  Tendency to exclude

			Report -Draft new laws or amendments of relevant laws by the line ministries				legitimate stakeholders during law revision
3	Compile and Codify similar and related laws to simplify access to justice of Women, Dalits, and marginalized and oppressed people	Implement law and integration and codification programmes	- Review and assessment of laws  -Compilation of related laws  -Codification, if possible	LRC	Within the third year (medium term)	Amended and newly formulated laws	Delay in the integration of laws
4	Sensitise authorities, including parliamentarians, on the country's international human rights commitments and increase legislative capacities	Programmes to enhance legislative and judiciary capacity in law formulation and implementation	-Preparation of resources materials and guidelines.  -Interaction Programmes and Seminars	MoHA  LRC  NHRC	Second year onwards (long term)	Programmes reports	Lack of budget  Lack of priority
5	Protect and promote human rights	Formulate and implement programmes to punish the violators of human rights	-Formation of a monitoring committee in the MoLJPA  -Establishment of Monitoring Units in the concerned ministries	MoHA  NHRC  Nepal Bar Association	Continuous from now (long term)	Reports	Lack of budget  Lack of priority

## **2.2.8. Justice Administration and Management**

### **2.2.8.1. Background**

Formulation of good and clear laws is not enough to establish a pragmatic implementation system that adequately internalises the concept of the rule of law. The system of administration of justice is equally important. Recognizing this fact, the Constitution of the Kingdom of Nepal, 1990, has specified, in its Preamble, the need for capable judicial system.

Without reforming the justice administration and management system, it is not possible to truly implement the spirit of the rule of law. Hence, an effective justice system has to take into consideration ongoing changes and improvements. It has to safeguard and implement the Constitution, keep alive the value of the rule of law, ensure the observance of the law of by cultivating respect for laws and regulations, and discourage the activities that disturb peace or encourage anti-social activities. In essence, periodic and timely reform of the system of justice is imperative for protecting and promoting human rights.

### **2.2.8.2. Present Situation**

Fair, quick, and accessible justice is a fundamental human right. It is the state's responsibility to ensure its citizens this right through effective administration and management the justice system. It is with this faith that the Constitution of our country states the need for a capable and independent justice system. There has not been much support of the United Nations and other donor agencies in reforming the justice system in Nepal. Lack of modern and organized record-keeping system and of timely transcribing of judicial decisions have resulted in a situation whereby justice is not truly conferred even after the court case has been decided. There have been hurdles in the administration of justice due to the lack of a system of continuous hearing and inability of judges to timely and periodically update their knowledge base. Judiciary also lacks adequate physical facilities and necessary tools and equipments. Besides, there is also a dearth of human resource that is willing to accept the new value system.

### **2.2.8.3. Problems**

The problems related to the administration and management of the justice system, as identified during the process of formulation of NHRAP, are presented below.

1. Not providing timely justice.
2. Lack of modern and organized record-keeping system in the courts.
3. Inability to document and disseminate the court decisions in a timely manner.
4. Dual standards in assigning hearing dates in appellate courts.
5. Lack of judicial police.
6. Lack of adequate provisions to protect the right to information and to privacy.
7. Lack of effective legal support to the poor and helpless.
8. Lack of effective implementation of laws relating to torture and compensation.

9. Lack of a system of compensation for those hurt by criminal action.
10. Inadequate public familiarity with the criminal investigation and justice system.
11. Less than satisfactory professional seriousness among judges, lawyers and among those responsible for prosecution, including investigation and evaluation.
12. Lack of adequate physical facilities in the courts and the agencies responsible for research and monitoring.
13. Inadequate training on judicial administration and management.
14. Lack of much needed separation of criminal and civil justice system.
15. Unnecessary court orders and delays resultant of a system that allows many and frequent change of judges hearing a particular case.
16. Lack of provision for the reduction in punishment in case of voluntary acceptance of criminal charges leading to the contesting of most court cases.
17. Lack of alternative justice system.
18. Indifference of people to the legal system because of its prohibitively high cost.
19. Existence of a centralized forensic laboratory that lacks adequate scientific equipments.
20. Lack of forensic experts and people trained to conduct autopsies at the regional level.
21. Lack of legal provision that allows the justice system to keep fingerprints and photographs of hardened criminals.
22. Delay and complication in justice administration resultant of the lack of seriousness of appellate courts.
23. Lack of a legal fund to support the justice system.
24. Need for the development of scientific processes, better physical facilities, and resources.
25. Traditional and unscientific criminal investigation system.
26. Complex and ambiguous administration of justice.
27. Extensive discretionary power to the judges.
28. Lack of sufficient sensitivity of the Judicial Council.
29. Lack of a system that determines the level of court of first hearing based on the seriousness of the case.

#### **2.2.8.4. Objectives of National Action Plan**

- To reform justice administration and management in order to safeguard human rights.
- To develop a system capable of administering quick and accessible justice.
- To make qualitative improvements in evaluation systems and exercises.
- To create a system that clearly abides by the concept of the rule of law.

#### **2.2.8.5. National Action Plan**

In order to protect human rights through an active justice system that is sensitive and contemporary, it is necessary to put in place an effective justice administration and management structure. The following national action plan on administration and



management of the justice system shall be carried out to improve the justice system for protecting human rights in the country in coming three years.

