



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/NPL/2
7 August 2006

Original: ENGLISH

Substantive session of 2006

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Second periodic reports submitted by States parties
under articles 16 and 17 of the Covenant**

Addendum

NEPAL * * * * *

[30 June 2006]

* The initial report (E/1990/5/Add.45) concerning rights covered by articles 1 to 15 was considered by the Committee on Economic, Social and Cultural Rights at its twenty-sixth session in 2001 (see documents E/C.12/2001/SR.44-46; E/C.12/1/Add.66).

** The information submitted by Nepal in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.42).

*** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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FOREWORD

This periodic report is prepared pursuant to Article 16 of CESC. The report covers various developments in the area of human rights regarding economic, social and cultural aspects during 2000-2006 June. While preparing the report, the government has also tried to explain the extent of progress made in the areas of concerns raised by the Committee on Economic, Social and Cultural Rights held on 22-23 August 2001.

During the time of reporting, a great change has undergone in the political governance of the country. Some of the developments have been included in the text while some could not be incorporated. The political events have been taking place with unassumed pace and it is ever changing now. The government will, therefore, submit addendum in due course of time.

The Government of Nepal would like to reiterate its full commitments to international covenant and would like to assure all that no earth will remain unfurnished to full compliance of the human rights. The relevant references will be sent through mail with the hard copy of the report.

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LIST OF ABBREVIATION/ACRONYMS

ADB	Asian Development Bank
ADR	Alternative Dispute Resolution
AIDS	Acquired Immune Deficiency Syndrome
ANM	Assistant Nurse Midwife
APP	Agriculture Perspective Plan
BCG	Bacillus Calmette-Guerin
BIMSTEC	Bay of Bengal Initiative for Multi-sectoral Technical and Economic Co-operation
BS	Bikram Sambat
CAC	Community Action Center
CBOs	Community Based Organizations
CBS	Central Bureau of Statistics
CDC	Curriculum Development Center
CeLRRd	Centre for Legal Research and Resource Development
CESCR	International Covenant on Economic, Social and Cultural Rights
CEDAW	Convention on Elimination of Discrimination against Women
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CID	Crime Investigation Department
CRC	Convention of the Rights of the Child
CSH	Computational Safety and Health
CTEVT	Council for Technical Education and Vocational Training
CVICT	Center for Victims of Torture
CWCSC	Central Women and Children Service Center
CWIN	Child Workers in Nepal Concerned Center
DAG	Disadvantaged Group
DANIDA	Danish International Development Agency
DDC	District Development Committee
DFID	Department for International Development
DG	Director General
DIHR	Danish Institute of Human Rights
DOLEP	Development of Labour and Employment Promotion
DPOs	Disabled People Organizations
DPT	Diphtheria, Pertussis, and Tetanus
DWSS	Department of Water Supply and Sanitation
EC	European Commission
ECD	Early Childhood Development
ECOSOC	Economic and Social Council
EDP	External Development Partner
EFA	Education for All
EHCS	Essential Health Care Services
EIU	Economist Intelligence Unit
ESAG	Educational Sector Advisory Group

ESCAP	Economic and Social Commission for Asia and the Pacific
ESCR	Economic, Social and Cultural Rights
EU	European Union
FAO	Food and Agriculture Organization
FCHVs	Female Community Health Volunteers
FHI	Family Health International
FIR	First Information Report
FWLD	Forum of Women Law and Development
FY	Fiscal Year (mid-July-mid-July)
GDP	Gross Domestic Products
GON	Government of Nepal
GOs	Governmental Organizations
GRP	Government Reform Project
GTZ	German Technical Cooperation Society
HCs	Health Centers
HIV	Human Immune deficiency Virus
HMG/N	His Majesty's Government of Nepal
HMIP	Her Majesty's Inspectorate of Pollution
HMINs	Highly Marginalized Indigenous Nationalities
HORs	House of Representatives
HP	Health Post
HRs	Human Rights
HRD	Human Resource Development
HRPC	Human Rights Promotion Center
HSRS	Health Sector Reform Strategy
ICIMOD	International Center for Integrated Mountain Development
IDPs	Internally Displaced Persons
IEC	Information Education and communication
IIDS	Institute for Integrated Development Studies
ILO	International Labor Organization
IMF	International Monetary Fund
IMR	Infant Mortality Rate
INCC	Indigenous Nationalities Coordination Committee
INSEC	Informal Sector Service Center
INGO	International Non-Governmental Organization
INs	Indigenous Nationalities
IPEC	International Programme on the Elimination of Child Labour
JEP	Janajati Empowerment Project
JIT	A Joint Initiative in the Millennium against Trafficking of Girls and Women
JICA	Japan International Co-operation Agency
LACC	Legal Aid and Consultancy Centre
LBs	Local Bodies
LHRLA	Lawyers for Human Rights and Legal Aid

LL.B	Bachelor of Law
LL.M	Master of Laws
LSGA	Local Self-Governance Act
MCHC	Maternal Child Health Care
MCHW	Maternal and Child Health Worker
MDAC	Ministerial Development Action Committee
MDGs	Millennium Development Goals
MGEP	Mainstreaming Gender Equity Programme
MEAs	Multi Lateral Environmental Agreements
MMR	Maternal Mortality Ratio
MOES	Ministry of Education and Sports
MOF	Ministry of Finance
MLL	Ministry of Law
MOHP	Ministry of Health and Population
MOLD	Ministry of Local Development
MOLJA	Ministry of Law Justice and Parliamentary Affairs
MOLTM	Ministry of Labor and Transport Management
MOCTCA	Ministry of Culture, Tourism and Civil Aviation
MPFS	Master Plan for Forestry Sector
M&E	Monitoring and Evaluation
MTSP	Medium Term Strategic Plan
MOWCSW	Ministry of Women, Children and Social Welfare
NA	Nepal Army
NAC	National AIDs Council
NACC	National AIDS Coordination Committee
NBA	Nepal Bar Association
NCASC	National Centre for AIDS and STD Control
NCSA	National Committee for Sanitation Action
NDAC	National Development Action Committee
NDC	National Dalits Commission
NDF	National Development Fund
NDR	Nepal Drug Review
NDHS	National Democratic and Health Survey
NEA	National Education for All
NER	Net Enrolment Rate
NFDIN	National Foundation for Development of Indigenous Nationalities
NEFIN	Nepal Federation of Indigenous Nationalities
NGO	Non-Governmental Organization
NHDR	Nepal Human Development Report
NHP	National Health Policy
NHRAP	National Human Rights Action Plan
NHPR	Nepal Health Progress Report
NHRC	National Human Rights Commission

NHSP	Nepal Health Sector Programme
NLR	Nepal Law Reporter
NLSS	Nepal Living Standard Survey
NMDG	Nepal Millenium Development Goals
NMDGPR	Nepal Millennium Development Goals Progress Report
NORAD	Norwegian Agency for Development
NPC	National Planning Commission
NRs	Nepalese Rupees
NSDUBD	Neglected Suffered Depressed Class Upliftment Development Board
NUCRA	National Unit for the Co-ordination of Refugee Affairs
NWSC	Nepal Water Supply Corporation
NWC	National Women's Commission
OHCHR	Office of the High Commissioner for Human Rights
ONR	Office of the National Rapporteur
ORC	Out reach Clinic
OSH	Occupational Safety and Helath
PAF	Poverty Alleviation Fund
PC	Press Conference
PCRW	Productive Credit for Rural Women
PHC	Primary Health Care
PHCCs	Primary Health Care Centers
PPP	Public Private Partnership
PRIS	Project Reformation Information System
PRSP	Poverty Reduction Strategy Paper
PWD	Person with Disabilities
RCU	Refugee Co-ordination Unit
RNA	Royal Nepal Army
Rs	Rupees
SAARC	South Asian Association for Regional Cooperation
SACEP	South Asian Co-operation Environmental Programme
SAFAHT	South Asia Forum Against Human Trafficking
SAWTEE	South Asia Watch on Trade, Economics and Environment
SC	Supreme Court
SFDP	Small Farmer Development Programme
SHP	Sub Health Post
SLC	School Leaving Certificate
SLTHP	Second Long Term Health Plan
STI	Sexually Transmitted Infections
STD	Sexually Transmitted Disease
STOP	Safety Training Observation Programme
SWA	Sector Wise Approach
TA	Technical Assistance
TADO	Terrorist and Disruptive Activities (Punishment and Control) Ordinance

TAF	The Asia Foundation
TB	Tuberculosis
TTBA	Trained Traditional Birth Attendant
TU	Tribhuvan University
U5MR	Under-5 Mortality Rate
UN	United Nations
UNAIDS	United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Education and Social Council
UNFPA	United Nations Fund for Population Activities
UNGASS	United Nations General Assembly Special Session
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nation's Children Fund
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development
VDCs	Village Development Committees
WB	World Bank
WFP	World Food Programme
WHO	World Health Organization
ZOP	Zone of Peace

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EXECUTIVE SUMMARY

This report provides the comprehensive review of the existing scenario on economic, social and cultural rights of the people in Nepal. Nepal became a party to the Covenant on Economic, Social and Cultural Rights, 1966 on 14 May 1991 and has made every effort to fulfil the obligations created by the Covenant.

To safeguard the economic, social and cultural rights of the people from every aspect, Nepal has signed the technical cooperation project agreement and a memorandum of understanding with the Office of the High Commissioner for Human Rights, established NHRC, MOWCSW and a committee under the Chairmanship of the Secretary of the Cabinet Secretariat to execute the National Plan of Action for Human Rights developed and adopted in accordance with the Vienna Declaration.

Nepal has enacted and implemented several laws in order to ensure the protection and promotion of human rights including the economic, social and cultural rights. In the present context of Nepal, due to the changing political and social scenario, people have become more conscious regarding their rights. This has led the Government to be more responsive towards providing basic human rights to the people, especially to women, socially and economically deprived people, *dalits* and the Indigenous Nationalities. In order to address the concern of these people, the Government has made attempts to amend laws and regulations and enact necessary legislations and to implement them.

The Government has been trying to reduce the existing poverty through implementing strategic plans and programmes. As the major population is engaged in agriculture for their livelihood, the Government introduced a 20-year Agriculture Perspective Plan and Poverty Alleviation Fund for economic upliftment of the people. Minimum wage fixing for workers, non-discriminatory wage system, foreign employment opportunities etc. has had created a sense of economic security too.

Social disparity among the Nepalese is being narrowed with the effort of the Government by bringing the deprived, socially excluded and the marginalized communities into the mainstream of development. Also, Nepal has been undertaking several measures to protect the rights of orphans, helpless women, the aged and the disabled along with the others. Nepal has adopted Child Labour Master Plan, 2004-2014 and has been working to minimize the child labour in the country through preventive, curative as well as rehabilitative measures. Similarly, Senior Citizens' Policy and Working Policy, 2002 is brought to protect the rights of the senior citizens. With the help of different NGOs, INGOs and donor agencies, Nepal is fighting to curb the trafficking of girls and women for sexual exploitation. Nepal, on the other hand, is also adopting several measures to protect the right to enjoy the highest attainable physical and mental health standard by providing accessible yet affordable essential health services to the poor and the backward communities, safe drinking water and sanitation facilities. Increase in the national budget towards social sectors like education, health, drinking water and local development is an indicator of the effort made by the Government to enhance social security.

The Government of Nepal (GON) has adopted a comprehensive plan on National Education for All in line with the Dakar Framework of Action Plan. Nepal has already made primary education (grade 1-5) free. Tuition fee for the girls is free up to grade 10 in public schools. The Government has been providing free of cost textbooks for the primary level's student and has been considering making primary education compulsory.

The Government has already abolished the *Kamaiya* system (bonded labour) in July 2002. The other malpractices such as Badi, Deuki, Kamlari, Kumari, Jhuma, Chhaupadi, etc. are in the process of eradication. These are the traditional malpractices where the victims remain socially insecure.

Nepal has also recognized the cultures, religions, linguistic, ethnic, etc. rights and arts of the Indigenous Nationalities as its properties and has made enormous effort to protect and promote such things by enacting and enforcing The Indigenous Nationalities Development National Foundation Act, 2002 and The Local Self-Governance Act, 1999. The Government of Nepal made a policy announcement on 11 August 2003, which calls for the elimination of all kinds of discrimination and exploitation on the basis of creed, caste, race, profession or religion. A Ministry of Tourism, Culture and Civil Aviation was established in 2001 with the mission to preserve and promote cultural life in Nepal.

Despite the enormous effort made by the Government to provide economic, social and cultural rights to the Nepali citizens, there still remain some hurdles in obtaining the attainable rights. Due to the decade long insurgency and unstable political situation, most of the enacted Acts could not be enforced at the proper time and place, development works were stagnated and physical infrastructures were destroyed. Also, financial constraints were observed for not having timely progress.

Weak institutional base, inconsistent legislation, high population growth rate, persistent poverty, economic downturns, rural economy, debt-serving problem, the effect of some aspects of structural adjustment programmes, insurgency, unemployment and poor resource base, prevalence of certain customary traditions were the vital challenges faced by the Government for effective implementation of the plans and programmes to guarantee the rights specified in the Covenant.

On the whole, social, economic and cultural rights of the people can be complied with by designing effective plans and implementing strategies through tailor made programmes only if the Government and the stakeholders accept their responsibilities and work in a collaborative way. However, the civil societies can play the dominant role in shaping the Government and their functions to attain the rights.

The recently reinstated House of Representatives (HORs) has adopted a landmark resolution on 30 May 2006, on women's right that allows citizenship through mother's name and to increase up to 33% women's representation in civil and political arena. The HORs also proposed the Government to amend all discriminatory laws against women.

In addition, the HORs made a historical proclamation, which comprises the commitments for the election of Constituent Assembly, revoking the Raj Parisad (Royal Council), and the title of the King as Supreme Commander of Nepali Army. The proclamation stripped the power of the King to make a law for the succession to the throne, brings the property and income of the King and Royal family taxable. The proclamation provides that constitutional and prevailing legal provisions to the extent of the inconsistency to its provisions shall be void. The HORs declared Nepal a secular State.

PART I: INTRODUCTION

1. The Government of Nepal has acceded to The International Covenant on Economic, Social and Cultural Rights (CESCR), 1966 (Covenant), on 14 May 1991. Pursuant to Articles 16 and 17 of the Covenant, Nepal submitted its initial report on 25 October 1999 (E/1990/5/Add.45) to the United Nations' Economic and Social Council (ECOSOC) through the UN Secretary General.
2. The Committee on Economic, Social and Cultural Rights considered the initial report of Nepal on the implementation of the CESCR at its 44th, 45th, and 46th meetings (E/C.12/2001/SR.44-46) held on 22 and 23 August 2001, and made concluding observations/comments at its 55th meeting (E/C.12/2001/SR.55) on 29 August 2001. The Committee has requested to submit Second Periodic Report by 30 June 2006.
3. The Committee has appreciated the initial report for the preparation in conformity with the Committee's guidelines, as well as the written replies to the Committee's list of issues (E/C.12/Q/NEP/1).
4. The Committee has noted and expressed satisfaction with several positive aspects in relation to the implementation of the Covenant; in particular the rights contained in the Covenant could be justiciable; signing the technical cooperation project agreement and a memorandum of understanding with the Office of High Commissioner for Human Rights (OHCHR) and a number of activities undertaken under that project; establishment of National Human Rights' Commission (NHRC) and a Committee under the chairmanship of the Chief Secretary of the Cabinet Secretariat; execution of the Plan of Action for Human Rights in accordance with the Vienna Declaration and Programme of Action; establishment of the Ministry of Women, Children and Social Welfare (MOWCSW); adoption of the Anti-Trafficking Act to combat trafficking of women and children, and its implementation measures at national and regional level; abolishment of *Kamaiya*; and adopted measures to abolish and punish the practices of polygamy, dowry, *Deuki*, and prostitution among the *Badi* caste.
5. The Committee has also acknowledged that the high rate of population growth, the slow-down in economic growth, foreign debts, the effect of some aspects of structural adjustment programmes, insurgency, prevalence of certain customary traditions, and agrarian rural economy as the major factors and difficulties impeding the implementation of the Covenant.
6. The Committee has provided 63 concluding observations/comments on the report to ensure the implementation of the Covenant. Out of 63, 24 are concerned with the principal subjects of concern, 27 are suggestions and recommendations, and rest are concerned with the positive aspects.
7. This report illustrates the measures and activities taken by the Government for the implementation of the Covenant from January 2000 to June 2005 in line with the concluding observations/comments made by the Committee (E/C.12/1/Add.66). However, some resolutions

made by the Government and recently reinstated House of Representatives (HORs) are also included.

Part II: Developments in the Areas of Principal Subjects of Concern, Suggestions and Recommendations of the Committee

Domestic legal orders of the State and case law (paragraph 14 of the concluding observations/comments)

8. GON has enacted several laws to ensure human rights including the economic, social and cultural rights. There are hundreds of legislation that have provisions for the protection and promotion of human rights, which are directly and/or indirectly related to it. The Acts that are directly related to human rights are as follows:

- The Local Self-governance Act, 1999
- The Child Labour (Prohibition and Regularization) Act, 2000
- The National Foundation for the Development of Indigenous Nationalities Act, 2002
- The Bonded Labour (Prohibition) Act, 2002
- The Political Parties Act, 2002

9. The judiciary of Nepal is independent and the Supreme Court, an apex body of judicial hierarchy of Nepal is considered to be a guardian of the Constitution. The judiciary has been playing an exemplary role for the protection of human rights. In order to ensure human rights there are 101 courts and tribunals in the country, i.e., one SC, 16 Appellate Courts, 75 District Courts, one Special Court (specially designed to adjudicate corruption cases), one Administrative Court, one Labour Court, four Revenue Tribunals, one Debt Recovery Tribunal and one Appellate Tribunal of Debt Recovery. These courts and tribunals have been ensuring access to justice. The jurisdictions of these courts and tribunals are specified in the relevant legislations.

10. Article 86 and 88 of The Constitution of the Kingdom of Nepal, 1990 (Constitution), The Supreme Court Act, 1990, The Administration of Justice Act, 1992 provide jurisdictions for the Supreme Court. Article 89 of the Constitution has provisions for the establishment of Appellate Courts and District Courts, and the jurisdictions for these Courts are provided by the said Administration of Justice Act. The Special Court Act, 2002 provides jurisdictions of the Special Court, and The Civil Service Act, 1993 provides jurisdictions for the Administrative Court respectively. The Labour Act, 1992 provides jurisdictions for the Labour Court. The Revenue Tribunal Act, 1975 provides jurisdictions for the Revenue Tribunals. The Debt Recovery of the Bank and Financial Institutions Act, 2002 provides jurisdictions for the Debt Recovery Tribunal and the Appellate Tribunal of Debt Recovery.