## National Action Plan

**Topic:** Justice Administration and Management

**Implementing Ministry:** Ministry of Law, Justice, and Parliamentary Affairs

**Monitoring and Evaluating Agencies:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S.N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Reform justice administration and management of justice system to protect and promote human rights Provide easy access to justice Give district courts the right to demand the physical presence of prison inmates Make all decisions made by semi-judicial agencies open to appeals in courts of justice	Evaluate existing laws and make necessary amendment, formulate new laws as required Create an evaluation committee within the Ministry of Law of Justice	-Survey of existing laws  -Organize workshops (5 nos.)  -Preparation of report of the out come of the review and workshops  -Drafting new laws and amendments by the concerned line ministries	Supreme Court  Office of the Prime Minister and Council of Ministers  LRC  Office of the Attorney General	From the first to the third year (medium term)	Reports of agencies reviewing laws  Amended and newly formulated laws	Delay in the General Election of the Lower House of Parliament  Tendency to exclude legitimate stakeholders during law revision Lack of priority
2	Increase public confidence in the justice system by removing weaknesses	Implement programmes to standardize court procedures	-Organization of Seminars and Workshop	Supreme Court  Semi-judicial agencies	Within three years (medium term)	Formation of committees to compile and implement	Lack of budget Lack of priority

	and problems in justice administration		-Amendment of existing laws			suggestions of judicial and semi-judicial agencies through formulated committees Monitoring reports	
3	Provide free professional legal assistance victims of crime living below poverty line Bring Legal Assistance Act into active use in all parts of the country Provide legal assistance to persons imprisoned by the state right from the outset	Provide free legal assistance programmes to the poor and the victim of crime Provide free legal assistance to persons imprisoned by the state from the time of imprisonment	Extension of L.A.P.	Supreme Court Central Legal Aid Committee NGOs Nepal Bar Association Judicial and semi-judicial agencies	First year onwards (long term)	Monitoring by Central Legal Aid Committee Evaluation of expanded works by legal assistant programmes	Lack of sufficient enthusiasm among skilled lawyers to provide free legal aid  Inadequate resources  Lack of public awareness
4	Enhance the capacity of the judges, staff, government lawyers, police personnel involved in investigation, semi-justice related officials, and legal professionals	Initiate capacity building training for people involved in the justice system	Refresher trainings.	Judicial Academy Judicial Council Judicial Service Training Centre	First year onwards (long term)	Reports of training programmes  Number of cases decided various courts	Lack of budget  Inertia to change

				National Police Training Academy			
				Office of the Attorney General			
5	Increase the effectiveness of police units involved in human rights related crimes	Train the police in investigative techniques	Develop investigation manuals incorporating various national and international norms and standards. Orientation and refreshment trainings .	Judicial Service Training Centre  Office of the Attorney General  National Police Training Academy	First year onwards (long term)	Programmes monitoring and evaluation Reports	Lack of priority  Inertia to change
6	Enhance the capability to collect and conserve physical evidence Increase the role of physical evidence in criminal investigation	Institute capacity building programmes to improve physical evidence collection techniques	Strengthening forensic lab.including equipment and library.  Orientation & Training	Police Head Quarters National  Forensic Laboratory	First year onwards (long term)	Progress Reports	Inertia to change and to adopt new practices  Inadequate resources
7	Establish specialized court system	Establish specialized courts in order to dispense timely justice  -Develop the	Formulation of required legislation  Establishment of Separate bench as	Supreme Court  Judicial Council	First year onwards (long term)	Progress reports	Lack of resources  Lack of expertise

		concept of judicial jurisdiction	required	MOWCSW			
8	Ensure justice to victims of crime	Establish a system of providing a share of seized property of criminals to the victims of crime	-Enactment of new Penal and Criminal Procedural Code.  -Amendment of the Compensation Law	Court system  Office of the Attorney General	Continuous from the third year (long term)	Evaluation of compensation law  Work progress report	Inertia to change
9	Increase the speed with which court cases are decided	Explore alternative systems of justice	Review Arbitration Law.  Formulation of mediation and conciliation law.  Implement of LSGA.	Court system  Local bodies	Continuous (long term)	Reports	Lack of budget  Lack of priority

## **2.2.9. Prison Management and Reform**

### **2.2.9.1. Background**

Dynamic correction systems are required to maintain law and justice. The contemporary world identifies fines, community service, and imprisonment as effective and acceptable correction methods. Imprisonment has been used as a means of correction for many centuries. The purpose of correction is to make people who have acted against the law realize their breaches and impress upon them the need to abide by the rule of law and rehabilitate them into the society. Imprisonment is, therefore, by modern definition, a process that needs to correct the behaviour of the imprisoned person and make him/her fit to be released back into the society.

International community has set standards to use prisons, which have to be taken as correction places. These standards determine the human rights of those in prison and how they should be treated. Guidelines and regulations have been set for the minimum treatment standards.

It is necessary for the government of Nepal respect human rights protected by the constitutional and international agreements, and to reform prison system. Nepal has to develop a system to use community service as an alternative to imprisonment and reform its approach to crime and punishment. New responsibilities include the protection of the human rights of prisoners and development of creative and comprehensible correction systems that allow for the rehabilitation of criminals so that they can be released back into the society as good citizens.

### **2.2.9.2. Current Situation**

Though the Constitution of the Kingdom of Nepal has embraced a correction system that protects human rights and is free of discrimination and torture, its correction system still needs to be able to assure the full protection of basic human rights. The need for reform in prison administration and protection of human rights has to be priority.

There is still a lack of minimum facilities to adequately cater the basic human needs. HMG/N and NGOs have some actions to fulfil these needs and obligations. It is imperative that a common effort to improve prison system and the lives of prisoners be initiated. Reformatory changes have to be made occur in the punishment system as well as prison administration in order to bring them up to contemporary international standards.

### **2.2.9.3. Problems**

The fundamental human rights of prison inmates need to be respected and in order to do this, the prison administration needs to be reformed. The problems related to prison management and reform, as identified during the process of formulation of NHRAP, are presented below.

1. Archaic legal structure requiring review and reform.
2. Derelict and inadequate infrastructures and buildings.
3. Lack of appropriate inmate housing facilities.
4. Lack of basic services and supplies.
5. Absence of libraries.
6. Inadequate medical and health care.
7. Deprivation of the right to information, education, physical exercise, skill development, and income generation.
8. Inadequate care and protection of children of prison inmates.
9. Deprivation of the right to practice religion and culture, and participate in important family events (for example inability of inmates to attend their children's weddings).
10. Unsatisfactory evaluation of inmate's labour.
11. Continued acceptance of prisons as places of punishment.
12. Overcrowded prisons.
13. Continued practice of keeping prisoners of different types and ages in the same cells.
14. Inadequate legal assistance for a large number of people in custody.
15. Lack of alternatives to imprisonment as means for correcting inmate behaviour.