11. Article 11(4) of the Constitution prohibits discrimination on the basis of caste and treats untouchability as an offence. Denial of access to any public place or deprivations of the use of public utilities are punishable by law. No. 10A of Chapter on Virtuous Conduct (*Adalko*) of the Country Code (*Muluki Ain*) also reiterates this mandate. GON has included the discrimination

against caste offence under schedule 1 of The State Cases Act, 1992, which means such a case shall be considered to be a case to which GON is a plaintiff. The explanatory provisions of 10A has legitimized the practices traditionally adhered to any temple or religious places as non-discriminatory. The court observed that if the explanatory provision was allowed to remain in existence and operation, the fundamental character of the Constitution as the supreme law would disappear and the general law could prevail over the fundamental law of the land (NLR, No.12, 1993 (2049 BS), p.1010). The SC has issued verdicts in more than a dozen cases, excluding habeas corpus for the protection of human rights, and has also issued directives to the Government to enact necessary legislation as well as to implement the court orders. While exercising the power of judicial review, the SC has made several legislative provisions unconstitutional and ultra virus due to their inconsistency with the Constitution and the rules with the concerned Acts. GON has been responding to the decisions and directive orders of the SC sincerely. There are several cases decided by the SC related to this Covenant. Some of them are given below and other cases have been dealt under the concerned Articles.

- a. In the case of *Bal Krishna Neupane Vs Parliamentary Secretariat*, the SC declared the second sentence of clause (1) of section 4 of The Labour Act, 1992 void *ab initio* because of violation of the constitutional provision of Article 12(2). The second sentence of clause (1) of section 4 stipulated that while making appointments priority shall be given to the Nepalese citizens. Article 12(2) (e) of the Constitution guarantees the freedom to practice any profession, or to carry out any occupation, industry or trade by citizens (NLR, No.8, 1994 (2050 BS) p.450).
- b. In the case of *Man Bahadur Viswokarma Vs HMG*, the petitioner claimed that the provision of the explanatory clause of No. 10A of Chapter on Virtuous Conduct of the Country Code was discriminatory, which expressed that any religious custom, which has been adopted from the very beginning of traditions, should not be considered discriminatory. The petitioner claimed that, that clause was inconsistent with Article 11 of the Constitution, as it prohibited other castes to perform rituals in the temples or religious places. The SC gave decision in the favour of the petitioner and declared void the explanatory clause from the date of its decision as it had contravened Article 11 (4) as well as the letter and spirit of the Constitution (Writ No 2505, 4670, 49/11/14, Vol. 12, Year 049, p.1010).
- c. In the case of *Babu Krishna Maharjan Vs Office of the Prime Minister and Council of Ministers, and others*, the SC issued a directive order in the name of respondent to formulate a programme according to the priority to the needs based services, facilities for disabled people under The Disabled Protection and Welfare Act, 1982, and to implement it by next year (Writ No 3666, 2061 BS, 18 January 2005).
- d. In the case of *Chandrakanta Gyawali Vs Office of the Prime Minister and Council of Ministers, and others*, the SC issued a directive order to the Government to formulate appropriate law, bearing in mind the social norms and values. The petitioner claimed that the clause 9 of Section of Marriage of Civil Code, which permits polygamy if wife is physically or

mentally disabled, was contrary to the CEDAW and the Constitution (Supreme Court Bulletin, No 3, Vol. 309, Year 14, p.1).

e. In the case of *Federation of Dalits NGO Vs HMG/N* (Writ No 3303, 2061 BS, 2 May 2005), the SC issued a directive order to the Government to declare *Chhaupadi* practice as a malpractice, and to form a study Committee of Health Workers and Children to work for public awareness and to formulate law, if required.

f. In the case of Advocate *Ramesh Thapa Vs Cabinet Secretariat* (An Unpublished decision of the SC), the SC has issued an order to the Government Cabinet Secretariat and Ministry for Law, Justice and Parliamentary Affairs to immediately formulate a law to put an end to the crime of accusing women for witchcraft.

g. In the case of *Pradhyosh Chhetri Vs Cabinet Secretariat* (An Unpublished decision of the SC), the SC issued a directive order to endorse a law within a year for the protection of disadvantaged and deprived groups, communities, and women who are in need of protection.

h. The SC issued a directive order, requiring the Government to introduce appropriate legislation to enforce gender equality provisions enshrined in the Constitution, keeping in mind the legal arrangements devised in this regard in other countries in the Case of *Meera Dhungana Vs Ministry of Law, Justice and Parliamentary Affairs* (Writ No. 3392 of 1995, decision date 1995-9-3). In the case of Reena Bajracharya, the SC declared a provision of the Royal Nepal Airlines Corporation Rule's 1974 ultra virus (Writ No 2812 of 1998 (2054 BS). The rules discriminated against women workers in terms of the age of retirement for crewmembers, which were 55 for men and 30 years of age or 10 years of service for women (airhostesses). The SC, in the case of *Alok Chalise Vs Shiru Chalise*, recognized mother as the neutral guardian of her child. Similarly, in the case of *Lila Bahadur Karki Vs Anna Purna Karki*, the SC established wives' right to separation. In another case, *Surya Bahadur Thapa Vs Dhan Kumari Saru Magar*, the court pronounced the priority of daughters than adopted or stepsons. In the case of *Prem Bahadur Gharti Vs HMG/N*, the SC established new norms that accepted confession before administration should be taken as an evidence in the case of rape by authorities. This verdict reversed the principles established in several cases decided by the SC. In the case of *Dr. Chanda Bajracharya Vs Secretariat of Parliament and others*, the SC, declared ultra virus several discriminatory provisions against women i.e. No. 12 of Chapter on Partition, No. 2 of Chapter on Heirs (*Aputali*), No. 5 and 9(a) of Chapter on Adoption, No. 4 of Chapter on Adultery (*Jari*), No. 9 of Chapter on Marriage, No. 1 of Chapter on Husband and Wife, and No. 2 of Chapter on Animal Sex of the Country Code. The court also issued directive orders to HMG/N to present an appropriate bill making consultations with concerned persons, bodies, associations, institutions, sociologists and legal experts taking into consideration and studies of the various aspects of society (Writ No. 2186 of 1994 (2051 BS), decision date 1997-7-18).

Extent of poverty and its alleviation programme, target of Ninth Plan and establishment of Poverty Alleviation Commission (paragraph 16 of the concluding observations/comments)

12. GON has been trying for the effective implementation of the Covenant to reduce poverty. According to Nepal Living Standard Survey (NLSS) 2004, 95% of the poor people live in rural areas. Wide variations in poverty levels were also reported based on the rural-urban division, ecological zones (mountain, hills, and the *Terai*), gender, ethnic groups, and occupational castes. In 1996, 42% of the population was living in poverty and eight years later (2003/04), this figure was found dropped down to 31%. The poverty gap ratio declined from 0.12 to 0.075 during this period, which is an average figure. During this period, real individual per capita consumption increased by 42%, representing a high increment in income (UNDP, NDR, 2005). The probable reasons for this decline, in the poverty gap ratio were: remittance supported consumption, increased income from agricultural labour, the massive increment in the economically active population, rapid urbanization, and an increase in non-farm incomes (CBS/World Bank, 2005).

13. Poverty alleviation was one of the major objectives of the Ninth Plan. The Plan was aimed for the progressive reduction of the poverty rate from 42% to 32 %. However, the poverty rate declined to only 38% during the period. The Ninth Plan pronounced a 20-year Agriculture Perspective Plan (APP) to reduce the absolute poverty to 10 %. GON has established Poverty Alleviation Fund (PAF) to serve as focal point to carry out the programmes envisaged in the Tenth Plan and Poverty Reduction Strategy Paper (PRSP). Keeping the progress status of the Ninth Plan in view, the target is fixed to bring down the percentage of people living under poverty line to 30% by the end of the Tenth Plan.

14. GON has been adopting several measures to reduce poverty in the country including the relevant policies, strategies, plans, action plans and programmes (HMG/N, the UN, NMDGPR, 2005, p.9). The detail provisions of these policies, strategies, plans, action plans and programmes are analyzed under Part III of this report.

Legal inequalities between women and men (paragraph 17 of the concluding observations/comments)

15. The eleventh amendment of the Country Code, which came into force on 26 September 2002, abolished inequalities between women and men in the field of inheritance. Pursuant to the Chapter on Women's Property of the Country Code, the parental property obtained in marriage from the parents becomes the personal assets of the bride and the assets obtained by the groom from the bride becomes the shared assets of both the bride and the groom. A woman is free to use, sell or give her property as a gift, which is known as *pewa* and *daijo*. The assets obtained by the bride from her parents and relatives are known as *daijo* and the properties earned by herself from a job, obtained from the husband and his relatives and coparcener of the husband is known as *pewa*.

Women and girls trafficking for prostitution, polygamy, Deuki and dowry (paragraph 18, 43 and 45 of the concluding observations/comments)

16. There is no reliable data on women and girls trafficking for prostitution. A study reveals that approximately 12,000 women and girls are trafficked primarily for the purpose of commercial sexual exploitation. For several years, Nepali women and girls were trafficked to Indian brothels, mainly in Bombay, Calcutta, Delhi, Banaras and Gorakhpur cities (ILO/IPEC, 2004).

Absence of specific legislation to punish domestic violators (paragraph 19 and 44 of the concluding comments)

17. There were 3,433 cases registered at the Central Women and Children Service Centre (CWCSC), Kathmandu from 1999 to 2004 (CWCSC, CID, Nepal Police, 9 November 2004). There is no specific legislation and there were difficulties to punish the offenders for domestic violence. However, Chapter on beating in the Country Code, 1963, The Defamation Act, 1960, The Certain Public (offence and punish) Act, 1971, The Labour Act, 1992, The Children Act, 1992 are being used for the punishment of offenders of domestic violence. Taking into account this fact, MOWCSW has drafted a bill on Domestic Violence against Women in 2003, and GON is considering to table it to the HORs in a proper time.

High unemployment and under employment rates and lack of skill-oriented education (paragraph 20 and 47 of the concluding observations/comments)

18. Nepal is facing high unemployment and underemployment problem. 1.8% of the population aged over 15 years are unemployed (CBS, Statistical Pocket Book- Nepal, 2002, p.4). Employment opportunities have been confined largely to the informal sector – low-paid, low and non-skilled works, and lacking social security system. Self-employment still accounts for more than 67% of livelihoods and of the total self-employed population, 78% is in agriculture. This has deepened underemployment in the agriculture sector, which is now estimated to be 32.3% (CBS, 1999). Moreover, according to the Labour Force Summary, 73.3% of the non-agricultural labour force works in the informal sectors. Informal sectors' employment has mounted as high as 93.6% and two-thirds of these workers are unskilled and they have little access to training opportunities (ILO, 2002). It is also said that unorganized, bereft of collective bargaining power of job security, they continue to operate outside the realm of public policy (NHDR, 2005, p. 42).

19. The education system of Nepal is not the only cause for unemployment and underemployment. However, the vocational education system can contribute in reducing unemployment and underemployment. To facilitate this, Nepal introduced vocational education in 1972 but could not successfully implement it throughout the country. After a decade, the present education system was introduced. Lack of money for investment, small market, poor transportation facilities, frequent general strikes (*bandh*), armed conflict, lack of sufficient raw materials, customs and tariffs, the availability of cheaper Chinese goods, open borders with India, landlocked situation and lack of capacity to compete with large investment in the industries and trades are the causes and factors

affecting the growth of industrial and trade activities within the country. GON has established four training centres for technical skills and vocational schools in Doti, Banke, Dang, and Mustang districts during the Ninth Plan period. Through technical schools and vocational training centres established under the Council of Technical Education and Vocational Training, 2,274 people were given regular training and 6,709 people were given short-term training. The education policy has had continued in the Tenth Plan. Two additional technical institutions and two poly-technical colleges are to be established in the Tenth Plan period. There is a plan to impart regular (fulltime) training to 7,100 persons and short-term training to 23,555 people. There is also a plan to conduct scheduled programmes with additional classes to provide secondary level skill-oriented education in 75 community schools in each district. Technical and vocational subject will be made available at college and university levels. There are six universities in the country namely; Tribhuvan University, Kathmandu University, Mahendra Sanskrit University, Purbanchal University, Pokhara University, and The Lumbini Buddhist University have been imparting higher level education and research in the country. Tribhuvan University is the largest and the oldest university in Nepal, which has affiliation with 61 constituent campuses and more than 287 colleges throughout the country. Moreover, informal and non-formal education are also being imparted in the country. However, the insurgency had disturbed to the large extent running of scheduled programmes.

Land tenure issue and agrarian reform (paragraph 21 and 48 of the concluding observations/comments)

20. GON has resolved the tenancy problem by amending the Land Reform Act, 1964, on 8 February 2003. The Fourth Amendment of the Act has resolved the tenancy problem by securing the rights of the tenant of the land. The tenant is entitled to receive 50% share of the land. Either the owner or the tenant or both can proceed to divide the share of landowner or tenant. This amendment also abolished the tenancy right over the land after the commencement date of this amended Act. The tenant who had been tilling the land before the commencement of the Act could get tenancy right. This amendment also reduced the upper ceiling of land for landlord from 25 *bighas* to 10 *bighas* (24.7 to 9.9 hectares) for agricultural purposes in the *Terai* area, from 50 *ropanis* to 25 *ropanis* (2.5 to 1.25 hectares) in the Kathmandu Valley and from 80 *ropanis* to 70 *ropanis* (4 to 3.5 hectares) in the mountainous regions outside the Kathmandu Valley. For the purpose of residence, the ownership of the land shall be one *bigha* (0.99 hectares) in the *Terai*, five *ropanis* (0.25 hectares) in the Kathmandu Valley and all other mountainous regions outside the Kathmandu Valley. It was expected that some pieces of cultivated land could be acquired through this new ceiling of land holding and that could be distributed to freed bonded labours, *Dalits*, indigenous nationalities and ethnic communities among the landless. However, not much land could be received. GON has acknowledged peoples' right to participate in land use and resource management decisions by enacting different Acts, by laws and guidelines. Initiatives like the community based forest resource management regimes are becoming successful in maintaining the forests cover and securing their needs where the Government handed over communities the responsibility of managing government forests and the right to use the forest's products in a sustainable way. The other management regimes that have complemented community forests are leasehold forests,

collaborative forests and religious forests. Buffer zone community forests in protected areas and the community development groups in watershed, which covers about 30% of total forest area through 19,963 groups involving 40% of the total population.

21. The Master Plan for Forestry Sector (MPFS), 1988 provides a twenty-year policy and planning framework for the forestry sector. Long term objectives of the MPFS are: to meet the peoples' basic needs on sustainable basis, to conserve the eco-systems and genetic resources, to protect land against degradation, and to contribute to local and national economic growth.

Problems of liberated Kamaiyas and Dalits (paragraph 22 and 46 of the concluding observations/comments)

Kamaiya

22. GON has abolished the *Kamaiya* system (agricultural bonded labour) in July 2000. At that time, 18,400 households were freed. Historically *Kamaiya* have involved in farming activities for centuries and it was carried over generations. The Bonded Labour (Prohibition) Act was enacted making *Kamaiya* system punishable. The system was prevalent in eight *Terai* districts, most of which were forced to pledge family labour in return for meager amounts of food crops. In addition, they were bonded by loans they had incurred to ensure their survival. The Government and the association of *Kamaiyas* with the support of several human rights organization played a vital role to abolish this system.

23. Currently, Trade Unions are working to organize ex-*Kamaiyas* to ensure minimum wages and working conditions on account of various programmes launched by the GON, NGOs/INGOs and donors such as; skill development, education, health and other elements of empowerment. The awareness-raising programme has brought significant changes in freed *Kamaiyas'* social lives. They are able to put forward their problems and demands, and also able to discuss with policy makers and planners for their rights. This, we consider, a commendable achievement in the areas of ex-*Kamaiyas'* empowerment. There have been some positive changes and improvement in the lives of ex-*Kamaiyas*. Altogether, GON has distributed 2,400 *bighas* of land to rehabilitate 12,019 ex-*Kamaiya* families. The total amount of Rs.84.9 million has been provided to 8,705 families as financial assistance for house construction. Total amount of Rs.16.7 million has been distributed to 827 self-help ex-*Kamaiya* groups as revolving fund. Similarly, Rs.5.38 million has been established as income generation support fund, and out of this amount Rs.1.08 million has been invested for income generation activities. Besides these, identification cards have been distributed to about 13,000 additional ex-*Kamaiya* families. School enrollment has increased from 55 to 72%. About 51% of skilled development training graduates are using their skills for livelihood. More than 72% households have perceived their income being increased. However, the coverage has not been adequate as large number of people have come up claiming ex-*Kamaiya* status.

24. After the abolition of the *Kamaiya* system, the Government had provided plots up to 0.15 hectares, along with assistance in the construction of huts. Several agencies provided aid in skill development, education, health and other elements of empowerment. Due to lack of resources, they

needed access to employment opportunities for their livelihood. As a result, more ex-*Kamaiya* children than before have become domestic workers in urban areas, more ex-*Kamaiya* women perform unpaid household chores for local landlords and many ex-*Kamaiya* men have reverted to the same jobs from which they were presumably freed (NHDR, 2004, p.62). The key reason for the ineffectiveness of the rehabilitation efforts amount largely to a lack of coordination and proper sequencing of the activities undertaken by different actors. Ex-*Kamaiya* families were resettled in areas where they had to share scarce employment opportunities with the local people, as well as inadequate infrastructures such as schools, health clinics, drinking water and other facilities. Moving to a new place also created new problems for these migrants with meager resources. However, ex-*Kamaiyas* need integration into their own villages, along with the legal and social safeguards appropriate to agricultural labours (NHDR, 2004, p.62).

25. GON has started to include *Kamaiyas* livelihood programme in the Annual Plan since 1995/96. After *Kamaiyas* liberation in July 2002, the Government has initiated rehabilitation programmes since then. The United Nations' Agencies, more than dozen INGOs, Asian Development Bank (ADB) had provided financial support for their rehabilitation. Some of the families of ex-*Kamaiya* have been involved in vegetable production and others are keeping livestock and poultries. As a result, the *Kamaiya* families are being empowered through these vocational training programmes and their living standard is getting better. However, GON is not satisfied with the current achievements and is planning for better income generating opportunities.

Dalits

26. The National *Dalit* Commission has defined *Dalit* as those communities who, by virtue of caste- based discrimination, and untouchability, are the most backward in the social economic, educational, political and religious spheres, and are deprived of human dignity and social justice (NHDR 2004, p. 54). *Dalit* population of Nepal is estimated to be 12.9 % of the total population. The Commission has identified 19 caste groups as *Dalit*. The Constitution of the Kingdom of Nepal, 1990 guarantees the fundamental rights without any discrimination on grounds of caste, creed, religion, race or ideology. The Constitution also directs the Government to implement affirmative actions and to take measures to eliminate discrimination with a view to promote and enhance harmony and respect among the different racial groups, irrespective of caste, creed or religion. Relevant legal and statutory instruments that protect the rights of people are: The Civil Liberties Act, 1954, The Country Code, The Legal Aid Act, 1998, the Local Self-Governance Act (LSGA), 1999, and more others.

27. LSGA, 1999 is the instrument to institutionalize the process of development by enhancing the participation of all people including *Dalit*. This Act emphasizes in bringing out social equality in mobilizing and allocating means for the development of their own regions resulting in the balanced and equal distribution of the fruits of development. LSGA has provisions to nominate representatives in the council, board and mediation committee of local bodies (LBs) from among the *Dalits*. According to LSGA, LBs are required to give priority to the projects that benefit women and children, including the marginalized people, while formulating development plans. Provision for

nomination also from among *Dalit* to the National Assembly (*Rastriya Sabha*) gives additional opportunity to these people to represent in the legislative body of the State.

28. As mentioned above, poverty is a great challenge of Nepalese society and still 31 % people are living below the poverty line. Intensity of poverty is concentrated among the female led families and *Dalit* people. Most of the *Dalits* in Nepal can certainly be classified as disadvantaged and ultra poor.

29. The Eighth and Ninth Plan had special socio-economic programmes specially targeted to deprived groups including *Dalits*. The Tenth Plan has the sole objective of the reduction in the poverty level and one of the four pillars of the Plan is 'social inclusion of people'.

30. The long-term vision of the Tenth Plan is to raise the living standards of *Dalit* communities. The objective of the policy is to empower the *Dalits*. Institutional arrangements have been made through LBs, National *Dalit's* Commission (NDC), Neglected Suffered Depressed Class Upliftment Development Board (NSDUDB), and NGOs to implement the programmes. The Ministry of Local Development (MOLD) is the focal ministry on *Dalits'* issues. LBs, NDC, and the National Planning Commission (NPC) have been monitoring *Dalit* empowerment activities and programmes. The cost Rs.500 million, is to be borne by PAF and Rs.1,100 million by GON grant-in-aid through LBs. The expenditure of the line ministries is not included in this amount.

31. One of the indicators for the Monitoring and Evaluation (M&E) of the projects under the Tenth Plan is that, the beneficiaries of the programme will be at least 30 % people of the backward castes and Indigenous Nationalities at local level.

32. Activities of NSDUDB are concentrated on skill development, scholarship, income generating, and awareness raising programmes. NDC is established by an executive order to make necessary recommendations for legal and policy arrangements, strategies for the effective implementation of the Convention on the Elimination of all Forms of Racial Discrimination (CERD), monitoring and coordination of NGOs for an upliftment of the *Dalits* etc. The Road Map for Administrative Reform Programme of GON has proposed reservation for *Dalit* people in civil service. The Ministry of Education and Sports (MOES) and Tribhuvan University (TU) have some reservation initiations for *Dalits* in higher study. MOLD has supported several *Dalits* focused poverty alleviation projects through LBs. GON has approved National Human Rights Action Plan (NHRAP) for *Dalits* with clear mandates with different line ministries, LBs, and NGOs.

33. The Government had made a policy announcement on 17 August 2003, which calls for the elimination of all kinds of discrimination and exploitation, ascertaining the representation of *Dalits* in proportion to their national population in the National Assembly and representation of the women by 25 % in the parliament and other representative institutions and make their representations in the areas of education, health and employment. However, this policy announcement has not been properly enforced and implemented yet.

34. GON is serious about the concluding observations of CERD and Durban Declaration on the issue of *Dalit* people. MOLD and NDC have jointly published the 15th and 16th periodic reports of Nepal on CERD in Nepali and English language. These publications were disseminated to all ministries, LBs, donor agencies, NGOs and *Dalit* activists. NDC is entrusted to prepare Nepal's 17th periodic report on CERD with wider participation of civil society and stakeholders. Recent formation of NDC with more responsibilities including the coordination of human rights violation cases has widened the jurisdiction of NDC. NDC has succeeded to coordinate to settle some cases on the violation of human rights of the *Dalits*.

35. GON has initiated a programme called 'Education for All' targeting the Disadvantaged Group (DAG) including *Dalits*. Radio and TV programmes have been launched focusing on these people.

36. GON has recently announced several measures for the empowerment of *Dalits* and Indigenous Nationalities (INs). A separate District *Dalit* and Indigenous Nationalities Coordination Committee has been formed under the chairmanship of the Chairman of District Development Committee (DDC) including the stakeholders to work as a watch dog of the plans and programmes that are launched through Governmental Organizations (GOs) and NGOs at the local level. A focal point or desk has been established in each DDC and municipality to look after this matter. This desk is also responsible for the coordination and facilitation in implementing the provisions of LSGA regarding *Dalits* and INs issues.

37. It is said that the problems of *Dalits* in Nepal can be categorized as: inadequate database on *Dalit*, lack of collaborative approach among the stakeholders, ineffective implementation of the projects and legal provisions, lack of proper M&E mechanism, highly unacceptable attitude in the society to *Dalits*, and few non-*Dalit* initiations for *Dalit* upliftment, less priority for the promotion of traditional and indigenous technology, inadequate development efforts and access to development facilities, very low level of education, awareness and poor health condition, triple exploitation of *Dalit* women, lack of sufficient affirmative actions, lack of Public Private Partnership (PPP) initiation towards *Dalit* upliftment etc.

38. Considering the poor situation of *Dalits*, implementation of plan, policies and legal provisions and effective M&E mechanism, strengthening of NDC, mass movement for education and awareness, empowerment of *Dalit* women, promotion of traditional and indigenous technology, research and development, have been recommended. Problems faced by *Dalits* are trying to be resolved in a collaborative way. Private sectors should also take initiation for the elimination of poverty from the society. So, civil society and international partners should also join hands with the GON to eliminate caste-based discrimination.

Legal minimum wage of employee and workers (paragraph 23 and 49 of the concluding observations/comments)

39. Nepal is an agrarian country where more than 80% people depend on agriculture for their livelihood. However, majorities of the populations do not want to adopt agriculture as a principal

occupation. There are several reasons behind this, i.e., lack of irrigation facilities, droughts, floods and natural calamities, lack of timely supply of quality seeds, fertilizer, tools, low productivity and physical works. The Agricultural Gross Domestic Product at constant (1994/95) prices in 2004/05 is estimated at 39% (MOAC, 2004/05).

40. Nepal is a party to the ILO Convention on Minimum Wage Fixing, 1970. The provisions of the said Convention are incorporated in the Labour Act, 1992. Section 21(1) provides a mechanism consisting of equal representatives of the Government, employers and labour organizations. GON has determined legal minimum wage for employees and the workers of industrial and non-industrial sectors to which the Act applies on the recommendations of the mechanism mentioned above. The wages are determined in accordance with Section 21(1) of the Labour Act, 1992. GON had determined wages on the recommendation of the Minimum Remuneration Determination Committee. GON for the first time had determined the remuneration and dearness allowance for the employees and workers of Tea Estates on 15 March 2000, and for the employees and workers of companies other than Tea Estates on 25 April 2001. The Government has revised the remuneration and dearness allowances for the employees, which are presented in the following table:

Table 1: Minimum Wage and Dearness Allowance for the Employees of Industries/Companies

1	Classification of Employees or Workers	Minimum Monthly Remuneration
A	Unskilled	Rs.1700.00
B	Semi-Skilled	Rs.1750.00
C	Skilled	Rs.1860.00
D	Highly Skilled	Rs.2050.00
E	Minor	Rs.1384.00

Following dearness allowance should be added in the above mentioned remuneration

2	Classification of Employees and Workers	Dearness Allowances
A	Adult	Rs.860.00
B	Minor	Rs.645.00

Minimum Wage for daily wages Workers

3	Classification of Employees or Workers	Minimum Daily Remuneration
A	Adult	Rs.90.00
B	Minor	Rs.73.00

Notes:

- For the purpose of this notice, minor means the employee or worker who has attained the age 14-16 years.
- The minor who has attained 16 years of age shall receive equal remuneration and dearness allowance equal to adult.
- US\$ 1 is approximately Rs.73.00

Source: GON, Nepal Gazette, Part 53, Additional No. 22 (A+1), 18 August 2003).

41. Similarly, GON has also determined the remuneration and dearness allowance for the workers of Tea Estate on the basis of the recommendation of the Minimum Remuneration Determination Committee. The minimum wages and dearness allowance have been presented in the following table:

Table 2: Minimum Wage and Dearness Allowance for the Workers of Tea Estate

1	Classification of Employees or Workers	Minimum Monthly Remuneration
A	Adult	Rs.1683.00
B	Minor	Rs.1262.00

Following Dearness allowance should be added in the above mentioned remuneration

2	Classification of Employees or Workers	Minimum Monthly Dearness Allowances
A	Adult	Rs.400.00
B	Minor	Rs.265.00

Minimum Wage for daily wages Workers

3	Classification of Employees or Workers	Minimum Daily Wages
A	Adult	Rs.74.00
B	Minor	Rs.56.00

Notes:

- For the purpose of this notice, minor means the employee or worker who has attained the age 14-16 years.
- The minor who has attained 16 years of age shall receive equal remuneration and allowance equal to adult.

Source: GON, Nepal Gazette, Part 53, Additional No. 28 (A+1), 8 September 2003).

42. The remuneration fixed by the Government is based on the recommendation of the Minimum Remuneration Fixation Committee as prescribed in the Labour Act, and its Regulation, while making a recommendation for fixing remuneration. The Committee shall have take into account the remuneration scale of civil servants, government corporations and companies, market price of the commodities, seasons, etc. The Government has revised the remuneration and dearness allowances for the employees and workers of formal and informal sectors. Despite the fixing of minimum wage rates, the informal sector is paying the remuneration below the fixed rate and there is also a large discrepancy between the wage levels paid between the male and female workers.

Ratification of ILO Conventions No. 29, 81, 87 and 182 (paragraph 24, 50 and 52 of the concluding observations/comments)

43. Nepal became a member of ILO in 1966 and has ratified nine Conventions adopted by ILO on different dates. The ILO Conventions ratified by Nepal are: Convention no. 14, 29, 98, 100, 111, 131, 138, 144 and 182. The names of the Conventions and date of ratification by Nepal are presented in the following table:

Table 3: List of International Labour Conventions ratified by Nepal

Convention No.	Conventions	Date Ratified
Convention 14	Weekly Rest (Industry), 1921, (No. 14)	10.12.1986
Convention 29	Forced Labour, 1930 (No. 29)	3.01.2002
Convention 98	Right to Organize and Collective Bargaining, 1949 (No. 98)	11.1.1996
Convention 100	Equal Remuneration, 1951 (No. 100)	10.03.1976
Convention 111	Discrimination (Employment and Occupation), 1958 (No. 111)	19.09.1974
Convention 131	Minimum Wage Fixing, 1970 (No. 131)	30.05.1974
Convention 138	Minimum Age, 1973 (No. 138) Minimum Age Specified: 14 years	30.05.1997
Convention 144	Tripartite Consultation (International Labour Standard), 1979 (No. 144)	21.03.1995
Convention 182	Worst Forms of Child Labour, (No. 182), 1999	3.01.2002

Source: GON, MOLTM, Child Labour and International Relations Section, May 2005.

44. GON has been considering to accede to the ILO Conventions No. 81 and 87 in an appropriate time in the future.

Defining “moral turpitude” in existing legislation (paragraph 25 and 51 of the concluding observations/comments)

45. Moral turpitude is a ground for removal, dismissal or disqualification from employment in the civil service. This rule is applicable in other public sector employments too. This rule is based on the public order, well being of public and good conduct of the State. However, the term “moral turpitude” has not been defined in The Civil Service Act, 1993, and its Regulation 1994. In the case of *Ambar Bahadur Pandey Vs Nara Bahadur Pandey*, the Special Bench of the SC has defined the term moral turpitude as; any person who has been punished in a murder case can not be considered as moral turpitude without looking at the circumstances under which the crime was committed. However, if a person has confessed the crime of murder after theft and dacoit, it can be considered as the crime of moral turpitude (NLR, 1970 (2030 BS), decision No.774, p.289).

46. As a matter of fact, it is very difficult to define the grounds for moral turpitude on a hard and fast basis. It is a matter to be decided by the court on case-by-case basis. However, it is an established principle of jurisprudence that in case of a crime where strict liability is provided, such a crime is considered to be a crime involving moral turpitude. Even in that case, if the offender proves that the crime was commissioned without his/her knowledge the offence may not be considered involving moral turpitude in relation to such a person.

Conformation of statistics of child labour in Nepal (paragraph 26 of the concluding observations/comments)

47. According to a study, 127,139 children are suffering from the worst form of child labour in Nepal. It is estimated that approximately 12,000 children are trafficked each year. The forms of child labour and number are provided in the following table:

Table 4: Worst Form of Child Labour

	<i>Forms of Child labour</i>	<i>Number</i>
a)	Domestic Child labour	55,655
b)	Child Rag Pickers	3,965
c)	Children in Carpet	4,227
d)	<i>Kamaiya</i> Children (Bonded labour)	17,152
e)	Children in Mines	115
f)	Child Porters	46,029
g)	Children Trafficked	12,000 each year

Source: ILO/IPEC, Time Bond Programme, 2004

Review and update of the statistic on the access to safe water, health service and sanitation (paragraph 27 of concluding observations/comments)

48. People have also been given the right to clean environment. Therefore, GON has enforced the Environment Protection Act, 1996, and the Environment Protection Rules, 1997 among others, thereby contributing to maintain clean and healthy environment. GON has been paying serious attention on safe water, health and sanitation services. GON believes that drinking water and sanitation facilities are the basic needs of human beings. The current status of access to safe water, sanitation and health services are analyzed here in below:

Access to Safe Water and Sanitation Facilities

49. By the end of Ninth Plan, 71.6 % (17,017 thousand) of the total population had access to drinking and potable water. The Tenth Plan has targeted to provide basic drinking water service to additional 4.591 million people including 3.852 million rural and 0.739 million urban populations, to provide a high level service to 1.334 million people and medium level service to 2.668 million people. To provide sanitation facility to 7.421 million people, including 5.613 million from rural and 1.808 million from urban areas, by motivating the households to construct private toilets. The MDGs also targeted 73% population to have access to improved water sources, and 53% population to access improved sanitation by 2015 (MDGs, 2002). By the middle of 2005, 74.81% of the total population had access to improved water sources (MDGs: Progress Report, 2005, p. 70). Of this, 79% rural population and 93% urban population had access to safe and sustainable water sources respectively. Similarly, 39% of the total population had access to improved sanitation. Of this, 30% of rural population and 81% of urban population had access to improved sanitation facility.

50. Overall sanitation coverage increased substantially from 6% in 1990. NLSS 2003/04 reveals that 39% households have access to toilets. During National Sanitation Week, the construction of 60,000 toilets was promoted (DWSS, 2004). The indicators of drinking water and basic sanitation facility are presented in the following table:

Table 5: Indicator of Drinking Water and Basic Sanitation Facility

Indicator		1990	1995	2000	2005
1	Proportion of population with sustainable access to an improved water sources	46	70	73	74.81
	(a) Rural	43	68	71	79
	(b) Urban	90	96	86	93
2	Proportion of population with sustainable access to basic sanitation	6	22	30	39
	(a) Rural	3	18	25	30
	(b) Urban	34	67	80	81

Source: MDGs: Progress Report, 2005, p.70

51. There have been significant improvements in water supply and sanitation facility in the short period of time. But there still exists a big gap between rural and urban areas, regarding access to drinking water and sanitation facilities.

52. According to a survey by the Department of Water Supply and Sewerage, 55% of tube wells in 20 *Terai* districts were microbiologically contaminated. The National Arsenic Steering Committee has reported that 15% of the 339,515 tube wells have arsenic levels above the WHO Standard and 3% above the Nepal Standard. Despite the efforts of the Government about 300,000 people are using arsenic contaminated water even below the Nepali standard (DWSS, 2002).

53. Solid wastes make up 83% of the total wastes generated in the country; of which agricultural waste is 11% and industrial waste is 6%. Solid wastes and plastic litter areas are visible creating environmental problems, which are increasing. Urban households generate the most solid wastes in the country, at 0.48 kg per capita per day. In 1999, 3,000,000 urban residents of 58 municipalities generated a total 426,486 tons of waste, out of which Kathmandu's share was 29% (HMG/N, JICA, 2004). Medical waste alone in the Kathmandu Valley is generated at the rate of 17.7 kg per bed, out of which infectious waste is generated at a rate of up 0.48 kg per hospital per day. It is estimated that there are 3,905 hospital beds in the Kathmandu Valley. Most of this waste is either dumped as ordinary garbage or burned in an ordinary oven. So GON has been trying to manage such wastes in a safe manner. GON and Kathmandu Municipal Corporation have recently opened and started operating a new sanitary land fill site at Okharpauwa that will help in reducing the unmanaged wastes in the city and improve the waste collection capacity.

54. GON has enforced the National Water Plan 2002-2017, which aims to meet the increasing demand for drinking water and sanitation. According to this plan, the entire population will have access to a water supply by 2017, of which 27% will have medium – high quality water supply and 100% will have access to basic sanitation facility. The Plan also has addressed urban sewerage and wastewater treatment related to drinking water as well as sanitation (MDGs Progress Report, 2005, pp. 72-73). As per the requirement of the Environment Protection Act, 1996, GON has enforced the 9 Industries Specific Wastewater Standards and the Vehicle Emission Standards. This will help to reduce waste and air pollution in urban and industrial areas and thus contribute towards healthier environment to all the people.

55. GON has revised the Rural Water Supply and Sanitation National Policy, 2004. The revised policy clearly indicates that the Government and local bodies will regulate, monitor and facilitate the implementation of rural water and sanitation plans and programmes. The role of line agencies is to provide policy guidance and technical back ups while NGOs will assist community user committees in formulating and implementing projects, managing funds, carrying out pilot schemes, and recommending policy and programme modifications. GON promulgated Water Supply Management Board Ordinance in 2005 to encourage the public private partnership in the urban water supply and sanitation. Similarly Water Supply Tariff Fixation Commission Ordinance, 2005 was promulgated to regulate the water tariff and to address the user's interest. Also Nepal Water Supply Corporation (NWSC) Act Amendment Ordinance, 2005 was promulgated to transfer the assets and liabilities of NWSC to the private sectors.