#### **2.2.9.4. Objectives of National Action Plan**

- To protect the human rights of inmates;
- To transform prisons into the correction homes
- To develop and expand alternatives forms of punishment to replace imprisonment.

#### **2.2.9.5. National Action Plan**

The following national action plan on prison management and reform shall be carried out to protect the rights of the prison inmates and improve the condition of the prison in the country in coming three years

## National Action Plan

**Topic:** Prison Management and Reform

**Implementing Ministry:** Ministry of Home Affairs

**Monitoring and Evaluation Agency:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament

S.N.	Objectives	Programmes and Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Amend existing laws and enact new laws to protect the rights of prison inmates in conformity with international human right norms and standards	Revision and amendment of existing laws and enactment of new laws as necessary	MoLJPA  LRC  NHRC	Within the second year (medium term)	Reports prepared by agencies established for specific projects Amended and newly formulated laws	Delay in the General Election of the Lower House of Parliament  Change in priority if the peace process is derailed



2	Provide education, training, awareness and advocacy campaign targeted to concern of jail management and prison inmates on their human rights	Educate prison inmates on human rights  Establish training and experience programmes on human rights to security personnel, administrators, law enforcement personnel and prison inmates  Awareness and advocacy campaign on human rights targeted to all concerned agencies and personnel	NHRC  Prison Management Department Nepal  Bar Association  NGOs	First year onwards (long term)	Study of programmes report Field observation	Lack of adequate budget Lack of priority
3	Give effective counselling to prison inmates	Provide private counselling to prison inmates with lawyers and doctors based on their mental and psychological conditions	Prison Management Department  NGOs	From the second year onwards (long term)	Observation visit Sample survey of prison inmates regarding availability of such counselling Relevant reports on counselling	Lack of adequate budget Lack of sensitivity towards prisoners
4	Keep mentally and psychologically challenged inmates separate from other inmates	Feasibility Study to prepare separate housing arrangements for mentally and psychologically challenged inmates	MoH  MoLJPA  Community centres	Second year onwards (long term)	Yearly programme budget allocation Newly constructed physical facilities	Lack of adequate budget Lack of priority
5	Establish a system of community service to those convicted of petty crimes	Conduct a feasibility study  Formulate laws and develop programmes for community service	MoHA  Prison Management Department	First year onwards (long term)	Implementation of sample project and its progress report Monitoring and evaluation	Lack of public support because of novelty of the concept Lack of priority

		Establish community service pilot programmes in at least 2 districts and open prison in at least 2 districts.	MoLJPA			
6	Re-socialization of prison inmates	<p>Conduct a feasibility study on classification of prisoners and development of standards and guidelines for re-socialization programmes (e.g. parole and probation)</p> <p>Formulate laws and develop programmes for re-socialization</p> <p>Pilot programmes in 2 districts</p> <p>Mobilization of NGOs</p>	<p>Office of the Prime Minister and Council of Ministers</p> <p>MoF</p> <p>MoLJPA</p> <p>Local bodies</p>	First year onwards (long term)	Implementation of sample project and its progress report Evaluation report	Time consuming to have public support because of new concept Inactivity of concerned agencies
7	Protect the rights of prison inmates and improve physical conditions of prisons to transform them into correction homes	<p>Building construction and repair</p> <p>Vehicles/Ambulances</p> <p>Central Prison Hospital strengthening</p> <p>Developing counselling mechanism</p> <p>Define minimum food and health service requirements</p>	<p>Prison Management Department</p> <p>MoF</p> <p>MoLJPA</p> <p>MOWCSW</p> <p>MoPPW</p> <p>NGOs</p>	First year onwards (long term)	Budget allocation Repaired and constructed prisons Field supervision Provision for health workers Inquiry with prisoners	<p>Possibility of not being prioritised</p> <p>Inadequate budget</p> <p>Misuse of vehicles</p>

		for prison inmates  Review the administrative and health service in Prisons  Construction and establishment of Detainee Centres in districts with no prison (as in Sunsari)				
8	Provide skills and income generation opportunities in prison so inmates can seek employment once released	Conduct vocational training for prison inmates	MoICS  MoF  Prison Management Department	First year onwards (long term)	Policies and Field observation Reports	Lack of adequate budget Lack of priority
9	Establish a system for correction of juvenile delinquents	Expansion of the capacity of correction centre in Kathmandu  Establish new correction centres in 4 other regions	MOWCSW  MoLJPA  MoF  NGOs	From the second onwards (long term)	Reports	Lack of sufficient budget  Lack of priority

## **2.2.10. Labour and Employment**

### **2.2.10.1. Background**

HMG/N has signed up to many Human Rights and International Labour Organization covenants and declarations thereby assuming the responsibility for the proper implementation of international labour and employment guidelines and directives in the country. Expansion of income generation and employment opportunities is important to eliminate unacceptably high incidence of poverty in the country. Moreover, the right to work is an important human right.

### **2.2.10.1. Current Situation**

Private sector is gradually becoming an important employment provider in the modern sector of the economy. Agriculture traditionally has been in the private sector and has been characterized by the persistent problem of underemployment. Employment opportunities for women are also on the rise. The trend of seeking employment outside the country has been increasing. As a result, remittance income has become an important component of Nepal's GNP. However, many people who work abroad face unsafe labour conditions. Inability to properly evaluate the human resource, provide skill development opportunities and assure the dignity of labour has become a problem for Nepal. Over the last several years, many skill oriented training opportunities have expanded, as government, semi-government, and private sector agencies have been quite active in this area. In the last five-year period, 230,000 Nepalese have gone abroad to work while eleven out of seventy-five districts publish notices on the job market opportunities.

### **2.2.10.1. Problems**

Nepal has not been able to implement the Labour Act effectively. There is a lack of coordination between labour administration, management, and the labour force. There have been many reported instances of labour right abuses. The problems related to labour and employment, as identified during the process of formulation of NHRAP, are presented below.

1. Continued problem of low returns, low wages and underemployment in agriculture.
2. Lack of proper national accounting of women's contribution to domestic work.
3. Excessive use and exploitation of child labour.
4. Lack of skill development training and technical education.
5. Inadequate implementation of labour laws.
6. Lack of or insufficient social security for labourers especially in unorganised sector.
7. Inadequate and at times almost non-existent labour database.