56. The Melamchi Water Supply Project is aimed at meeting the medium term need for water supply of the Kathmandu Valley. The DWSS under the Ministry of Physical Planning and Works is the leading agency. The Asian Development Bank (ADB) has been funding the project. The Rural Water Supply and Sanitation Fund Development Board has funded for the supply of water in both urban and rural areas, whereas ADB has been playing a key role in providing Water Supply and Sanitation services in the rural areas.

57. Various governmental organizations and institutions are involved in solid waste management at the policy and organizational level. The Solid Waste Management and Resource Mobilization Centre supports the Ministry of Local Development to: (a) develop appropriate legislation, (b) develop environmental guidelines, (c) deal with landfill site development issues, (d) provide financial support wherever appropriate in all aspects of solid waste management, (e) provide technical support to municipalities, (f) enhance the capabilities of municipalities and (g) act as a link between the ministries and municipal bodies and local bodies. Ministry of Environment, Science and Technology is mandated for the formulation of environment policy, guidelines, standards, among others, thereby making arrangements for the implementation of these tasks.

58. GON has included the subject of sanitation into secondary school courses and is introducing environmental education at the primary level. Grants have also been provided to Village Development Committees (VDCs) for drinking water and sanitation works, resulting in some promising local initiatives.

59. GON has constituted a National Committee for Sanitation Action (NCSA). The NCSA coordinates the sanitation activities of the numerous agencies working in the sector; advises on policy and strategic issues and plans and manages the activities under the National Sanitation Action Week.

Challenges:

60. Despite the policies and programmes, the GON has been facing several challenges on drinking water and sanitation facilities. The water supply system in the Kathmandu Valley is not sufficient and ensuring water quality is another major challenge in Nepal. Nationally, 30% of households reported incidence of diarrhoea, dysentery, jaundice and typhoid or cholera. Nearly 3% of the ground water supply of the drinking water in the *Terai* is contaminated with unacceptable levels of arsenic elements, and some signs of contamination have been found in ground water in Kathmandu as well.

61. A study conducted by CBS in 2005 revealed that two-thirds of the households in the Kathmandu Valley had access to a sewerage facility. However, there is a lack of planned wastewater management infrastructure.

62. GON has been facing financial constraint to provide safe drinking water and sanitation facilities to the people. The need assessment study of MDGs has estimated Rs.137, 398 billion (US \$1,962.83 million) resource gap in investment, the largest quantity of resource being for drinking water and sanitation from 2005 to 2015.

63. GON has been putting efforts to invest the required fund in this sector. There is an urgent need to provide financial and technical support to Nepal from the UN bodies and donor agencies.

Access to Health Services

64. There have been progressive improvements in many areas of health services over the past decades. At present 70% of the total population have access to health services facility. Child delivery services of trained health workers have reached 37% to expectant mothers. 20% of pregnant women have deliveries attended by health care providers (doctors, nurses, auxiliary nurses and midwives) whereas it was 7% in 1990.

Adequate compensation for the displaced people of Marshyangdi and Kulekhani hydropower project (paragraph 28 and 53 of concluding observations/comments)

65. Marshyangdi and Kulekhani hydropower projects are considered to be big projects within the country. These projects have significant contribution in supplying electricity. 1,562 *ropanis* (78.1 hectares approximately) land of 222 households of the three districts, Tanahun, Gorkha and Chitwan was acquired by the GON in accordance with The Land Acquisition Act, 1977 for the establishment

of the Marshyangdi hydropower project. All the landowners were adequately compensated by the concerned district administration offices. The WB conducted a study through New Era (a research-based NGO) on the impact of the people affected by the project, and the study revealed that out of 222 households; only 48 households were severely affected by the project. Of them, the lands, houses and cattle huts of 15 households were used for the project. More than 40 *ropanis* (2 hectares) land of ten households were not used and the used lands were returned back to the concerned households by taking the amount paid to them at the time of acquisition. Another 623 *ropanis* (31.15 hectares) of land are also unused and the Nepal Electricity Authority has decided to return it to the concerned landowners by taking compensation amount from them. If the landowners are not interested to reacquire the land then the land will be sold out in auction. The decision of the Nepal Electricity Authority was sent to the GON for approval on 2004-06-28.

66. Marshyangdi hydropower project also conducted two programmes: individual programme for the seriously affected people and collective programme for the benefit of local people. Under the individual programme, employment was provided for 17 people, training was provided for ten people, special allowance was provided for five people, occupational loan for keeping buffaloes and goats was provided for three people. However, other three people included under the programme did not demand for any support with the project. Included under the collective programme, there are renovation of Akala Devi temple, Baradi rest house, drinking water of Camp C, Dhaptar and Dhakaltar, construction of irrigation canal at Dhakaltar, and Sakhtar and construction of Goplingtar lift irrigation from the Environment Division of the project and handing over to the consumer's committee.

67. Likewise, 3709-14-01-02 *ropanis* (185.49 hectares approximately) land was acquired from 329 households of seven VDCs of Makawanpur District. All the households had received adequate compensation as per the decision of the Compensation Fixation Committee and Compensation Fixation and Resettlement Sub-Committees. All the households had received compensation in cash. A notice was published in the Nepal Gazette and a similar notice was published by the District Administration Office in the process of land acquisition. Mutual dialogues were also held in the land acquisition process. The Compensation Fixation Committee had fixed the compensation to all households on the basis of a price not lesser than the market value.

Tibetan and Bhutanese refugees concerns on freedom of movement outside their refuge camps, and access to health and education facilities (paragraph 29 and 54 of the concluding observations/comment).

68. Nepal has been providing shelter to the refugees since the beginning of time to those fleeing from their country for noble causes on humanitarian ground. Many people from neighbouring countries eg. India, Tibet/China, Bangladesh, Bhutan, Burma and others have taken refuge in Nepal from time immemorial. Among them, the issue of Bhutanese refugees is paramount followed by Tibetan refugees.

Bhutanese Refugees

69. Refugees from Bhutan began entering Nepal, via India, at the end of 1990 (A group of 60 Bhutanese Asylum seekers were recorded on 12th December 1990 for the first time.); with a peak in their influx during the first half of 1992 when up to 1,000 persons a day crossed the border. By July 1993, it was estimated that there were over 84,000 Bhutanese refugees in Eastern Nepal. The rate of new arrivals has steadily decreased since then. New arrivals in the Bhutanese refugees' camps have dropped to insignificant numbers since 1996 while a natural increase has taken place in the camp population, owing to an average growth of 2% birth rate. Refugee Coordination Unit (RCU), Jhapa, has registered a total number of 105,649 refugees by August 2005, all of them accommodated in 7 camps of Jhapa and Morang Districts of Eastern Nepal. An additional number estimated between 10,000 to 15,000 is believed to have taken asylum elsewhere in the country. The records show that out of the total registered refugees 84.65 % possess Bhutanese citizenship certificates, 10% land owner certificates, 2.95% school certificates, marriage certificates, court and service certificates of Bhutanese Government, while 2.35% do not seem to have any evidences. It has been claimed that the Bhutanese authority seized their documents forcefully.

70. At the central level, The National Unit for the Co-ordination of Refugee Affairs (NUCRA) has been set up in the Ministry of Home Affairs to plan, coordinate and monitor the refugee management affairs. At the field level, RCU at Chandragadhi, Jhapa works as an operational and implementing agency. A Refugee Screening Centre is established at Kakarbhitta, Jhapa to interrogate and screen the incoming Bhutanese influx to establish and register their status as refugees.

71. United Nations High Commissioner for Refugees (UNHCR) has been providing relief assistance to the Bhutanese refugees in Nepal since 1991. Currently, UNHCR is providing assistance under the project title "Care and Maintenance of Bhutanese Refugees in Eastern Nepal". Food and Agriculture Organization (FAO) is providing food for the refugees. Likewise, other NGOs and INGOs are working as the implementing partners of UNHCR and they are involved in distributing foods, providing domestic needs, housing materials, medical care, water, sanitation, education and community services in the camps. Every camp has one health post, one secondary school and several primary schools. Any person needing hospital services is recommended to the nearby hospitals. There is no discrimination among Nepali and Refugees at receiving health services from hospitals. Hospitals do not demand citizenship certificates for providing health services. GON has been making every effort for a durable solution that would insure voluntary and honourable repatriation of the Bhutanese refugees to their homeland.

Tibetan Refugees

72. The flow of Tibetan refugees through the Himalayan borders into Nepal commenced when the 14th Dalai Lama left Lhasa, for asylum in India in 1959. The influx of these refugees into Nepal continued for some more years. According to the information received from different reliable sources, their total number is estimated to have reached 20,000 (both recorded and unrecorded). However, the 1993 record has confirmed only 12,540 Tibetan refugees in the Kingdom. These refugees are scattered over 21 different districts of the Kingdom. Tibetan refugee camps are located

at Swayambhu, Pharping, Baudha and Jorpati in Kathmandu, Jawalekhel in Lalitpur, Chandipokhari in Nuwakot, Helotar in Tanahun, Hengja, Chhorepatan and Prithivichowk in Kaski, Dhorpatan in Baglung, Chahiro in Mustang, Shabru in Rasuwa, Chyalsa in Solukhumbu, Listi and Tatopani in Sindhupalchowk, Olangchunggola, Lelep and Yanma and Papuan in Taplejung. The refugee camps are provided with housing, drinking water facilities, schools, monasteries, cottage industries etc. The refugees in the camps are engaged in carpet weaving, handicrafts, mobile trade and other business for their livelihood. Each adult refugee is issued with an Identity Card which is valid for a year. Refugees are required to renew their Identity Cards every year from the concerned District Administration Office. These refugees are also provided with travel permit to facilitate travel outside the country. Up to this year, the Ministry of Home Affairs has recommended for travel documents to about 2,100 such refugees, for study and tour abroad. Despite stiff Himalayan border between Nepal and China, sporadic flows of people from Tibet, China to Nepal have been observed even at present. Travels from the People's Republic of China to Nepal and vice versa are regulated only by the valid passport and visa of the respective countries with the exception of those inhabitants staying within the periphery of 30 kilometers of the border area between the two countries (HMG/N, Refugees in Nepal: A Short Glimpse, 2003).

Acceding the Convention relating to the Status of Refugees, 1951, The Protocol relating to the Status of Stateless Persons, 1954 and The Convention on the Reduction of Statelessness, 1961 (paragraph 30 of the concluding observations/comments)

73. At present, the GON has no intention to accede to Convention on the Status of Refugees 1951, and its Protocol 1967, and to The Status of Stateless Persons 1954, and The Convention on the Reduction of Statelessness 1961 due to its geographical settings, small size, open borders with India, and lack of effective monitoring in the borders. Even though Nepal is not a party to such instrument, Nepal has been providing asylum to the refugees, and necessary services to the refugees living in the country, on the basis of humanitarian grounds and respecting the Universal Declaration of Human Rights.

High incidence of infant and child mortality and suffering from malnutrition in the rural areas (paragraph 31 concluding observations/comments)

74. GON has been taking several measures to reduce infant and child mortality rate and malnutrition. As a result, remarkable reductions have been seen in child mortality rates in Nepal over the last decades. Some 30 years ago, the infant mortality rate (IMR) was 200 per 1,000 live births and today it is 64 per 1,000 live births. The Under-5 Mortality Rate (U5MR) was found to be 162 per 1,000 live births in 1990 and it has decreased to 91 in 2005. According to a WB estimation of 2003, IMR and U5MR have declined to 61 and 82 respectively, and the proportion of one-olds immunized against measles has increased from 71 to 85 during this period. The Maternal Mortality Ratio (MMR) was 415 deaths per 100,000 live births whereas it was 850 deaths in 1990. The contraceptive prevalence rate is 39 % in 2001, which was only 24 % in 1990. Despite the significant improvement, Nepal is still in fifth position in infant and child mortality among the South East Asian Region (WHO, 2005). A large number of children are still suffering from malnutrition in the

rural areas. In order to cope with these problems, the GON is seeking to invest a large amount in the sector with the technical support of the UN bodies and donor agencies for the programmes like vitamin A supplement and distributors of nutritional food to children and pregnant mothers.

High rates of maternal mortality, unsafe and illegal abortion and reproductive health programmes are not implemented because of lack of financial resources (paragraph 32 and 33 of the concluding observations/comments)

75. There is significant improvement in the maternal mortality rates in Nepal. The maternal mortality rate has decreased to 415 in 2002 from 850 in 1990. The indicator shows an increase from 7.4% deliveries (by skilled attendants and other health workers) to 19.8% in 2004 (MDGs: Progress Report, 2005, p.44). GON has been taking legal and remedial measures to reduce the high rates of maternal mortality in the country owing mainly to unsafe and illegal abortion. The Country Code (Eleventh Amendment 2002) allows abortion in various grounds. They are: (a) married women may abort up to 12 weeks pregnancy with their husband's consent (b) abortion is permitted where it has been a result of rape or incest, and (c) abortion is permitted where pregnancies pose a danger to the physical and mental health of mothers. In addition, expanded coverage of family planning services and intensification of Information, Education and Communication (IEC) programmes focused on reproductive health have reduced the risks of unwanted pregnancies. GON has enacted The Breast Feeding Act, 1997, and The Iodized Salt Act, 1998 for securing the health of mother and child. GON has been emphasizing on quality health services and has developed Standard Guidelines and Treatment Protocols, which will be applicable in all health clinics, hospitals and nursing homes. More than 200 NGOs are involved in providing health services. Reproductive health is one of the key areas of their involvement. A Safe Motherhood Network within 75 institutional members, including NGOs/INGOs and donor agencies have also been created. This has been putting special emphasis on reducing maternal and neonatal mortality and morbidity. To encourage the pregnant mother to use institutional delivery, the Government has started giving economic incentives to both mother and service providers.

Launch reproductive and sexual health programmes and community mental health programme be available (paragraph 34 and 56 of the concluding observations/comments)

76. The reproductive and sexual health programmes have been launched since the Ninth Plan 1997. Nepal has established a mental hospital for the rehabilitation of mentally retarded people. The detailed programmes are provided under Article 12 in Part III of this Report.

HIV/AIDS epidemic is spreading at an alarming rate due to commercial sex, trafficking of women and children, and sex tourism (paragraph 35 of concluding observations/ comments)

77. HIV/AIDS has created new challenges for the GON too. Nepal has entered the stage of concentrated epidemic of HIV/AIDS. According to UNAIDS, FHI/NCASC 2003, the estimated prevalence rate of HIV infection is 0.5% in the age group 15-49. In Nepal, it was first identified in 1988. Since then AIDS cases have been rising rapidly. According to a UNAIDS and WHO estimate,

there are 60,000 HIV positive people in the country. UNICEF has estimated that there are 13,000 children orphaned by HIV/AIDS in the country. As of February 2004, cumulative HIV/AIDS cases had reached to 3,432. This figure is based on the number of people who have tested their blood at the health centres. This number is smaller than estimation because a limited number of people has tested. Female sex workers, client of female sex workers, injecting drug users are the major agents of HIV/AIDS and they are also extreme sufferers of it (MDGs, 2005, p.52).

78. GON has been taking several policy measures for the control of HIV/AIDS. GON has adopted a National Policy on AIDS/STD (sexually transmitted diseases) Control in 1995, with 12 key policy statements focusing mainly on multi-sectoral, preventive activities in partnership with NGOs in an integrated and decentralized manner. It has underlined the promotion of safe sexual behaviour, counseling, confidentiality, and screening of blood for transfusion without any discrimination in terms of age, sex and infection. GON has adopted a National Strategy on HIV/AIDS 2002-2006. It has overall objectives of containing the HIV/AIDS epidemic among vulnerable groups giving focus on young people, mobile populations, female sex workers, migrant sex workers, injecting drug users, and children. In the Strategy, five priority areas are clearly identified: (i) prevention of STI/HIV infection among vulnerable groups; (ii) prevention of new infection among young people; (iii) ensuring treatment, care, and support services; (iv) expansion of the monitoring and evaluation framework through evidence-based effective surveillance and research; and (v) the establishment of effective and efficient management system for an expanded response. A National Action Plan for 2005-2006 has been adopted. This Plan makes provisions on access to services and improvement of multiple partners, especially in affected communities.

79. GON has been undertaking various efforts to establish an adequate institutional framework to address the threat of HIV/AIDS. As a result, GON has established a high level National AIDS Council (NAC), to be chaired by the Prime Minister to generate a multi-sectoral response. A National AIDS Coordination Committee (NACC) has been formed headed by Health Minister who approves work plan and guides the implementation of the national strategy for 2002-2006. A Steering Committee chaired by Health Secretary has been formed who reviews programme activities. National Centre for AIDS and STD Control (NCASC) is also established, which is supported by External Development Partners (EDP). There is continuing efforts to maintain relationships and communications between the Government, the NGO community and the donor community. DFID, the Global Fund to Fight AIDS, TB and Malaria, USAID, and the UN system have pledged to provide approximately 65% resources for the implementation of National Action Plan 2005-2006. Despite these initiatives of the GON, people with HIV/AIDS have limited access to care, support services and treatment and have less opportunity for creating a sustainable livelihood.

Attention to economic, social and cultural rights by The National Human Rights Commission (paragraph 40 of the concluding observations/comments)

80. NHRC has been undertaking several initiatives for the protection and promotion of all human rights. It has been monitoring human rights situation, providing training for law enforcement officials, creating awareness among the people, conducting conferences, seminars, workshops, talk

programmes, disseminating all the international human rights instruments, in particular to which Nepal is a party, recommending compensations for the victims of human rights, and recommending the Government for the departmental actions for those who perpetrated human rights.

81. NHRC, under the complaint handling and monitoring activities, is receiving complaints on violations of economic, social and cultural rights that include; inequality, discrimination, right to work, right to social security, rights of PWDs, non protection and assistance to the family, mother and children, right to adequate standard of living, rights of IDPs, right to health, rights of the Nepali labor working abroad, rights of *Kamaiyas* and right to education. NHRC had carried out some major monitoring and investigation on the subjects of bombing at schools and religiously important places, and creation of bunkers in schools by the Maoists insurgents. It also carried out monitoring on health issues and displacement; most of the displacement cases were caused by a decade long conflict in Nepal.

82. NHRC had recommended to the Government to provide shelter and compensation to the victims to provide food, cloth and free health check up with proper treatment as well as proper employment to IDPs, to respect the UN Guiding Principles on Internal Displacement, to issue directives to the concerned authorities for simplifying admission procedures in the schools for the displaced children, to provide necessary support and assistance to displaced persons in respect to food, shelter, cloths, education, health and repatriation, and to formulate long term policy and rules to solve the problem at the earliest.

83. NHCR, on the complaints against the perpetrators of witchcraft had recommended in 13 complaints to the Government after finalizing those complaints. Moreover, GON is considering to criminalize the act of witchcraft and a draft of which is under its consideration.

84. NHRC, under the promotional activities had organized several workshops and interactions programmes, i.e., workshop on the Voice of Senior Citizen on 14 June 2002, a workshop on IDPs on 5-11 March 2003, a Training on Economic, Social and Cultural rights on 21-25 July 2004, a training workshop on UN Human Rights Reporting Under the ESCR on 12-16 January 2005 with the financial and technical assistance of the Danish Institute for Human Rights (DIHR), interaction/discussion with different stakeholders of regional and district level, and operated a project on Integration of *Dalit* Rights Promotion with the financial assistance of OHCHR.

85. NHRC, under the law and policy activities, organized an interaction programme on amendment Bill to The Country Code, 1963 and women's human rights on 8 August 2001, NHRC has established a separate Office of the National Rapporteur on Trafficking in Women and Children, has reserved the certain post for PWDs and *Dalits* in the process of recruitment of staffs of the Commission. The reservation has benefited *Dalits* in general, *Dalit* women and PWDs in particular.

Primary education and basic education be made free and compulsory for all (paragraph 36 and 57 of the concluding observations/comments)

86. GON has made primary education free for all without discrimination on the grounds of gender, ethnicity, religion or social status. GON has been trying to make primary and basic education compulsory. But due to diversified geographical setting, climate, poverty, illiteracy among the large portion of population, there is a great difficulty to make primary and basic education compulsory for all. The detailed description is provided under Article 13 and 14 in Part III of this report.

Adopt a comprehensive National Education for All (NEA) Plan as anticipated by paragraph 16 of the Dakar Framework of Action (paragraph 58 of concluding observations/comments)

87. GON has adopted a comprehensive plan on National Education for All (NEA). The Plan is formulated in line with paragraph 16 of the Dakar Framework of Action. The detailed description is provided under Article 13 and 14 in Part III of this report.

To incorporate benchmarks to measure the level of achievement expected at different times and progress can be monitored (paragraph 59 of the concluding observations/comments)

88. The GON has realized that monitoring and evaluating the policies, plans, action plans and programmes are essential for their effective implementation. Whether the concerned person or party has performed his/her designated functions, duties and responsibilities can be seen through monitoring and evaluation process. The quality of functions, duties and responsibilities designated to personnel can be assessed. The gap among policies, plans, action plans, programme and outcome can be reduced through monitoring and evaluation. GON, in its various policies and action plan documents has made provisions for effective monitoring and evaluation, through that process, performances of the concerned person or party towards their designated functions could be observed and assessed.

89. The Ninth and the Tenth Plan have provisions for monitoring and evaluation of policies, plans, action plans and programmes. The Tenth Plan has three objectives of monitoring and evaluation: (i) render programmes and project, monitoring and evaluation effective (ii) develop poverty monitoring system and (iii) conduct evaluation policies. GON has made national assessment of the implementation of the PRSP of the Tenth Plan and the Second Progress Report was published in June 2005. GON has set up monitoring and evaluation committee at ministerial, national and district levels. The Ministerial Development Action Committee (MDAC) carries out the monitoring and evaluation at the ministerial level and the National Development Action Committee (NDAC), at the national level. A Project Performance Information System (PPIS) based on computer software has been set up at the Central Monitoring and Evaluation Division of NPC Secretariat. Monitoring and evaluation at the district level is done by District Development Committees whereas monitoring and evaluation programmes of NGOs are done by the MOWCSW. A joint team of MOWCSW Social Welfare Council and the NPC have been inspecting programmes implemented by

international non-governmental organizations. In addition, the Ministry of Health and Population (MOHP) and the Ministry of Labour and Transportation carry out monitoring and evaluation of the programmes and projects implemented by the departments.

90. NHRAP, 2004-2007 has made provisions for monitoring and evaluation. It has set up NHRAP Implementation and Monitoring Committee headed by the Chief Secretary and a Steering Committee of the HRPC, which are responsible for the implementation aspect of NHRAP. Recently, the HRPC has merged with the Office of Prime Minister and Council of Ministers. The Office of Prime Minister and Council of Ministers has published the first annual report on the implementation status of the NHRAP in July 2005.

91. GON in collaboration with the United Nations Country Team of Nepal has published a progress report, 2005 of MDGs. The Report has revealed the progress made and challenges to be faced in order to achieve the targeted goals in the given period i.e. by 2015.

92. The Constitutional bodies such as the Supreme Court and the Office of the Attorney General of the Kingdom of Nepal carry out monitoring and evaluation of their offices and subordinate offices where as the Appellate Courts monitor and evaluate the prisons and prisoners of the country.

Projects involving privatization of water supply (paragraph 60 of the concluding observations/comments)

93. GON has been inviting private sectors to develop water supply and has initiated process for privatization of Nepal Water Supply Corporation. A separate legislation for this purpose has already been adopted.

Continue the technical assistance and cooperation with OHCHR and relevant the UN specialized Bodies in the preparation of periodic report (paragraph 61 of the concluding observations/comments)

94. GON requested to the Office of OHCHR and other UN bodies such as UNDP to provide the technical assistance and cooperation in the preparation of this Second Periodic Report.

Disseminate the concluding observations widely among all levels of society and consult with NGOs and other members of civil society (paragraph 62 of the concluding observations/comments)

95. GON has been disseminating the concluding observations widely among all levels of society and it was also distributed to all the participants along with the draft of this periodic report for their feedback. Several human rights experts, governmental authorities, NGOs, other members of the civil society. Representatives of OHCHR participated in the interaction programme organized for the finalization of this report.

PART III. NEW DEVELOPMENTS MADE FOR THE IMPLEMENTATION OF THE COVENANT (ARTICLE-WISE)

Article 1: Right to self-determination

Basic Information

96. The Constitution guarantees the fundamental rights of the people in Articles 11-23. Among them; freedom of practice any profession or carry on any occupation, industry or trade (Article 11(2) (e)), right to property (Article 17), cultural and education right (Article 18), right to religion (Article 19), right against exploitation (Article 20), and right to constitutional remedy (Article 23) are the most relevant rights to this Article. By virtue of these rights the Nepalese people freely determine their political status and pursue their economic, social and cultural development. In addition, The Civil Liberties Act, 1954 provides provisions for civil rights of the people, The Local Self-governance Act, 1999 protects the interest of local people and provides opportunities for the people in governance, The Election Commission Act, 1990 secures the right to participation of the people in the general and local elections, The Members to the Election of House of Representatives Act, 1991 ensures the right to participation to election of the members of the national legislative body, The National Foundation for the Development of Indigenous Nationalities Act, 2002 has provisions for the protection of language, culture, traditional knowledge of different nationalities, The Trade Union Act, 1993 permits authority to form a trade union for the protection of professional interest, and The Political Parties Act, 2002 provides provisions for forming the political parties and affiliation. All these Acts ensure the implementation of right to self-determination.

97. Nepal has been an active member of the United Nations and its specialized agencies, the Non-aligned movement, the group of 77 and various other international as well as regional organizations such as the South Asian Association of Regional Cooperation (SAARC), the South Asian Cooperative Environmental Programme (SACEP), Economic and Social Commission for Asia and the Pacific (ESCAP), Bay of Bengal Initiative for multi-sectoral technical and Economic Cooperation (BIMSTEC), and ICIMOD. Nepal had played active role in the United Nations in its fight against colonialism apartheidism countries to make free form colonized regime.

Article 2: Equality of rights and protection of rights

Article 2.1: International cooperation

98. GON had prepared necessary policies, legislation, programmes and action plans taking fully into account the obligations, stipulated in the Covenant. Some of the programmes are underway but due to financial constraints they have not been conducted yet. Poverty is the main constraint in implementing the Covenant effectively. PAF has been established by the Government to alleviate the poverty. Poverty can be alleviated if the people's level of education and income will be raised. Nepal has entered into negotiations for international assistance, technical cooperation and other arrangements with international organizations, in particular with international financial institutions

such as IMF, WB and ADB and Nepal has been provided financial assistance from these institutions in the form of grants, loans, and technical assistance.

99. The Cooperative Act, 1992 has played a positive role to uplift economic and social status and to achieve the cultural, economical and social rights for the farmers, artisans, and poor and low income groups, landless and unemployed groups. It has legal provisions for these people to have the opportunities to work in coordination with different cooperatives. Agricultural programmes such as crop diversification, community livestock development programmes, have been formulated, which target to reduce the poverty among women, *Dalits* and poor farmers and to improve their social and economic rights.

100. The alliance of the seven political parties (SPA) reached a 12-point understanding with the Maoists in November 2005. The 19 days (5-24 April 2006) peaceful and popular mass movement succeeded to end the autocratic regime of the king and restored the dissolved House of Representatives (HORs) and formed a new Government. The Government thus found and declared indefinite cease-fire where as the Maoists declared cease-fire only for three months.

101. On 18 May 2006, the HORs made a historical proclamation, which comprises the commitments for the election of a Constituent Assembly, revoking the Raj Parisad (Royal Council), and the title of field marshal of the king. The proclamation stripped the power of the king to make a law for the succession to the throne, brings the property and income of the king and royal family taxable. The proclamation provides that a constitutional and prevailing legal provisions to the extent of the inconsistency to its provisions shall be void. The proclamation also provide that Nepal shall be a secular state from a Hindu state, changed the Royal Nepal Army's name as Nepal Army and brought it under the Prime Minister, who is accountable to the HORs. It also changed the official name of the Government from the His Majesty's Government of Nepal to Government of Nepal. The proclamation further provides that all legislative powers of the state shall be vested exclusively upon the HORs.

102. On 16 June 2006, the alliance of seven political parties and the Maoists signed the following historic eight-point agreement:

- i) To implement honestly the 12-point understanding and cease-fire code of conduct,
- ii) To express commitment for competitive multiparty governing system, civil liberties, fundamental rights, human rights, press freedom, and democratic norms and values including the concept of rule of law,
- iii) To request the UN to help for managing and monitoring weapons of both side,
- iv) To frame an interim constitution by ensuring democratic rights,
- v) To make decision through consensus on issues of national importance,
- vi) To ensure basic rights involving international observation and monitoring as per the need during the constituent assembly election,
- vii) To restructure the state in a progressive manner through constituent assembly election, and
- viii) The Government Maoists dialogue teams have been instructed to carry out all works related to above-mentioned issues.

Article 2.2: Non-discrimination

103. The initial report on CESCER and CERD has documented the fact well that there is no racial discrimination in laws. Caste system has been abolished by law since 1964. Several measures have been implemented and the relevant programme interventions were carried out in various plan periods. The reinstated HORs has declared Nepal a state free of untouchability and discrimination by a resolution adopted by it. However, illiteracy, lack of social awareness, prevalence of socio-economic disparity and the traditional mindset have hindered its full achievement among *dalits* and downtrodden sections of the society.

104. The Tenth Plan, 2002-2007 provides targeted programmes for the upliftment of *Dalits*, neglected communities, indigenous people and ethnic groups. The Tenth Plan has emphasized socio-economic development, empowerment, to modernize traditional skills and increase of social prestige of these groups, strategies and policies. In order to implement these policies; social, educational, health, economic, study and research and institutional arrangement programmes have been launched. The NDC and Committee on Upliftment of *Dalit*, Oppressed and Neglected Communities have been established. The Commission and the Committee are formed from among the representative of *Dalits* themselves. They have been implanting the programmes stipulated in the Tenth Plan. Rs.160,000 million has been allocated to carry out the programmes (Tenth Plan, pp. 562-569).

Article 3. Equality of rights between men and women

Basic information

105. Article 11 of the Constitution guarantees the right to equality. All citizens of the country shall be equal before the law, and no person shall be denied the equal protection of the laws. The Eleventh Amendment of the Country Code eliminates to the large extent discrimination between man and women. It also recognizes the right of daughters is entitled to ancestral property, which was not a part of legal system in the past. Previously, an unmarried daughter was entitled to the ancestral property if she was above the age of 35. A widow is fully entitled to inheritance. The amendment has also removed the condition that a woman must attain 35 years of age and must complete 15 years of marriage before she can live separately from her husband and get her share of property. Even a divorced woman shall be entitled to a share of the family property. It also grants the right to food, clothing, appropriate education and healthcare to daughters as in the case for sons. The children are also entitled to the maintenance (food, clothing, appropriate education and health care) from their father in case of divorce. A divorcee and widow can remarry. The HORs by a resolution adopted recently has recommended the Government to amend all discriminatory laws if any against the woman. The HORs also has passed a landmark resolution on 30 May 2006, on women's right that allows citizenship through mother's name. GON is considering to study this matter very positively.

106. In order to comply with the orders and the decision, the Social Justice Committee of the National Assembly (Upper House) initiated review of discriminatory laws against women and prepared a bill for the eleventh amendment of the Country Code and conducted interaction programmes at various places of the country with the sociologists, leaders of civil societies and the law experts. However, there still remains several discriminatory provisions against women, which are being reviewed and are in the process of amendment. GON through the Ministry of Law, Justice and Parliamentary Affairs (MOLJPA) with the financial support of UNDP has reviewed Nepalese laws related to human rights Conventions, and Multilateral Environmental Agreements (MEAs) to which Nepal is a party. The studies have identified the state's obligation to be fulfilled and the areas to amend along with the provisions to be incorporated in the existing legislation.

107. A study has been conducted by the Access to Justice Programme of UNDP, Nepal on access to justice in the situation of armed conflict. The study has recommended adopting measures to ensure access in given situation. Some of the recommendations are; to adopt Alternative Dispute Resolution (ADR) mechanism specially mediation, to shorten legal procedures, to conduct mobile courts, and to provide sufficient budget to the Judiciary for the implementation of the Strategic Action Plan 2004-2008. The Judiciary has endorsed the strategic plan and the GON has been considering seriously in providing the necessary budget for the implementation of the strategic plan. GON has initiated the gender responsive budget system from the running fiscal year. A gender responsive budget committee has been established within the Ministry of Finance. It is expected that the budget and the programmes would be more responsive towards gender in the coming years.

108. The representation of women in public service is comparatively low. They constitute only 13.8% of the administrative workers (senior officers, legislators and managers) and 19% of the professionals and technicians. Among the clerical workers, the proportion of women is 12.8%. However, the number of women as administrative workers, technicians, associate professionals, clerks and office assistants, etc. has increased compared to the numbers in 1991. There is a notable achievement in the production sphere where women constituted 44.6% of craft and related works and 48.6% of elementary workers (other than agriculture), which shows that they are improving. The women have constituted almost half of the workers in the agriculture, forestry and fisheries sectors. A comparison on the representation of women to the active population of Nepal is provided in the following table:

Table 6: Proportion of Females to the Total Active Population 10+, Nepal (1991-2001)

Occupations	1991	2001
Administrative Workers (legislators, senior officers & managers)	9.3	
Technicians and Associate Professionals:	15.1	19.0
Professionals		23.3
Technician and Associate Professionals		14.4
Clerks and Office Assistants	10.0	12.8
Service, Shop and Market Sales Workers	23.9	24.7

Agriculture, Forestry and Fishery Workers :	45.1	48.1
Skilled and Semi-Skilled		49.3
Elementary Occupations		36.4
Production Workers :	15.8	44.1
Craft and related works		44.6
Plant and Machine Operators and Assemblers		13.0
Elementary Occupations (other than agriculture)		48.6
Not stated	35.9	50.9
Total	40.4	43.2

Source: HMG/N, CBS, 2003.

109. At present the women's representation in civil service is 9.9 % (2005). Recently reinstated HORs has passed a resolution on 30 May 2006, which endorsed 33% reservation for women in all state machineries among other things. In order to increase the enrollment of female students in the higher secondary school the Government has made provision to give Rs.2000 monthly for 2 years in selected poor districts. This bill will enhance the representation of women in public service. The Ministry of General Administration and MOWCSW have been providing special training and coaching courses with the help of UNDP/MGEP to enhance capacity and number of female candidates in the public service examinations. Women are eligible to join government services by the age of 40 whereas for men it is 35. Similarly, the probation period for women is six months as compared to 1 year for men. A pregnant woman obtains 2 months maternity paid leave before and after delivery. Women employees get 15 days obsequies paid leave if her husband cannot get such leave and also if his wife has to perform such obsequies. In addition, MOWCSW has been providing pre-service training to increase capacity and number of female candidates in the examination of public service commission. The Nepal Army (NA) has been providing facilities to join NA service to the widow of Nepali Armies since 2004. Female police and army personnel have joined the UN peacekeeping operation. A few numbers of women have been serving as policy and decision-makers. Currently there are two female justices in the Supreme Court, one judge in the Appellate Court, two judges in the District Courts; one female member each is represented in the Public Service Commissions and NHRC. It is worth to mention that the Vice-Chairperson of the House of the Representatives is also a female. There are some women Gazetted female officers including first class officers in the Government. There are several professors and doctors in the governmental and quasi-governmental institutions. The Education Act, 1977 as amended requires having at least one female teacher at primary level schools. GON has enforced to have two female teachers in each primary school with four or more than four teachers. In the Early Childhood Development (ECD) only the female teachers have been appointed. Nevertheless, a lower wage rate exists for women as compared to the men in almost all unorganized sectors and the GON has been endeavoring to curb such discriminatory practices. The Education Act requires that at least one member in the management committee of institutional and community schools the village management committees and district management committee to be a woman. The Education Act also requires providing at least 5 % scholarship for women, among other disadvantaged groups and those community schools should provide free education for poor women. Similarly, students of grade 10 cannot receive a

transfer certificate, but a female student can receive a transfer certificate if she wishes to change her school due to marriage.

Article 4: Limitation on economic, social and cultural rights in time of public emergency

Basic Information

110. Article 115 of the Constitution of the Kingdom of Nepal, 1990 deals with emergency situation in the state. The grounds for declaring state of emergency, suspendable and non-suspendable rights in the state of emergency are provided in the initial report.

111. The country faced serious threat from Maoist insurgents in the past. The Communist Party of Nepal (Maoist) launched “people’s war” on 13 February 1996. Approximately 15,000 lives including that of common people, political leaders, activists, teachers, students, women, children, government personnel and Maoist insurgents were killed. More than 58,857 people were abducted by Maoist insurgents, more than 38,000 people were displaced, thousands of people were wounded and disabled (INSEC, 2006, pp. 3-14). 917 people disappeared. Of them, 583 by the Government, 332 by the rebels and 56 by the unknown (NHRC, June 16, 2006). Billions of Nepalese rupees of governmental and private properties including several infrastructures, like buildings, bridges, culverts, roads, repeater towers, hydro-electricity plants, airports and their utilities were destroyed.