8. Lack of effectiveness labour administration.
9. Inadequate protection of a labourer's right to good health.
10. Politicisation of labour unions.
11. Absence of law specific to working journalists.
12. Inadequate promotion of domestic work opportunities.
13. Lack of information and awareness regarding foreign employment.
14. Lack of government mechanism to control and regularize foreign employment.
15. Inadequate monitoring and care of labourers going abroad to work.
16. Exploitation of labourers working abroad.
17. Absence of procedures for supervising migrant labourers to work in the agriculture and industrial sector.

#### **2.2.10.4. Objectives of National Action Plan**

- To reform employment and labour related laws.
- To control the exploitation of children and women.
- To ensure the rights of labourers.
- To help labourers working abroad to achieve and enjoy international labour rights.
- To help labourers to achieve and enjoy national labour rights.

#### **2.2.10.5. National Action Plan**

The following national action plan on labour and employment shall be carried out in the country in coming three years.

## National Action Plan

### Topic: Labour and Employment

**Coordinating Agency:** Ministry of Labour and Transportation Management

**Monitoring and Evaluation Agency:** Office of the Prime Minister and Council of Ministers; National Planning Commission; National Human Rights Commission; Foreign Affairs and Human Rights Committee and other related committees of Parliament.

S.N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation Period	Means of Verification	Risk Factor
1	Enact and/or reinforce laws, as per international commitments, in order to protect and safeguard the rights of labourers	Review and amend laws to bring them up to international norms and standards	Consultation and dialogue with social partners.  Review and amendments of all labor related laws and bylaws.	MoLJPA  LRC,  DOLEP,  Trade Unions and Employer Organizations	2061/62-2062/63 (Within the second year) (mid term)	Reports Amended and newly formulated laws	Delay in the General Election of the Lower House of Parliament Ineffective trade union collaboration
2	Ensure the rights of labourers to labour and employment  Promote healthy industrial	Raise awareness regarding labour rights Provide skill oriented training to people living below poverty line Establish standards of occupational safety	-10 workshops for social partners two each for all development regions.  -Preparation and distribution of EIC materials on Labor	DOLEP  MoICS  Trade Unions	2061/62-2063/64 First year onwards (long term)	Reports	Lack of budget Lack of priority Difficulty in giving continuity to

	relationship between labour and management	and Apply work permit to regulate foreign labour health	<p>Laws.</p> <ul style="list-style-type: none"> <li>-Labor education programs</li> <li>-Strengthening the mechanism for handling complaints at DOLEP and Labor Offices.</li> <li>-Prepare and Implement National Plan of Action on Decent Work.</li> <li>-Apply safety and health measures for employees</li> <li>-Establish Labour Affaires in all districts</li> <li>- Development and implement social protection and welfare schemes under Welfare Fund.</li> </ul>	<p>Local bodies</p> <p>NGOs</p> <p>Labour Orgs.</p> <p>Employer Organizations</p>			<p>programme s</p> <p>Ineffective trade union collaborati on</p>
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			<p>-Enhancing the capacity and relevance of vocational training and skill development centres.</p> <p>-Preparation and implementation of a transition plan for the sustainability of the training centres.</p> <p>-Updating Labour Information System. -</p>				
3	Develop policies to control and regularize child labour and eradicate the worst forms of child labour	<p>Implement programmes to raise awareness on the need to regularize and ban domestic child labour</p> <p>Strengthen the administration of justice system to effectively punish those guilty of subjecting children to worst forms of labour</p> <p>Rehabilitate children working in harmful conditions</p>	<p>-Revision of Child labour related laws.</p> <p>-Enhance enforcement of Child labour related laws.</p> <p>-Endorsement and implementation of master plan on Child Labour (2004-2014)</p>	<p>MOWCSW</p> <p>MoLJPA</p> <p>Court system</p> <p>CCWB and DCWB</p> <p>NGOs</p> <p>Local bodies</p> <p>Trade Unions</p> <p>LOs</p>	2061/62-2063/64 First year onwards (long term)	<p>Increased awareness</p> <p>Analysis of reports</p> <p>Field observation studies</p> <p>Reported cases of child labour abuse</p> <p>Number of offenders punished</p>	<p>Lack of priority</p> <p>Lack of resources</p>
4	Protect the rights of labourers working abroad	Formulate and implement policies regarding overseas employment	-Revision and effective implementation of laws relating to foreign employment	<p>Trade Unions</p> <p>Overseas Employment</p>	2062/63 (Within the second year)	Reports of different agencies related to overseas employment	Parochial mindset on women's overseas employe



			<p>-Enhance the effectiveness of pre-departure orientation training for migrant worker.</p> <p>-Developing foreign employment information centre.</p>	Centres Private Sectors	(medium term)		nt Ineffective coordination of various agencies
5	Attract people living below poverty line, particularly, women to national and international employment opportunities	Promote skill development programmes targeted to people living below poverty line, particularly women for better national and international employment opportunity	Promote female migrant workers through empowerment and trainings.	DoLEM	2062/63 (Within the second year) (medium term)	Amended laws Analysis of overseas employment reports	Lack of budget Lack of priority
6	Protect the rights of un-unionised labourers	Fix minimum wage rate for un-unionised labourers	Study and implement the study report for fixing wages of informal workers	Trade Unions  Local bodies  private sector	2062/63 (Within the second year) (medium term)	Analysis of various labour report Relative disparity in the wage rate between unionised and un-unionised labour Monitoring by local bodies	Inactivity of concerned agencies
7	Ensure quick and effective labour justice administration system	Expand labour courts	Establish five labour courts in each dev. regions.	MoICS  MoLJPA  Court system	2063/64 (Third year onwards) (long term)	Analysis of policy implementation and progress reports	Lack of budget Lack of priority

## **2.2.11. Conflict Management**

### **2.2.11.1. Background**

It is important for any society to have political, economic, and social stability. Unilateral action by any sector to disrupt stability leads to conflict. Under such circumstances, it is necessary to take effective steps to manage such conflict. Failure to do so may lead to deeper divisions within the nation and eventual break-ups. It is imperative that the current situation of conflict and instability cannot be tolerated, and hence needs immediate and effective management and resolution.