112. The then existed Government had declared emergency in the country on 26 November 2001 due to great loss of arms and ammunition looted by Maoists from the security base camp of Dang on 23 November 2001. The then existed Government had declared state of emergency three times from time to time in the country since 1996.

113. No fundamental rights were suspended except those that are derogable under the clause (8) of Article 115 of the Constitution during the state of emergency. The non-derogable rights, particularly the right to equality, the remedy of habeas corpus, rights regarding criminal justice, cultural and educational rights, the right to practice one’s religion, the right against exploitation, and the rights against exile were not affected.

114. No doubt during the decade long insurgency human rights were grossly violated. Arbitrary arrests, re-arrest, abductions, killings, killing after arrest, incidents of theft and beating, impunity, detention and intimidation, control over information and communication, perplexity in judicial ascertain and prohibition on civil servant's union and curtailing labours' rights, excessive use of force against peaceful demonstration, restriction on monitoring to detention centres by human rights activists and authority of OHCHR, member of NHRC drew attention of the international community including the UN system (INSEC, 2006, pp.38-43).

115. The protection of human rights is a really challenging task for any government in times of armed conflict. It was said that the Maoist insurgents did not respect the Principle of the Geneva Convention at the time of conflict relating to human rights and international humanitarian laws.

GON has repeatedly made commitments on the implementation of human rights and international humanitarian laws. GON had issued 25 points commitments for the protection of human rights and international humanitarian laws on 26 March 2004. The successive governments had carried out the commitment issued on 26 March 2004. The 25-points commitment is provided in Annex I.

116. The Maoists insurgency had affected the implementation of the rights envisioned in the Covenant such as religions and cultural rights, educational rights, right to health, right to food and residency, right to development and right to property. The Maoist insurgents had obstructed the religious, social and cultural rights by prohibiting the performances of traditional and ritual activities, killing the person performing obsequies, beating the priests of temples, bombing monasteries (*gumbas*) and temples, burning campuses and libraries. The Maoists set fire at Mahendra Sanskrit University in Dang and destroyed thousands of rare and valuable religious books. The Maoists had created obstruction on right to education by kidnapping students and teachers from schools, forceful collection of donations, conducting political programmes, creating bunkers, storing weapons, and slaughtering cows at school compound. They had obstructed the right to health by barring water supply, hindering transportation services, looting medicine, locking the home of health workers, killing the health workers and burning ambulances, etc. and also obstructed the right to food and residence by blockade, halting transportation of food in remote areas like Humla and Jumla districts. Thousands of people were displaced, the right to development was also obstructed by removing telephone facilities, except in barracks and Telecommunication office, and work for food programme and food for education undertaken by UNDP were also obstructed. Destruction of the government offices caused the people suffered lack of services. The Maoist insurgents had obstructed the right to property by taking under control of individual's properties, locking the doors at homes, taking under control of commodities, inspiring stringent fines on various cases, collecting levy on monthly basis, exploding bombs at private homes and vehicles of people, looting the harvest, preventing the sale of property and collecting so-called tax etc. Likewise, some of the properties of the people were destroyed in counter attack made by security forces (NHRC, 2005, pp.129-135).

117. The then existed Government had established armed police force to cope with the insurgency; established Regional Administration Office in 5 regions, Zonal Administration Office in 14 zones and a Coordination Committee in each district. The Regional and Zonal administrators made coordination among the governmental agencies to maintain law and order in their respective jurisdiction. They also monitored all the activities in their jurisdictions. The District Coordination Committees monitored law and order situations in the district in an integrated manner. They were also responsible in facilitating delivery of services to be provided by the Government. However, their activities were focused to resisting the democratic activities and mobilizing the people in favour of king's direct rule. After the formation of new Government, by a decision has repealed the Office of Zonal Administration.

118. His Majesty the King had promulgated the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO), 2005 to take legal action against the terrorists. However, the Ordinance is the continuity of Terrorist and Disruptive Activities (Control and Punishment) Act

2004, which was enacted for two years only. A positive result was expected after the enforcement of TADO in the country in maintaining law and order. Terrorist and disruptive activities were expected to be controlled to some extent in the country.

119. A Peace Secretariat has been established to carry on the peace process. A high level Peace Coordination Committee has been formed consisting representatives of the all-major political parties of the country. The functions of the Committee are to proceed and facilitate negotiation process between the Government and the insurgents.

120. GON has established several human rights institutions within government agencies for the protection of human rights. A Monitoring Committee at the Office of the Prime Minister and Council of Ministers has been established to oversee the activities performed by the governmental institutions on human rights. A Human Rights Promotion Centre was established under the Office of Prime Minister and Council of Ministry, which was merged to the Office of Prime Minister and the Council of Ministers in 2005. Now, the Human Rights Promotion Division at the highest level coordinates governmental and non-governmental institutions related to the human rights. Human Rights Cell has been established at Nepal Army Headquarters and at Nepal Police Headquarters to protect human rights. In addition, there are several human rights divisions at various ministries such as the Office of the Prime Minister and Council of Ministers, the Ministry of Law, Justice and Parliamentary Affairs, the Ministry of Women, Children and Social Welfare, the Ministry of Education and Sports and the Ministry of Home Affairs etc. These institutions have been playing major role in the protection of human rights.

Challenges Ahead

121. Despite these legislative and institutional measures, human rights have been violated. Though the security forces have been sincerely following the Common Article 3 of the Geneva Convention, 1949 but still violation has not been under control. The human rights were violated the most during the insurgency and the state of emergency.

122. During the insurgency Maoist destroyed most of the infrastructures, which barred the Government to deliver effective services to the people. Now, it has been a challenge for GON to reconstruct all those infrastructures destroyed by the Maoists to ensure the rights of the people.

123. GON had to allocate a large part of the budget to maintain law and order in the country. The security expenditure increased and development budget had decreased in the past. Thus, GON had therefore spent its scarce resource in maintaining peace and security rather investing on socio economic development.

Article 6: Right to work

Basic Information

124. The initial report has mentioned that The Constitution and other legislation such as The Civil Liberties Act, 1954, The Country Code, 1963, and The Labour Act, 1992 have guaranteed the right to work to Nepali people. The initial report has provided basic information on it.

125. The Bonded Labour (*Kamaiya*) Prohibition Act, 2002 has prohibited bonded labours and penalizes the employers engaged in this practice. It has also established a *Kamaiya* Relief Fund.

126. The Labour Act, and its Regulation, 1993 have been amended in line with The Child Labour (Prohibition and Regularization) Act, 2000. The new amendments have ensured the right to work. The Labour Court has been established and delivering judgement to ensure the right to work.

New Initiatives

127. The Tenth Plan has envisaged safeguarding the rights, interests and social security of labourers; and consolidating and managing labour market information and produce skilled manpower; create an environment to get employment opportunities in foreign labour markets. Amending labour related provisions in line with the ILO labour standard, promoting harmonious relations between labours and industries, organizing vocational training, ensuring employment through managing information on labour market, and extending loan assistance to low income groups are the strategies to implement the objectives of the Plan. It has devised five policies to achieve the objectives, which includes: effectiveness of labour administration; promotion of harmonious industrial relations; conduction of vocational and skill development training programmes; encouragement to foreign employment; and reform policy.

128. The Tenth Plan has an objective to eliminate the worst forms of child labour. It has targeted to alleviate 90,100 child labours in 35 districts implementing the Master Plan. GON has been implementing the Master Plan against Child Labour (2004-2014), which aims at eliminating the worst forms of child labour by 2009, and all forms of child labour by 2014. A Time-Bound Programme for the Elimination of Selected Seven Forms of Child Labour is being implemented by ILO/IPEC in collaboration with the GON as mentioned in Table 5. GON has established a Child (Development and Rehabilitation) Fund which is running Non-formal Education and Daycare Centres targeting the children and workers in carpet factories. Ministry of Labour and Transport Management has been collaborating with German Technical Cooperation Society (GTZ) in the implementation of "Improvement of the Situation of Child Labourers" project which so far has provided non-formal education, early childhood development opportunities for the children and income generating opportunities for the parents. So far, more than 11,000 children at risks have received benefits from the project. National Steering Committee on Child Labour has been established under the chair of secretary of Ministry of Labour and Transport Management to

develop policies/programmes, inter-sectoral coordination and monitoring activities related to child labour.

129. GON has authorized DDCs to determine the minimum wage of agricultural workers. DDCs are empowered to determine the wage of agricultural workers on the basis of seasons and nature of work. At present, the wage of agricultural workers has been determined Rs.70 per day as minimum wage (MDGs, 2005, p. 90).

Challenges Ahead

130. Despite several policy interventions and programmes, the GON has been facing several challenges to ensure right to work in the country. Insurgency in the past posed a great challenge for contributing to unemployment in the country. Several industries have been closed down due to threats, bombings, and demand of donation by insurgents. Hence, foreign investors were discouraged from making the investments in Nepal.

131. GON has established ten vocational training centres in the country, which provide free training on various subjects. Some people have gone to foreign employment and others have started self-employment activities after taking training. The Tenth Plan has targeted to train 20,000 people while 15,000 have already obtained training. There is a possibility to meet the target of the Tenth Plan. GON has been conducting an Occupational Health Safety project to ensure the right to enjoy a just and favorable working condition.

Article 7: The right to just and favorable conditions of work

Basic Information

132. Nepal has become a party to major nine ILO Conventions, which have ensured the right to just and favorable condition of work. The Nepali laws, The Constitution of the Kingdom of Nepal, 1990, The Labour Act, 1992, The Children Act, 1992, The Trade Union Act, 1993, The Child Labour (Prohibition and Regularization) Act, 2000, and The Foreign Employment Act, 1986 have incorporated the provisions of the Conventions.

133. GON has been taking initiatives to send Nepali workers for foreign employment to 107 countries. The Government requires employment agencies, which send Nepalese workers abroad to produce proof of labour demand and category. The Government has prohibited agencies from sending workers where payment is less than US\$125 per month (EIU, 2005 and MDGs, 2005, p. 90). The total migrant workers exceed 1.4 million and majority of them is in India. The workers sent about Rs.46.37 billion as remittance in 2003/04, which is almost four-fold increased since 1995/96 (MDGs, 2005, p. 90).

New Initiatives

134. GON has been taking several initiatives to ensure the right to enjoy just and favourable condition of work. It has finalized The Labour and Employment Policy, 2004, and enforced The Child Labour (Prohibition and Regularization) Act. A new Foreign Employment Act has been drafted. A complaint box has been put up and provision of hearing officer has been appointed for hearing public grievances. A decent work action matrix is in the final stage. Training programme on fire safety and First Aid for workers, and **OSH** training has been carried out in different places. A provision for Labour Welfare Fund has been made. The Master Plan on Child Labour, 2004-2014 has been implemented. The New Labour and Employment Policy, 2005 has already been submitted to the Cabinet for approval. The policy is prepared in line with Decent Work Agenda and Fundamental Principles and Rights at Work as being promoted by ILO. Bonus Regulation has been approved by the Cabinet and the National Plan of Action on Decent Work is being finalized.

135. The GON has been conducting overseas employment programme. Under this programme, loan is being provided to *Dalits*, *Janajatis*, women and victims of conflict to meet the cost for foreign employment.

136. ILO has been conducting a project to eliminate the worst forms of child labour since 2002. It has provided US\$ 5.5 million for this project. An INGO namely the World Education, has been conducting another project on the worst forms of child labour. It has a budget of US\$ 4 million. ILO has been conducting HIV/AIDS education as a work places project since 2004.

137. The Ministry of Labour and Transport Management (MOLTM) has recommended 1,191 people as victims of conflict and economically backward people for foreign employment. Of these, 349 people have obtained loan up to 80% of the total cost incurred in the process of it.

138. The GON has established ten labour offices in the country. There are 17 Labour Inspectors under the MOLTM to monitor the industries. These offices are located in the urban and industrial zone areas.

139. The GON has formed a Steering Committee for the empowerment of female migrant workers with the cooperation of UNIFEM. GON has formed a committee under the Chairmanship of Director General the Department of Labour and Employment Promotion (DOLEP) to fix minimum wage for informal or un-unionized labours.

140. In addition, the GON has a plan and programmes to establish five labour courts in the five regions and an employment exchange centre.

Challenges Ahead

141. Despite these efforts, the GON has been facing several challenges to ensure the right to enjoy just and favourable condition of work and trying to control cheating activities that may be done by

the manpower agents while providing employment in foreign countries. The Labour Inspectors are not sufficient to monitor the factories. So GON has been trying to add more Inspectors to protect the rights of labours working abroad.

142. GON has been facing serious challenge of budget constraints and to implement the devised programmes. Presently allocated budget is not sufficient to carry out the programmes effectively. GON has been searching financial and technical assistance with the UN bodies and other donor agencies to continue and expand their support to Nepal.

Article 8: Right to form trade union

Basic Information

143. The initial report has provided the constitutional and legal provisions on the right to form trade unions.

144. Pursuant to section 4 of the Trade Union Act, 1992, workers of any enterprise are allowed to form trade unions for the protection of their professional interest and at least 50 trade unions or 5,000 workers of enterprises of a similar nature can, by agreement, form a trade union association. Under Section 5, at least 10 trade union associations can, by agreement, form a trade union confederation. Pursuant to Section 8, a trade union is an autonomous and a legal body and is free to function subject to the provision of the Act.

145. Section 76 of The Labour Act, 1992 allows for strike if the dispute could not be settled pursuant to section 74 of the Act. Section 74 provides procedures to submit written claims to the concerned manager by the representative of the company and the management should resolve the dispute within 21 days through dialogue. If the dispute could not be settled another dialogue should be made in the presence of the Labour Office. If the dispute could not be resolved through dialogue done in the presence of Labour Office, both parties could appoint mediators. If the dispute could not be solved through mediation the GON should form a tripartite committee, which should resolve the dispute within 15 days. The workers then should give notice of 30 days to the management in regard to organize a strike. The notice should also be sent to the Department of Labour, Concerned Labour Office and Local Administration. The Trade Unions are also allowed to organize strike by fulfilling the criteria as mentioned in the Section 76 of the Labour Act. However, the workers or union can not hold strike if the prevailing law has prohibited holding strikes. For example, the person who has been designated on security and who is involved in management can not hold strikes. In such a case, the GON can form a tribunal to resolve the dispute and the decision of the tribunal will be final. Moreover, the employees or workers involved in the essential services as specified by the Essential Services Act, 1955 are also not allowed to organize a strike.

146. At present, there are more than 2,000 trade unions in Nepal, of which 1,759 are active (Economist Intelligence Unit, 2004). There are four federations of Trade Unions in Nepal. They are: (1) The General Federation of Nepalese Trade Unions (2) The Nepal Trade Union Congress (3) The

Democratic Confederation of Nepalese Trade Union and (4) The Independent Democratic Trade Union (EIU, 2004)

147. There are several professional unions, associations and federations. Nepal Agriculture Association, Nepal Bar Association, Nepal University Teachers Union, Nepal Medicinal Doctor's Association, Nepal Engineer's Association, Nepal Overseer's Association, Nepal School Teacher's Association, Nepal Corporation's Personnel's Association, Nepal University Personnel's Association, Nepal Waste Materials Collectors Association, Nepal Journalist Association, Nepal Drug Distributor's Association, Nepal Retailers' Union Independent National Democratic Confederation of Nepalese Trade Unions, Federation of Nepalese Chamber of Commerce and Industry, Nepal Chamber of Commerce, Federation of NGO Association, etc are the major professional associations in Nepal. These unions, associations and federations have been protecting and promoting their interest.

148. There have been frequent strikes in the industries including hotels. Some of the strikes have been organized by the Trade Unions/Federations and others have been organized by the labours of the concerned industries. There were several strikes during the past five years. However, trades Unions/Federations have also played a significant role to settle disputes between labourers and the management.

New Initiatives

149. Recently, HORs passed resolution to grant trade union rights to civil servant except those employees who are at policy-making levels. Pursuant to this, GON has been considering to amend the Civil Service Act and incorporate the spirit of the proclamation.

Challenges Ahead

150. In Nepal, generally, trade unions are influenced by their political convictions and sometimes they deviate from their professional rights. In future, after the recent political changes it is still to be observed whether the unions adhere to their professional rights or drift along the political convictions.

Article 9: Right to social security including social insurance

Basic Information

151. The initial report has provided the basic information and measures taken by Nepal on the right to social security including social insurance. According to the latest census, people with disability constitute 1.63 % (0.37 million) of the total population (NHDR, 2004, p. 64). The GON has defined the term 'disability' as physical disability, blind, visually impaired, mentally retarded, deaf, hearing impairment and mental disease. Disability is classified as severely and profoundly disabled. A study carried out by NPC and UNICEF in 2001 has contextualized disability in four major categories as:

(i) communication disability (ii) locomotion disability (3) mental disability and (4) multiple/complex disability (NHPR, 1981).

152. Right to social security includes medical care, cash sickness benefits, maternity benefits, old-age benefits, invalidity benefits, survivor's benefits, employment injury benefits, unemployment benefits and family benefits. GON has been undertaking several measures to protect the rights of orphans, helpless women, the aged and the disabled.

153. The Constitution, The Country Code, 1963, The Protection and Welfare of People with Special Disabilities Act, 1982, and its Regulation 1995, The Children Act, 1992, The Labour Act, 1992, The Legal Aid Act, 1998, The Education Act, 1971, and its Regulation, 2002, The Social Welfare Act, 1992, The Local Self-Governance Act 1999, among others stipulate the rights of social security.

New Initiatives

154. GON, in its Tenth Plan has formulated strategies, policies and programmes for the implementation of the right to social security especially targeting women, children, disables and senior citizens. In order to achieve the strategy and policy objectives on social security the GON has been launching programmes on:

- (i) Capacity development to increase women's participation, increase women's access to resources and abolition of all types of discrimination against women.
- (ii) Prepare national work plan related to children's rights.
- (iii) Prevention of disability, providing opportunities to disables to lead a dignified life.
- (iv) Develop capability of senior citizens' social security and provide opportunity to lead a respectable life.
- (v) Creation of institutional structure and strengthen the existing structures.
- (vi) Arrangement of co-working, coordination, monitoring and evaluation with NGOs/Civil Societies.

People With Disability (PWDs)

155. GON established a fund of eight million Rupees for the people with disability in 1981 to educate, train and rehabilitate them. Monthly scholarships of Rs. 100 to 250 are provided to the children with disabilities, various training programmes have been provided to PWDs through this fund. Special classes are being run for them. The Social Welfare Council provides individual loans up to amounts of Rs. 5,000 to 8,000 without guarantees for income generation activities for PWDs (NHRAP, 2004, p. 33).

156. A Para Olympic Committee was formed in 1995 to encourage PWDs to take part in international sports. Special Education Council organizes sports and cultural programmes every year for children with disabilities. Association for the welfare of the mentally challenged conducts

regular sports programmes through Special Olympic Committee for PWDs. GON has been providing general, preventive and curative health facilities to them as far as possible (NHRAP, p. 33).

157. Employment opportunities for PWDs are on the rise, particularly in the private sector. The Transpiration and Entrepreneurs Association provides certain discount for PWDs in course of their travels.

158. National Coordination Committee for PWDs has been formed under the Chairmanship of the Minister of MOWCSW. NGOs working with PWDs have formed a National Federation of NGOs with PWDs. The federation receives support from the Government in the form of annual grant. Also some recognized NGOs working for PWDs received programme subsidy from the Government to work in the area of National priority.

159. There are NGOs and federations working to ensure the rights of PWDs. Work specific to the sightless, mentally challenged, the deaf and the physically challenged is also ongoing. GON has been providing, in each of the 75 districts, a monthly allowance of Rs. 150 per person for 50 most vulnerable people with disability from among those 16 years and above (NHRAP, 2002, p. 34).

160. GON has enforced the National Policy relating to Disability in 1997. The policy has enumerated for the protection and development of all aspects of the PWDs. The policy has adopted preventive, curative and rehabilitative measures for PWDs.

161. GON has formulated and enforced a National Plan of Action on Disability, 2003. The Plan of Action covers 12 areas such as; (i) public awareness (ii) education, additional activities (iii) training and employment (iv) amendment of legislation (v) information and access to physical environment (vi) institutional promotion and capacity building (vii) facilities and concession (viii) counseling service (ix) health and distribution of materials (x) community rehabilitation (xi) reservation/quota arrangement (xii) home for the disabled.

162. GON has drafted an integrated National Policy and National Action Plan on Disability, 2004 that covers strategies, policies, programmes and plan of actions as stipulated in the above mentioned documents. This National Policy and Plan of Action have also incorporated the provisions stipulated in the United Nations Standard Rules on the Equalization of Opportunities for the Persons with Disabilities, 1994, The World Programmes of Action Concerning Disabled Persons, 1982, The Asia and Pacific Decade of Disabled Persons, 1993-2002 and The Biwako Declaration, 2000.

163. The Governance Reform Programme Implementation Policy, 2004 has enumerated that maximum 45 percent posts should be provided for the women, *Dalits*, indigenous nationalities and disables in the vacancies of civil services to be fulfilled by free competition up to 5 years from the date of enforcement of this policy. However this policy has not yet been enforced and implemented. These provisions are applied in the vacancies of public corporations, Development

Board/Committees, bodies of local self-governments (DDC, VDCs and Municipalities) and the appointment of teachers and staffs.

164. GON has been conducting the following programmes for PWDs:

- i Employment oriented training being provided in 48 districts by 35 NGOs: (a) Residential training for all types of PWDs (b) 100 PWDs have obtained training at regional level (c) Business training after initial training (d) Coordination with employers for employment (e) Community based rehabilitation programmes (f) Institutional joint work (DPOS) in 6 districts (g) NAB for community rehabilitation (h) Rehabilitation, counseling service, home service, follow up, inclusion, communication services, etc.
- ii Assistant materials distribution: (a) free distribution of assistant materials/artificial bodies at regional level (b) 2,000 PWDs have benefited per year (c) updating the record of PWDs.
- iii Distribution of identity card of disability
- iv Arrangement of institutional honour and award
- v Prevention of disability and campaign for reduction: (a) DPT and Polio Vaccination (b) Vitamin A capsule and iron tablets (c) Nutrition Programme (health/education) (d) Early childhood development (e) Camp for eye and ear programme (f) Evaluation activities. These have been carried out in 47 districts.
- vi Education, Consultancy and Additional Activities: (a) Special education in 63 districts (b) Hearing classes in 320 centres (c) Monitoring and evaluation in 47 districts (d) Scholarships, residential facility and distribution of educational materials (e) Experiment of signal education system in 80 schools of 8 districts, have been carried out.
- vii. Social Security allowance: 50 persons in each district (3,700 persons have benefited from social security allowance.
- viii. Promotion of agencies working for disability
- ix. Creating public awareness

165. GON has been facing several challenges to protect the right of PWDs. The major challenges are: (i) inadequate physical resources and programmes (ii) lack of coordination among the agencies involved in the sector (iii) exclusion from priority area, and (iv) lack of substantial change in traditional public outlook towards disability.

166. The Civil Service Act provides sick leave for 12 days per annum. If a person has not utilized the sickness leave, s/he gets cash sickness benefits. If any civil servant becomes sick during his/her duty, the GON should bear all treatment costs. If a civil servant dies during his/her duty, his/her family gets compensation and receives certain stipend for the education of the children. Similar provisions have been made in The Labour Act, 1992 and other Acts that are related to employment. The Labour Act requires making worker's insurance so that insurance could cover the compensation to be paid to the family of the deceased. If any personnel or worker is dismissed from his/her post illegally s/he receives the salary of the period. If a person has worked for more than five years s/he shall be entitled to the gratuity on the basis of the years worked by him or her. However, the Labour

Act does not apply to the enterprises where there are lesser than 10 employees. If the Act does not apply there is no certainty to get all benefits. There is no clear demarcation of adequacy or inadequacy with regard to the benefits provided by public and private enterprises under the social security schemes. A personnel whose office has been closed down or repealed, gets full salary and allowance in accordance with the laws. An employee or worker, who becomes jobless due to closure of company for a certain period, gets salary and other benefits. Pursuant to Labour Act, a seasonal enterprise or company that runs in a particular season, 25% of the salary should be paid to the employees or workers for the no work season as unemployment or retaining allowance. However, it has been realized that the existing social security scheme is not adequate in meeting the needs of beneficiaries in several cases.

167. Nepal has not become a party to the ILO Social Security (minimum standards) Convention 1952 (No. 102). However, Nepal has respected this Convention and some of the provisions of the Conventions are incorporated in The Labour Act, 1992.

Senior Citizen

Basic Information

168. According to the United Nations Population Division, elderly people are those who are 60 years and above. The senior citizens have the rights to health care, social security and economic improvement and dignified life.

169. Nepal has adopted Macau Plan of Action relating to aging. GON has participated in the Regional Workshop on National Policies on aging and follow up to Macau Plan of Action on Aging (Manila, the Philippines). The Government had also attended the Second Asian Regional Preparatory meeting for Second World Assembly on Aging (Pune, India, August 2001). Similarly the Second World Assembly on Aging, Madrid, April 2002 has ratified the political proclamation regarding the rights of the senior citizens and 180 countries including Nepal endorsed and declared their solidarity for the implementation of a new action plan on aging. GON has translated the Madrid International Plan of Action on Aging, 2002 into Nepali and circulated to the general public.

New Initiatives

170. GON has adopted several measures to protect the rights of senior citizens. The Tenth Plan has aimed to maximize the knowledge, skill and experiences of the senior citizens in the social development sectors by creating an environment conducive to respect, protection and convenience for old people. It has articulated a ten-point programme including the development of laws and regulations, the encouragement of NGOs and CBOs in the welfare, care and rehabilitation programmes of senior citizens and additional provisions for them in health and transport services. The NHRAP has also stipulated to protect the rights of senior citizens (NHDR, 2004, p. 68).

171. GON has been providing old age pension since 1995. Widows above the age of 60 are provided an allowance of Rs.125 per month. Men and Women of 75 years of age or above receive monthly allowances of Rs.175 each. GON has declared the policy to form the laws directly relating to the senior citizens, for utilizing their experiences, skills and capabilities to carry out social security programmes and to coordinate, monitor and evaluate these efforts. A bill to protect the Rights of the Senior Citizens has been drafted.

172. GON has adopted the Senior Citizens Policy and Working Policy, 2002, and The Guidelines for the Implementation of the Health Service Programme for Senior Citizens, 2004. The Senior Citizens Policy and Working Policy are considered as basic documents to guide programmes and projects relating to serving senior citizens. The policy covers eight aspects, which are: (i) economic (ii) social security (iii) health services (iv) facility and honour (v) participation and engagement (vi) education and entertainment (vii) miscellaneous and (viii) classification. The policy ensures free medical treatment and services and exemption in charges in the means of transportation and communication. It has also stipulated to establish a Social Security Fund at the national level to carry out the works relating to appropriate social security and services to the elderly citizens. The Senior Citizens Treatment Service Guidelines covers 45 districts. GON has approved the Plan of Action on aging in 2005. It is being implemented by government line agencies, local government, non-government organizations and civil societies.

173. As of 2004, there are 52 institutions/NGOs registered in the country to serve senior citizens. Of these, 20 such homes are functional. The Samaj Kalyan Kendra Pashupati Briddhasram, Devapattan, Kathmandu is managed and the cost is borne by the Government, which has capacity for 225 people. In addition, there are 15 homes and 6 day care centres are rendering their services to about 752 senior citizens (MOWCSW, 2005).

174. GON has been financially supporting other old age homes. GON provided Rs. 90,110,000 fund to these homes including Pashupati Bridhhasram of Kathmandu in the fiscal year 2004-2005.

Challenges Ahead

175. GON has been facing several challenges while protecting the rights of the senior citizens. Financial problem is the biggest challenge for the GON. The number of old age homes and day care centres are not sufficient and the facilities provided by them are not adequate and efficient. There is a lack of effective programmes for the rehabilitation of senior citizens, lack of economic empowerment programmes and entertainment venues and institutions dedicated to the senior citizens. Besides these, the armed conflict had severely affected the social security rights of the senior citizens. The younger members of the family were forced either to join insurgent groups or leave their home and village, and thereby the older people were forced to engage in agricultural activities and livestock, catering- beyond their physical capacity.

Article 10. Protection and assistance to the family, mothers and children

Protection and assistance to family and mothers

Basic information

176. Legal provisions against trafficking and exploitation of women have been outlined in the initial report. According to the prevailing laws, traffickers are liable to a maximum of 20 years imprisonment, which is a strong deterrent against the heinous crime. However, legal provisions alone cannot stop trafficking of women and children. Lack of awareness, illiteracy and poor employment opportunities act as “push factors” in trafficking of women and children. The fact that as high as 35% of the girls trafficked for the purpose of prostitution from Nepal to neighboring countries are abducted in the pre-text of finding good jobs or marriage opportunities for them indicates the need for going beyond legislation against trafficking (CEDAW, Second and Third Periodic Report, 2002, p. 17).

177. Gender disparity is higher in rural areas. Similarly, Mountainous region has higher gender disparity than *Terai* region. By developmental regions, Far-western and Mid-western development regions have the highest gender disparity comparing to other regions. Poverty and illiteracy have been aggravating gender disparity in Nepal (NHDR, 2004, pp.19-20).

New initiatives

178. GON has formed a Coordination Committee and Task Force at the national level to coordinate the activities to be carried out against trafficking. In highly affected districts, Task Forces have also been formed at the district and village levels with representatives from local bodies, police units and NGOs. Besides, there are 26 district Task Forces to combat trafficking of women and children at the district level. There are also administrative measures in police force. Nepal police has created a Women’s Police Cell at its headquarters. The Cell has launched, in coordination with UNICEF, awareness programmes in various districts with regard to trafficking and sexual exploitation. This project also has other components such as capacity building of police officers and database management on criminal activities in this field.

179. There are 25 Women and Children Service Centres and 6 Border Women and Children Service Centres in the country established under the Criminal Investigation Department of Nepal Police. There is one Valley Women and Children Service Centre in Kathmandu and three district centres in Kathmandu, Lalitpur and Bhaktapur. Some districts out of Kathmandu Valley have two centres such as district and border centres. The other district centres and border centres are established in trafficking prone districts and borders. All *Terai* districts and border districts of mountainous districts have such centres. These centres have been working with coordination and cooperation of various agencies such as Nepal Bar Association (NBA), Forum of Women Law and Development (FWLD), Legal Aid and Consultancy Centres (LACC) and Centre for Legal Research and Resource Development (CeLRRd) for legal aid and have been providing rehabilitation services

for the women and children who have returned from various brothels of India with the cooperation of Maiti Nepal, ABC Nepal and Centre for Victims of Torture (CVICT) Nepal. In addition, Nepal Police Headquarter is implementing a five-year long project to train and mobilize the police in raising awareness and prevention of trafficking.

180. MOWCSW has been conducting rehabilitation centres named A Joint Initiative in the Millennium against Trafficking of Girls and Women (JIT) in Kaski and Nuwakot districts, which were established in 2002 and 2003 respectively. These rehabilitation centres of Nuwakot and Kaski have rehabilitated 65 and 35 women and girls and have spent Rs.907,443.00 and Rs.1,051,347.57 respectively by 2005 (JIT, June 30, 2005).

181. MOWCSW has formulated a National Plan of Action against trafficking in women and children for sexual exploitation. MOWCSW itself coordinates this plan. The Action plan has eight components: (a) policy research and institutional development (b) legislation and enforcement (c) awareness creation, advocacy, networking and social mobilization (d) health and educational interventions (e) income and employment generation (f) rescue and reintegration (g) transborder, regional and international issues and (h) monitoring and evaluation. MOWCSW has proposed a Bill for the amendment of the Human Trafficking Act in order to harmonize it with the Plan of Action and removing shortcomings existing in the Act.

182. Nepal has reaffirmed its commitments to the 1995 Beijing Declaration on Women: Equality, Development and Peace, including implementing the Platform for Action adopted by the Fourth World Conference on Women (NHDR, 2004, p. 52). In order to implement the Beijing Declaration, 1995 and the Platform for Action, GON has established the MOWCSW, Women Development Department and 75 women Development offices.

183. The Department of Women Development has been launching women development programmes that include social mobilization, training, income generation employment and enterprise development, community development, institutional development with the support of several donor agencies, i.e. UNICEF, ASDB, UNFPA, USAID, EU, GTZ, UNIFEM, and DANIDA. The programmes have aimed at launching mass mobilization and campaigns against girls trafficking, domestic violence, child marriage, polygamy, alcoholism, gambling, dowry, corruption and superstition.

184. SAARC member countries adopted the SAARC Convention on Prevention and Combating Trafficking of Women and Children for prostitution during the 11th SAARC summit held in Kathmandu in January 2002. Nepal is a signatory to the Convention and has recently ratified it. The SAARC summit also agreed to establish a voluntary fund for the rehabilitation and reintegration of the victims of trafficking (CEDAW, 2002, p.19).

185. The judiciary is also playing very supportive role by interpreting legal provisions on trafficking in a favourable way for the victims of traffickers. For example, in the case of *Durga Dhimal Vs HMG*, the court ruled, “the statement of the woman who lodged the FIR is reliable and

must be taken as evidence in this case” and put the burden of proof on the offender (NLR, 1998, p.332). This verdict has encouraged the victims of trafficking to file FIR.

186. GON has established the National Women’s Commission in 2002 to advise the Government on effective implementation of the international human rights instruments and to develop policies and plans specifically aimed at advancing the case of women. Gender focal points have also been established in the sectoral ministries (NHDR, 2004, p. 52).

187. The MOWCSW had conducted gender assessment studies on education, health and agriculture sectors in 2002 and more recently, the MOWCSW has also conducted gender assessments and gender budget audits of its own ministry as well as the Ministry of Local Development with the objective of making the ministries more gender sensitive in planning, policy making, programming, budgeting, monitoring and evaluation process at the central as well as at the local levels (NHDR, 2004, p.55).

188. NHRC has also formed an 11-member Women Human Rights Protection and Promotion Committee under the Convenership of women member in order to work on the interest of women. The Office of the National Rapporteur (ONR) has also been established for the control of trafficking of women and girls. The ONR can investigate and access documents.

189. GON has been trying to prohibit some harmful traditional practices prevalent in the country such as *Deuki* (a girl traditionally offered to god/goddess; mostly in western part of Nepal, especially in Doti and Dadeldhura) *Kumari* (it is a system of Shakya family, a young Buddhist Newar girl will be chosen for *Kumari* as a living god and she will be worshipped as the incarnation of the Hindu goddess *Durga*, until she reaches puberty or sheds blood, when she automatically loses her divinity and another girl is appointed to take her place. However, she is not allowed to get married in her life), *Jhuma* (a girl traditionally offered to god/goddess; hilly region of Nepal; especially Mustang and Mangang where majority of the people are *Bhote* and *Sherpa* community), *Kamlari* (it is one kind of system of a bonded labour to hire only a female *Tharu* for the household chores in exchange of certain amount of money in one year contract, which can be extended), *Chhaupadi* (it is a system to keep a woman in the isolated place far from the home during the menstruation time. At that time she is not allowed to use or touch anything used by other members of the family. This type of malpractice still exists in two zones of Nepal; Seti and Mahakali) All these practices are different forms of sexual exploitation. In addition there is also a belief of witchcraft among the illiterate rural people. Mostly, women are victimized by such practices. GON has been drafting bill to prohibit such harmful traditional practices and has been supporting NGOs for the advocacy and awareness programmes, which has significantly helped to decrease the number of the prostitution and also among *Badi* caste too. *Badi* is a caste from oppressed and suppressed community residing in the western part of the country that has insisted to practice prostitution as their traditional profession. Until and unless full awareness is created and alternative income generation occupation and resources for that is not provided, prostitution among *Badi* caste cannot be abolished. The Country Code has recognized such traditional customs practiced by the ethnic communities. In order to abolish polygamy and polyandry, level of education of the people should

be increased and poverty should be reduced. If level of education and income increases, the dependency on male and vice versa decreases and thereby polygamy and polyandry abolishes or at least decreases. The initial report has stated that law prohibits dowry. It has created a great problem in some communities of Nepal, especially in the *Terai* communities. More recent order of the court to invalidate gender discriminatory laws such as section 5 of the Birth, Death and Other Personal Events (Registration Act, 1974), which allows only senior male member of the family to register events and a clause in the Passport Law requiring parents' approval for woman under 35 years of age to obtain passport.

Protection and assistance to children

Basic Information

190. The initial report has provided basic information on the protection of the family, mothers and children. In addition, GON has ratified the Convention on the Rights of the Child (CRC) as well as its two optional protocols namely (a) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and (b) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The GON has also ratified the SAARC Convention on the regional arrangements for the promotion of child welfare in South Asia, 2002 the Convention. No. 182 regarding the Elimination of the Worst Forms of Child Labour and Convention No. 29 regarding forced labour in September 2001. GON has enacted and enforced The Child Labour (Prohibition and Regularization) Act, 1999. GON has also adopted The Child Labour Master Plan, 2001-2010.