### **2.2.11.2. Current Situation**

Limited or almost untapped natural resource endowment, land-locked location and rugged terrain, poorly developed or at places almost non-existing, economic and social infrastructure have always been a challenge for economic development in Nepal. There exists a widespread disparity in poverty incidence between urban and rural areas, across geographical regions and between and across gender, ethnic and caste groups. Poverty and unemployment along with perception of failed development have provided a fertile breeding ground for Maoist insurgency in the country. Last seven years of armed conflict that had taken much gruesome turn in the last three years, has already claimed thousands of lives not just that of security personnel but including that many innocent civilians. Many innocent civilians have been internally displaced. It has been six months since the ceasefire agreement reached between HMG/N and the Maoist insurgents. Despite several ups and downs, peace negotiations are currently underway.

The Maoist insurgency and the resulting political instability have negatively affected the socio-economic development and significantly reduced the capacity of HMG/N at central and local levels to implement programmes and projects. Without achieving a degree of fairness in the distribution of resources and opportunities, lasting and sustainable peace cannot be achieved. Not to mention the fact that lasting peace and security are essential for the overall development of the country. Otherwise, more and more people will become vulnerable and marginalized. During the peace making process, local community organizations and civil society can play an important role to bring about a greater degree of tolerance and understanding between peoples of different classes, castes, races, religions and ethnicities, so essential for fostering a congenial environment of peace negotiations. Hence, their efforts should complement the peace-making initiatives at the central level. Moreover, their role is vital in not just rehabilitation of victims of the conflict and reconstruction of physical and social infrastructure damaged during the conflict but also in addressing the problems of acute development needs of the conflict affected areas. It is amply clear from experiences of many countries that mere security measures cannot achieve a lasting solution to the problems of violent conflict.

### **2.2.11.3. Problems**

It is necessary to understand the root causes of the conflict in order to provide the citizens of this country long-term relief from violence and terror. Meanwhile, it is important to establish mechanism for rehabilitation of the victims of the conflict and reconstruction of damaged physical and social infrastructure, and to build an environment that is conducive to sustainability and eventually successful completion of peace negotiation. The major problems facing the nation that have either resulted in violent conflict or been impediment to the process of conflict management, as identified during the process of formulation of NHRAP, are presented below.

1. Prevalence of poverty and ignorance;
2. Lack of employment opportunities;
3. Lack of fair access to basic economic and social resource between peoples of different class, gender, caste and ethnicity;
4. Deprivation of human rights due to economic, social, and cultural marginalisation and discrimination;
5. Perception of weak governance and of failure to establish the rule of law;
6. Failure to reach a consensus on acceptable political procedures;
7. Lack of a fair degree of tolerance and understanding;
8. Inadequate human rights education and awareness;
9. Inadequate civil rights and responsibilities education and awareness;
10. Weak confidence in the conflict resolution process; and
11. Fear of derailment of peace process and resumption of full-scale violent conflict.

### **2.2.11.4. Objectives of the National Action Plan**

The objectives of NHRAP on Conflict Management are to:

- To help establish peace in the nation and achieve political and social balance;
- To give a feeling of personal safety and security to the people and protect inalienable basic human rights;
- To rehabilitate and resettle the victims of the conflict and reconstruct the physical and social infrastructure damaged during the conflict; and
- To minimize economic, social, and cultural discrimination and marginalisation.

### **2.2.11.5. National Action Plan**

The following national action plan on conflict management shall be carried out in the country in coming three years.

## National Action Plan

**Topic:** Conflict Management

**Implementing Ministry:** Ministry of Home Affairs

**Monitoring and Evaluating Agencies:** Office of the Prime Minister and Council of Ministers, National Planning Commission, Ministry of Home Affairs, National Human Rights Commission, Foreign Affairs and Human Rights Committees, and concerned Parliamentary committees.

S.N.	Objectives	Programmes	Actions	Cooperating Agencies	Implementation period	Methods of progress evaluation	Risk factors
1	Protect and promote human rights of victims and potential victims of armed conflict through amendment of existing laws and enactment of new laws in conformity with international human right norms and standards	Revision and amendment of existing laws and enactment of new laws as necessary through evaluation	a Seminar Conduction for Amendment b Review of HR Int. norms and standards c Legislation - Consultation - Preparation - Discussion - Finalization -Parliamentary Sanction	Parliament Office of the Prime Minister and Council of Ministers MoLJPA LRC NGOs working in the legal sector	Three years (medium term)	Amended and newly formulated laws Reports prepared by agencies responsible for implementation of these laws	Delay in the General Election of the Lower House of Parliament Shift in the priority of HMG/N if the peace negotiation is derailed

2	Assure security and right to development of general public by bringing insurgent political force into national mainstream	Integrated social and security and development programmes	Multi-sectoral approach is necessary	MoD MoF Local bodies NGOs	First year onwards (long term)	Reports prepared by security and other agencies Pace of peace negotiation Trend in the amount of actual development expenditure part of HMG/N budget	Increased law and order problem if peace negotiation is derailed
3	Establish mechanism for the peaceful and democratic resolution of armed conflict and avoidance of race and gender related discrimination during armed conflict	Develop institutional coordination for the implementation of alternative methods of difference and disagreement management at the local level Sensitisation programmes on issues like racial discrimination and gender inequality and the peaceful resolution of conflict Workshops on conflict management at the community level Formulation of laws that support conflict management at the local level	a) Establishment /Operation of Conflict Management Coordination Cell b) Formation of District level Coordination Cell c) Conflict related Database Management System Software development d) Training at District level (75) e)Workshop on conflict management at community level	MoLD MoF NPC NHRC Local bodies NGOs	First year onwards (long term)	New institutional, administrative and legal instrument directly relating to local management of conflict Relevant monitoring and evaluation reports on peace negotiation Incidence of race and gender related discrimination Reports on sensitisation workshops	Delay in the election of local bodies and/or lack of appropriate environment for community participation in conflict resolution
4	Promotion of understanding and tolerance among peoples of different sex, race,	Programmes that foster racial and religious tolerance	a) Publication & distribution of concerned material b) Dissemination through	MoHA NHRC Civil society Political parties	First year onwards (long term)	Situation report on incidence of caste and gender based discrimination and intolerance	Inadequate legal provisions Negligence of caste and

	class, religion, ethnicity and linguistic groups		electronic media	Human rights organizations Religious institutions			ethnicity based cultures and traditions
5	Protection and assistance to the victims of and those displaced by armed conflict for their repatriation and rehabilitation	Rehabilitation programmes for victims of conflict	<p>a) Relief associate to the deprived of deceased person</p> <p>b) Relief associate to the loss of loss of private property</p> <p>c) Treatment to the victims</p> <p>d) Scholarship to the orphan</p> <p>e) Allowance to the widow/widower</p> <p>f) Income generating activity to the dependent of deceased</p> <p>g) Income generating activities for the disabled</p> <p>h) Employment opportunities</p>	<p>MoH</p> <p>MOWCSW</p> <p>NHRC</p> <p>District administrative offices</p> <p>Local bodies</p> <p>Human rights organizations</p> <p>Civil society</p>	First year onwards (long term)	Accounting of and the amount of compensation for victims of conflict Rehabilitation and repatriation of the displaced HMG/N, NHRC and non-government agency reports	Rapid increase in the number of people displaced by conflict Lack of appropriate environment for civil society activism
6	Protection of victims and potential victims of armed conflict from sexual,	Implementation of programmes that fulfil the basic needs of victims and people affected by conflict	Multi-sectoral approach is necessary	<p>MoH</p> <p>MOWCSW</p>	First year onwards (long term)	Monitoring and evaluation of the policies being formulated and their implementation	Increased law and order problem if peace negotiation is

	mental and physical violence and exploitation	and ensure their security and rehabilitation		NHRC Local bodies Human rights organizations Civil society		process Security guarantee and rehabilitation of the displaced Government and non-government agency reports	derailed Lack of appropriate environment for civil society activism
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## **2.2.12. Institutional Strengthening**

### **2.2.12.1. Background**

Human rights protection and promotion requires, among other things, willing participation of and cooperation between related institutions, availability of resources, appropriate expertise and technologies, and the willingness to reform. In addition, institutions working in this sector need to be capable, impartial, cooperative, efficient, people oriented, and responsible.

### **2.2.12.2. Current Situation**

Many new laws have been formulated and old laws amended since the restoration of democracy in 1990. Nepal has since then signed and ratified a number of international conventions and declarations. The Action Plan for the Implementation of Decentralization, 2002, has been implemented. Many government, non-government, and civil sector institutions have been established, from the central, district, to the grassroots level, to work in the human rights sector.

### **2.2.12.3. Problems**

A variety of reasons have contributed to the degradation of human security and rights in Nepal. One of them has been the inability to strengthen human rights related institutions. A number of institutions responsible for institutional strengthening have been established at various levels across the nation. However, they have not yet been adequately strengthened. The major problems on institutional strengthening, as identified during the process of formulation of NHRAP, are presented below.

1. Doubts in the impartiality of the HR institutions.
2. Lack of coordination between institutions working in the field of HR and a tradition of shifting responsibility.
3. Lack of adequate human rights sensitisation of people involved in the government system.
4. Inadequate monitoring of organizations working to protect and promote human rights.
5. Inadequate ability of the HR institutions to work in the field.
6. Lack of resources and trained man power.

### **2.2.12.4. Objectives of National Action Plan**

- To achieve institutional strengthening of human rights organizations.
- To make institutions related to human rights, including those at the local level, capable of protecting and promoting human rights.



### **2.2.12.5. National Action Plan**

The following national action plan on institutional strengthening shall be carried out in the country in coming three years.

## National Action Plan

**Topic:** Institutional Strengthening

**Coordinating Agency:** Office of the Prime Minister and Council of Ministers

**Monitoring and Evaluating Agencies:** Office of the Prime Minister and Council of Ministers, National Planning Commission, National Human Rights Commission, Human Rights and Foreign Affairs Committee, and other concerned committees of Parliament

S. N.	Objectives	Programme and Actions	Implementing Agencies	Implementation period	Means of verification	Risk factor
1.	Strengthen the NHRC so that it can protect and promote human rights as per the Human Rights Commission Act, 1996	Implement programmes to equip and strengthen NHRC	OPMCM MoF NHRC	First year onwards (long term)	Reports Amendment and formulation of laws	Lack of adequate budget Lack of priority Inertia to change
2.	Strengthen the National Commission for Women so that it can protect and promote women's rights	Implement programmes to equip and strengthen the National Commission for Women	MoF MoWCSW NCW	First year onwards (long term)	Reports Amendment and formulation of laws	Lack of adequate budget Lack of priority Inertia to change
3	Strengthen the National Dalit Commission so that it can protect and promote the rights of the Dalit	Implement programmes to equip and strengthen the National Dalit Commission	MoF MoLD NCD Donor agencies	First year onwards (long term)	Reports Amendment and formulation of laws	Lack of adequate budget Lack of priority Inertia to change

4	Formulate and implement policies to increase observance of human rights by various institutions of government	Equip and strengthen capacity of the following Human Rights cells: - Human Rights cell of Royal Nepal Army -Human Rights cell of Nepal Police -Human Rights cell of Nepal Arm Police -Human Rights cell of Ministry of Home Affairs -International Law and, Treaty and Human Rights Division of MoLJPA -UN and International Law Section of MoFA	MoF MoHA MoD NHRC Royal Nepal Army Nepal Police Nepal Arm Police MoLJPA MoFA	First year onwards (long term)	Progress reports Information analysis Analysis of human rights content of training materials Monitoring of training programmes Reports related to training	Lack of budget Lack of priority Lack of sufficiently sensitive attitude
5.	Prioritise, strengthen and mainstream human rights into government decision-making process	Strengthen the Law and Human Rights Section of the Office of the Prime Minister and Council of Ministers and entrust it with the responsibility to coordinate, monitor and evaluate human rights observance in the government institutions	Office of the Prime Minister and Council of Ministers	First year onwards (long term)	Annual implementation report of the Section On-site monitoring report Regularity in document publication	Budget constraints Lack of priority Difficulty in coordination
6.	Promotion of Human Rights with in the Government System	Establish and strengthen Human Rights Promotion Centre	Office of the Prime Minister and Council of Ministers	First year onwards (long term)	Reports	Budget constraints Lack of priority

## **PART-3**

### **Chapter-1**

#### **IMPLEMENTATION AND MONITORING OF THE INTERNATIONAL HUMAN RIGHTS TREATIES**

##### **3.1.1. Ratification and implementation of the international human rights treaties**

Nepal shall fully implement the recommendations of the UN treaty monitoring bodies. To that end, the comments of the treaty bodies shall be reviewed by His Majesty's Government or, if related with legislation, by the Parliament, and the decisions taken thereon shall be enforced.

Close collaboration shall continue to be pursued with UN agencies and their representative in Nepal to obtain the necessary support for the implementation of programs and projects for promotion and protection of human rights.

NGOs shall be encouraged to collaborate with each other and with international NGOs and charitable organizations in the field of human rights.

UN activities in the South Asia region shall be supported. Nepal will also support the establishment of a regional human rights legal and institutional framework.

A list of the outstanding international human rights treaties, which Nepal has not yet ratified, shall be drawn up and the desirability of their ratification shall be the subject of in-depth examination.

##### **3.1.2. Implementation of the International Human Rights Instruments to which Nepal is a party**

All obligations emanating from the international human rights treaties shall be reviewed against domestic legislation, both in force and draft. His Majesty's Government shall examine what actions, if any, must be taken to ensure compliance, attributed to Government Ministries, Agencies, and local authorities.

A list of jurisdictions and activities of each government ministries, agencies, and local administrative organizations and authorities in accordance with the obligations of Nepal under the international treaties shall be developed, and the annual report shall be summarized by Ministry of Law, Justice and Parliamentary Affairs and submitted to the Government.

Relevant government ministries and agencies shall be accountable for reviewing and implementation of the international treaties and developing a comment on their implementation.

A procedure to translate officially into Nepalese language and publish for public, upon ratification and/or approval of the international human rights conventions/treaties shall be introduced, and activities to develop and publish handbooks and interpretation on international human rights treaties through state institutions and NGOs shall be conducted.

The subject of international human rights law shall be included in the professional training curricula of public servants, particularly for the police, military, judicial and other legal enforcement agencies.

The procedures of public institutions, National Human Rights Commission and the Courts whereby individuals and groups may seek redress for complains about human rights violations shall be widely publicized and shall include the provisions of the international human rights treaties to which Nepal is a party among the grounds for complaints.

Foreign invested or inter-governmental enterprises, organizations and units shall be bound under the same human rights obligations and mechanisms as national enterprises.

The capacity of the National Human Rights Commission to deal with complaints from individuals about violations of human rights shall be strengthened. The Commission shall be empowered to deal with alleged violations of the international human rights treaties to which Nepal is a party.

### **3.1.3. Monitoring, Review and Evaluation on Implementation of Laws and International Treaties on Human Rights**

To implement the obligations assumed by Nepal under the international human rights treaties (eg, covenants, conventions, protocols), the following actions shall be taken.

An inter-ministerial unit shall be established with responsibility for preparing timely reports due under the international treaties under which Nepal has reporting obligations. The unit shall include representatives of all relevant Government institutions and shall be advised by non-governmental organizations, the National Human Rights Commission and leading scholars in the field. The Office of the Prime minister and Council of Ministers jointly with the Ministry of Foreign Affairs and Ministry of Law, Justice and Parliamentary Affairs shall develop guidelines for this purpose.

National Human Rights Commission shall summarize and review the implementation of all international treaties submitted by the concerned ministries comparing with relevant documents, and submit evaluations and results to the Government.

The Committee on Foreign Affairs and Human Rights, House of Representatives shall, within their respective jurisdictions, review and evaluate the status of protection and promotion of human rights and summarize these reviews and present them to the Parliament. A copy of the same shall be forwarded to the Government for implementation of the recommendation made by the Committee.

A summary of court practices and legal precedents at all levels shall be compiled on their handling of complaints of violations of human rights as provided in international agreements as well as in domestic laws. A manual shall be developed for judges based on such information.

The Office of the Prime Minister and Council of Ministers shall review draft reports prepared by the inter-ministerial reporting unit, along with information from NGOs and other interested persons, prior to their submission to the UN treaty monitoring bodies.

## **Chapter-2**

### **3.2. IMPLEMENTATION, MONITORING AND FINANCING**

#### **3.2.1. Implementation and Monitoring Mechanism of NHRAP**

His Majesty's Government shall be entirely responsible for managing and coordinating the implementation of the National Human Rights Action Plan.

HMG/N is determined to implement the NHRAP in conjunction with the Tenth Five-Year Plan. In order to coordinate and ensure adequate implementation and monitoring of the Action Plan in the various Ministries, departments and other sectors of the Government, HMG/N will strengthen the Law and Human Rights Section of the Office of the Prime Minister and Council of the Ministers to oversee the daily activities. By strengthening the main coordinating section within the Office of the Prime Minister and Council of Ministers, the aim is to ensure follow-up and necessary action from the various government ministries.

On behalf of the Government, Law and Human Rights Section of the Office of the Prime Minister and Council of the Ministers shall oversee its implementation on a daily basis with the involvement of the National Planning Commission, National Human Rights Commission, concerned ministries, agencies, local authorities, and NGOs. It shall closely link its activities with tenth five-year plan and other Human Development Programmes adopted by the Government. The section with collaboration of relevant ministries and institutions shall do Monitoring and review.

All concerned ministries, agencies, and organizations shall include measure to implement NHRAP in their respective annual work plan, in accordance with the measures reflected in the tenth five year plan and Government's Programme of Actions and Economic and Social Development Concept of Nepal.

Law and Human Rights Section of the Office of the Prime Minister and Council of the Ministers shall summarize the implementation and result of the NHRAP within the frame of jurisdiction of each ministries of His Majesty's Government.

All local authorities shall incorporate the programmes for promotion and protection of human rights in their Annual Plan of Action, implement them and submit reports to His Majesty's Government thereon.

Law and Human Rights Section of the Office of the Prime Minister and Council of the Ministers shall have a jurisdiction to advise the concern ministry to reflect and include most important actions for the implementation of the action programme to the action programme of His Majesty's Government and national economic and social development concept of Nepal, to monitor and review their implementation, and to make proposal to make changes or revise the action programme, when required.

The NHRAP has been formulated in accordance with the principles of a rights based approach. A rights-based approach stresses the importance of both process and outcome in development strategies. Accordingly, the design of the NHRAP has been highly participatory and aims at reflecting the concerns of a wide range of partners, including disadvantaged groups. The challenge of HMG/N is now to promote a rights-based approach in the process of implementation. This implies the respect of a number of principles, particularly participation, equality and non-discrimination, empowerment, transparency and accountability.

### **3.2.2. Law and Human Rights Section within the Office of the Prime Minister and Council of Ministers**

The Office of the Prime Minister and Council of Ministers, headed by Chief Secretary, is the apex agency of His majesty's government and has the overall coordinating, supervising and controlling mandate to the all other government agencies. In order to coordinate on human rights and ensure adequate monitoring of the implementation aspect of the NHRAP Law and Human Rights Section of the Office of the Prime Minister and Council of Ministers shall be strengthened. The Chief Secretary and Secretary related to the Section will direct and provide guidance to the Section to ensure high performance in the implementation of the NHRAP.

### **3.2.3. Role of the National Human Rights Commission**

The National Human Rights Commission will play the key role in the independent monitoring of the implementation of the NHRAP. The NHRC is mandated to this role by its enabling Act for the effective enforcement as well as protection and promotion of Human Rights conferred by the Constitution and other prevailing laws. HMG/N will provide necessary data and information required for supervision and monitoring to the Commission.

The Commission may carry out inquiries and investigations on the matters of a) violation of human rights and abetment thereof; b) carelessness or negligence in the prevention of violations of the human rights by any person, organization or authority concerned. It is also mandated to visit, inspect and observe any authority, jail or any organization under His Majesty's Government and to submit necessary recommendations to His Majesty's Government regarding necessary steps to be taken for the protection of human rights, and to review the provisions on safeguards provided by the Constitution and other prevailing law for the enforcement of human rights and submit necessary recommendations for the effective implementation of such provisions, study international treaties and instruments on human rights and submit the necessary and appropriate recommendations to His Majesty's Government for effective implementation of the related provisions, evaluate the existing human rights situation of the country and make necessary recommendations to His Majesty's Government regarding reports to be furnished by Nepal pursuant to the provisions of international treaties on human rights.

It is mentioned in the Act that on the matter of Nepal's obligation to furnish reports under international treaties on human rights, His Majesty's Government shall furnish reports upon receiving the opinion of the Commission thereon.

The National Human Right Commission shall have a right to monitor the implementation aspect of NHRAP independently.

#### **3.2.4. Role of the National Planning Commission (NPC)**

NPC is responsible for the overall development planning and budgets in Nepal. The role of the NPC is to promote a rights-based approach in future planning and budgeting. Furthermore, the commission will evaluate how various government agencies have performed in implementing the plans and projects, and will evaluate also the implementation of the NHRAP.

#### **3.2.5. Role of the Ministry of Finance**

The Ministry of Finance (MOF) has a leading role in approving national plans and allocate appropriate budget form national treasury for implementation of such plans through the annual budget. In the same way, the MOF has a key role in implementing the NHRAP by approving HR Plans proposed by sectoral ministries and allocating appropriate budget to implement the plans. For effective



implementation of the NHRAP, the MOF will work in coordination with the CS and the NPC.

### **3.2.5. Role of the donor agencies**

The Office of the Prime Minister and Council of Ministers has been expecting cooperation and assistance from donor agencies to support for implementation of the NHRAP.

### **3.2.6. NHRAP Implementation and Monitoring Committee**

In order to ensure participatory, non-discrimination, transparent and accountable mechanisms for the implementation of the NHRAP, a NHRAP Implementation and Monitoring Committee (NHRAP-IMC) will be established under the chairmanship of the Chief Secretary. The responsibilities of the committee would include providing guidance to the Law and Human Rights Section as well as focal points within the different Ministries working for the implementation, review and approval of the final identification of activities to be undertaken and progressive process of implementation of the NHRAP. To ensure transparency, the approved minutes of each session of the Committee should be made publicly available. Members of the NHRAP-IMC will include:

- (1) Chief Secretary of the Office of the Prime Minister and Council of Ministers (Chair)
- (2) Secretary of the Office of the Prime Minister and Council of Ministers
- (3) Secretary of the Ministry of Local Development
- (4) Secretary of the Ministry of Women, Children and Social Welfare
- (5) Secretary of the Ministry of Law, Justice and Parliamentary Affairs
- (6) Secretary of the Ministry of Education and Sports
- (7) Secretary of the National Planning Commission
- (8) Secretary of the National Human Rights Commission
- (9) National Director, Human Rights Promotion Centre
- (10) Section Chief of the Law and Human Rights Section of the Office of the Prime Minister and Council of Ministers

As per the necessity Secretary of other concerned Ministries and Chairpersons of various commissions will be invited to participate in the meeting of the committee.

### **3.2.7. Steering Committee of the Human Rights Promotion Centre**

As per the decision of His Majesty's Government dated 2061-1-21 the Steering Committee of the Human Rights Promotion Centre has also empowered to monitor the implementation aspect of NHRAP.

### **3.2.8. Financing for Implementation of NHRAP**

The NHRAP shall be financed from the following sources:

- 1) Funds from the annual national budget and local budget;
- 2) Financial support from UN and other international organizations and donor countries;
- 3) Grants and donations obtained at the initiative of NGOs, business entities and private individuals;