New Initiatives

191. GON has approved the National Plan of Action for Children (2004/05-2014/15 A.D.) on the basis of United Nations General Assembly Special Session for Children Declaration 2002. The Plan of Action was prepared from the joint participation of government line agencies, the UN agencies, INGOs, NGOs and children themselves participating in a series of workshop organized up to regional level. The National Plan of Action has covered 6 sectors: (a) health (b) quality education (c) child rights protection (d) combating HIV/AIDs (e) child participation and (f) coordination, monitoring and evaluation.

192. GON has been implementing a 'time bound programme' to eliminate the worst forms of child labour by 2007 in collaboration with ILO. GON in collaboration with the stakeholders has prioritized work on the worst forms of child labour in accordance with the Convention. The priority sectors are: (a) bonded child labour (b) domestic child labour (c) child porter (d) children working in mines (e) rag-pickers (f) trafficking of children for sexual exploitation and (g) children working in carpet factories.

193. The Child Labour (Prohibition and Regularization) Act, 1999 has prohibited providing employment in 'hazardous work' for the children under the age of 16. Similarly, the Act has made

provisions for inspection, monitoring of the working conditions of child labour and regularizes child labour in formal sector. Moreover, the Act has made a provision of creating welfare fund to undertake educational and entertainment programmes and library facilities for the children of working parents.

194. The Child Labour Master Plan, 2001-2010 has adopted a comprehensive and holistic approach to tackle child labour by coordination among all stakeholders to avoid the overlapping and duplication. This also aims at (a) making the education system effective (b) creating a healthy environment (c) increasing the general standard of living of the families and (d) creating more programmes for economic development. Concern has been voiced for effective implementation of legal provisions including the principles of CRC. GON has adopted National Plan of Action for Children-Nepal, 2004/05-2014/15, which is comprehensive.

195. GON, NGOs and INGOs have been working to minimize child labour in the country through preventive, curative as well as rehabilitative measures. In the course of rehabilitation, the NGOs also provide counseling, NFE, vocational training, health education and services, in addition to sponsorships for formal education. However, much of the NGOs' activities are concentrated in the urban areas. There is growing concern at the people's level about child labour in Nepal, as is evident from the fact that more than 1,000 governmental, non-governmental, professional, educational and local institutions participated in the Global March against Child Labour in 1998.

196. Due to poverty in the country, a large number of poor children are working under exploitative and hazardous condition especially in the industries and mines. GON and NGOs have been collaborating to rescue children from exploitative situations and rehabilitate them.

197. The labour inspectors have responsibility of investigating and filing a case against the illegal child labour, although ordinary citizens also can do so. Because of budgetary constraints only 17 labour inspectors have to inspect all the labour issues. This has caused paying very minimal consideration towards the density of the prevalence of child labour. GON expects cooperation from the general public as well as NGOs to file cases against illegal child labour at the court and lessen its burden.

Challenges Ahead

198. There are several rehabilitation related problems and processes are lengthy and costly, such as lack of guardianship for reintegration/possibility of returning to same profession, lack of employment or other income generation opportunities after training, some level of hesitancy by the hospitals and other patients for admitting HIV affected survivors, slow legal process to capture traffickers, lack of citizenship certificate resulting in difficulty in obtaining legal services and in case of husband being trafficker, divorce process by wife is not possible.

199. Despite such initiatives, the performance of the policy objectives and goals are not satisfactory. There is a need to implement the programmes effectively. Nevertheless, GON has been

facing several challenges to ensure the protection of the family, mothers, and children and has been seeking financial supports for the implementation of the programmes. The UN bodies and developed nations are requested to continue and expand their support with the GON. There are some programmes targeted to the worst forms of child labour like rag pickers and domestic children sponsored by ILO/UNICEF.

Article 11. Right to an adequate standard of living

Basic Information

200. GON has been putting efforts to ensure the right to adequate standard of living of the people. The initial report has provided the basic information on right to an adequate standard of living. GON has been devising several policies, strategies, plans, action plans, and programmes for raising living standard of the people.

New Initiatives

201. Poverty alleviation was one of the major objectives of the Ninth Plan. The plan aimed at the progressive reduction of the poverty rate from 42 % to 32%. However the target was not met during the plan period. The poverty rate was declined to only 38% during the period. The Ninth Plan has pronounced a 20-year objective to reduce the absolute poverty to 10%.

202. GON has been implementing the Tenth Plan, 2002-2007. This plan has also been formulated with the major objective of poverty alleviation. It has also embraced the suggestions of development partners who have supported the economic and social development endeavours of Nepal and Nepalese people, realized the sensitiveness for the progress and upliftment of all sectors, classes and communities of the society, the prevailing economic and social situation and the challenges emerging from it at the implementation level and the Government has come up with a pragmatic, realistic, and workable plan. Policies are designed in a way that the Government can play a leading role in an effective way in order to mainstream the deprived, suppressed, *Dalit* and backward class and areas to eradicate poverty. The Plan has targeted poverty reduction from 38% to 30% by the end of Tenth Plan. However, at the end of the fiscal year 2003-2004 it declined to 31%, which is close to meet the target of poverty reduction.

203. In order to achieve the targeted objective of poverty reduction, Poverty Reduction Strategy, 2002-2007 has been formulated. The strategy is built on four pillars: (i) broad based economic growth (ii) social sector development including human development (iii) targeted programmes including social inclusion, in order to bring the poor and marginalized groups into the mainstream of development, together with targeted programmes for the ultra poor, vulnerable and deprived groups (who may not adequately benefit from the first two pillars) and (iv) good governance. All the four pillars are essential for improving the lives of the poor, and for mainstreaming the very poor deprived groups, and thus for promoting inclusive development. In implementing the four pillar strategy, the Plan also stresses strategic crosscutting approaches with regard to: (a) redefining the

role of state, and limiting public interventions (b) enlisting the private sector to play a leading role in employment and income generation and together with NGOs, INGOs and CBOs, in completing government efforts in service delivery functions in key areas, as well as in implementing key activities (c) promoting community participation in and management of activities at the local levels and (d) accelerating the decentralization process which is also a key element under good governance (Tenth Plan–Poverty Reduction Strategy Paper, 2002-2007). The key goals and targets are provided in the following table:

Table 7: Target and Performance on the MDGs

Goal	Base Period 1990/95	Base period of the 10 th Plan (2001/02)	10 th Plan target (2006/07)		MDG target (2015)	Progress 2003/04	Targets 12 th Plan
			Normal case	Lower Case			
Infant Mortality per 1000 births	107	64.2	45	47	26	64.2*	
Under 5 mortality per 1000 births	197	91.2	72		54	91.2*	34.4
Maternal mortality per 100,000 live births	539	415	300	315	145	NA	250
Literacy 15+ Yrs (%)		44*	63	61	100	48.2	100
Female Literacy 15+ yrs (%)		35.6	55	53	100	24.7	100
Net enrolment in primary School (%)	64	80.4	90	89	100	84.2	100
Access to safe drinking water facility (%)		71.6	85	83	100	73.0	100
Children under 5 malnourished (%)	57**	48.3			28		
Head count poverty (%)	42	38	30	33	21	30.8	10

(The 10th Plan has two scenarios: normal case (peace) and lower case (continued conflict)

* Adult literacy rate has been revised from 49.2% as mentioned in the 10th Plan to 44 Percent by MOES. ** Estimated from linear trend. * refers to 2001/02)

Sources: The 10th Plan, NDHS, 1996, NDHS, 2001, NLSS II, 2004, MDGs: Progress Report, 2002 and reporting of the MOES.

204. The 20-year Agriculture Perspective Plan (APP), 1995 has been providing supportive environment for the implementation of the Tenth Plan. This Plan seeks to commercialize agriculture to promote high value agricultural commodities, open up marketing facilities and processes and provide better support services. These have been under implementation for the last seven years.

There has also been demonstrated progress in basic education, primary health, drinking water, green roads, electronic and other communication, and in some other sectors (MDGs: Progress Report, 2002, pp. 8-9).

205. Several small-scale targeted poverty-reduction programmes are under implementation. Decentralization and social mobilization have been adopted as key interventions for poverty reduction. PAF, an autonomous institution has been established. Yet, the principal development objective of poverty reduction largely remains to be translated into suitable macro-economic, fiscal and sectoral policies and programmes.

206. GON has also endorsed 'The Millennium Development Goals' (MDGs) in September 2000. The goal has set up baselines and numerical targets and provides a unique opportunity to reflect on Nepal's achievements over the last decade, to identify challenges and opportunities, to indicate in a concise form priority for development assistance, and points out areas for improvement of the monitoring and evaluation systems. It has eight goals: (i) eradicate extreme poverty and hunger (ii) achieve universal primary education (iii) promote gender equality and empower women (iv) reduce child mortality (v) improve maternal health (vi) combat HIV/AIDS, malaria and other diseases (vii) ensure environmental sustainability and (viii) develop a global partnership for development (MDGs, 2002).

207. GON has initiated programmes such as the Production Credit for Rural Women (PCRW), micro credit projects and women awareness and income and generating programmes (JAGRITI) in all the 75 districts of Nepal to involve women in income generating activities and help them break the cycle of poverty. There are rural development banks in 38 districts covering all the five development regions. The Small Farmer Development Programme (SFDP) also aims at reducing poverty and raising the standard of living of the farmers. The External Development Partner (EDA) is widely involved in those programmes. The resources of three Nepalese banks have also been mobilized for the programmes.

208. The initial report has provided basic information on the National Action Plan, 1996. The Plan was formulated with a view to strengthen institutional capability and improving nutrition service delivery. The implementation of Action Plan has contributed in reducing the rate of malnutrition only by 0.6% annually, which is not significant. The food production of Nepal is not stable constant because all the cultivated lands have no irrigation facility and the irrigation system is also dependent on the rainfall. After arrival of the monsoon, most of the irrigation system becomes functional. Some year the monsoon comes late and returns earlier. Generally the monsoon arrives in the middle of June and lasts till the early September. The occurrence of drought and partial rainfall affects the production. Therefore, some years the production of major food crops remains surplus and in other years remains deficit. Recently another problem of rapid migration of active population from the rural areas leaving behind only the old, children and women has been creating a serious level of productive labour force for the agricultural activities in the villages.

209. The food production scenario in the recent years appears to have improved. For instance, Nepal has had surplus food grain. However, food availability at different regions has not been even sufficient, for instance, the Hills and Mountains have been quite vulnerable to food security. Looking into the district wise state of food insecurity, one recent study has also revealed that food security is mainly a problem at the household level (SAWTEE/Action Aid, 2004). Edible cereal grain production, requirement and balance of major crops in Nepal are presented in the table below:

Table 8: Edible Cereal Grain Production, Requirement and Balance of Major Crops in Nepal (1997/98-2001/02) (in metric tons)

Crops		1997/98	1998/99	1999/2000	2000/01	2001/02
Rice	Production	2035725	2,074,193	2,259,393	2,356,646	2,294,204
Maize	Production	940767	920094	1,007,178	1,001,478	999,831
Wheat	Production	806846	855647	934559	914885	1,008,827
Millet	Production	233968	238968	242331	231915	231,714
Barley	Production	10244	8710	8478	8225	8472
Total	Production	4,027,348	4,097,612	4,451,939	4,513,179	4,575,049
Total	Requirement	4,178,077	4,279,491	4,383,443	4,424,192	4,463,027
Balance		-150,729	186,189	+68,496	+88,987	+80,022

Source: GON, 2003, The Statistical Yearbook of Nepal, 2003, CBS.

210. The World Food Programme (WFP) supports Nepal in time of severe food deficit, as well as under the 'food-for-work' programme. Under this programme, people of food insecurity area work on construction of roads, canals, dams, drinking water projects and receive wages in food grains. The Mid-Western, Far-Western and High Mountainous regions of Nepal do not produce sufficient food grains and hence depend on the imports of the same from other regions, basically the Eastern part of the country and *Terai* regions. The 'food-for-work' programmes have become very effective. However, other programmes supported by the donor agencies also help to cope with the food insecurity in Nepal.

211. GON has established a separate corporation namely Nepal Food Corporation to supply food grains including the area of food insufficiency. GON has been providing subsidy for the transportation of food grains, salt and petroleum for coping with shortage and to control price. In the case of *Madhav Kumar Basnet Vs Prime Minister and others*, the SC has recognized that the GON is responsible for supplying food grains to the people and it has been putting every effort to supply food grains in the food deficit districts. The SC repealed the writ petition on the basis of the arrangement made by the GON to supply food grains. The transportation cost up to home was borne by the Nepal Food Corporation (Writ No. 3341, 1993). In this case the writ petitioner had blamed that the GON has not paid serious attention to cope with the food shortage and drought problems in the districts of Humla, Jumla, Mugu, Kalikot, Dolpa, Bajhang, Bajura and Darchula. MOAC is working on promoting local production in attaining food security. In 1999, there was severe drought and food shortage in those districts. There has been improvement in living standards and access to

basic services in Nepal since 2000. By the end of 2004, 43.9% of the population has access to health care, 38.7% population has access to sanitation facilities (PRSP, 2005).

212. Recently, GON has initiated Land Bank Concept in order to increase the access of poor landless communities to land by providing soft loan through Agriculture Development Bank. In the first phase, two districts- Banke and Kailali have been selected for piloting purpose. In this scheme, landless ex-*Kamaiyas* will have access for soft loan in order to buy up to one *bigha* (0.99 hectares) of agriculture land.

Challenges Ahead

213. High population growth rate, poverty, unemployment, and poor resource base are the factors adversely affecting the attainment of this right. Budget constraint and the lack of peaceful environment are the major challenges to the Government.

Housing Situation

Basic Information

214. 91.6% of the population of Nepal own houses. The number of homeless people in Nepal is negligible. The rough estimate reveals that around 300,000 out of 23.5 million population are homeless. They are basically nomads and victims of natural calamities. The housing situation is presented in the following table:

Table 9: Housing Situation

SN	Descriptions	Nepal Living Standards Survey	
		1995/92	2003/04
1	Percent of households who reside in their housing unit	93.8	91.6
2	Percent of households occupying housing units for rent	2.2	5.4
3	Average sizes of dwelling (sq. ft.)	604	531
4	Percent of households living in structures with cement bonded walls	10.7	18.3
4.1	Concrete roof	5.7	13.6
4.2	Galvanized-sheet roof	11.2	21
4.3	Cement/tile floor	5.1	15.2
5	Percent of households with access to electricity	14.1	37.2
6	Percent of households having accessed to piped water	32.8	43.9

7	Percent of households with own toilet facility	21.6	38.7
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Source: Ministry of Physical Planning and Works, 2004

215. Percentage of people living in squatter settlements in rural and urban areas is less than 1%. There is no forced eviction in the urban areas. In rural areas, there are few cases of evictions but they are relocated somewhere else. Despite the fact that a negligible percent of them are unable to pay for housing. 31% of the people are living under absolute poverty.

216. The predominant housing type is owner built housing, which consists of 91.6% of all the housing stock. So the percentage of housing stock is as: 91.6% owner built 2.5% institutional, 5.4% renters and 0.5% squatter.

217. The Country Code of Nepal gives some kind of housing rights to the owner and tenants of the house. The Apartment Ownership Act, 1997 deals directly with the housing rights of the apartment owners. The Land Reform Act, 1964 has made land ceiling and tenureship. The Land (Survey and Measurement) Act, 1962, The Land Acquisition Act, 1978, The Local Self-Governance Act, 1999, The Town Development Act, 1988, The Building Act, 1999, The Electricity Act, 1992, The Environment Protection Act, 1997, and The Building Code, 2003 regulate the right to decent living. GON has been drafting Rent Control Bill.

218. Housing in Nepal is the individual's responsibility and the Government's role is to facilitate the housing process. Housing process is dominated by the owner builders. Local community and user's group organize themselves to provide services like road, water, supply, street lighting and solid waste management. Some of the user's committee gets Government (both central and local) support in the form of sharing of cost of infrastructures. In Nepal, the state does not build housing units. However, in the current fiscal year, the Government is constructing 360 temporary units in different parts of the country to provide shelter to internally displaced people. It is worth to mention that GON has recently adopted policy on IDPs.

New initiatives

219. GON has been providing unutilized forestland to build houses for freed bonded labour in western part of the country. The state is providing annual development budget of approximately US\$ 10 million for housing and urban development sector, which is quite inadequate considering the demand schedule. The percentage of the national budget is approximately 1% for housing. During the project formulation and implementation stage, the needs of the most disadvantaged group are taken care of. The international donors put such covenants in the project agreement.

220. The Government has been implementing Small Town and Market Centre Development Programme since 1994 and this programme is targeted to the infrastructure development of emerging towns and market centres in the rural parts of the country. As a part of urban renewal programme the Government makes sure that people are least affected and forced evictions do not take place. Affected people have been duly compensated and they are properly resettled if needed.

221. GON has significantly increased the budget on social sector. The budget is broadly divided into two categories; 'development' and 'regular'. Social sector investment is important for reducing poverty in rural areas. The Government efforts to prioritize and realign programmes and activities in line with the poverty reduction strategy goals have also brought about changes in inter-sectoral composition of the development budget. The share of social sectors (education, health, drinking water and local development) has grown from about 37 % of actual development expenditure in 2001/2002 to 42% in 2002/03 and 47 % in 2004/2005. Within these groups the share of education has grown from 8.8 % to 13.3%, health from 6.0 % to 9.6 %, drinking water from 5.6 % to 7.6 %, and local development remained constant at about 13 %.

Challenges Ahead

222. Despite the progress on housing, there are several challenges before the Government to ensure the adequate housing facilities. Heating, cooling, air circulation, electricity and drinking water supply systems are very poor. In addition, the bad condition of roads, culverts, streets, and lack of open space in urban areas are other problems associated with housing.

223. In order to invest in this sector, Nepal needs international assistance, which will be helpful for the capacity building of local governments and NGOs and useful to upgrade the existing human settlements for the poor.

Article 12: Right to enjoyment of the highest attainable standard of physical and mental health

Basic Information

224. GON has accepted the health service as a very significant area of human rights. GON has adopted several measures such as policies, strategies, plans and programmes to protect the right to enjoyment of the highest attainable standard of physical and mental health of the people. GON has adopted planned development since 1956 and currently Tenth Five-Year Plan, 2002-2007 is being implemented. The initial report has covered the policies, plans and programmes adopted by the Eighth and Ninth Plan, The National Health Policy (NHP), 1991, and The Second Long Term Health Plan (SLTHP), 1997-2017.

225. GON has adopted and implemented The Medium Term Strategic Plan (MTSP), The Essential Health Care Services, 2005, The National Drug Financial Policy, The Nepal Health Sector Programme, 2004-2009, and The National Human Rights Action Plan, 2004-2007 to ensure the highest attainable standard of physical and mental health of the people. Recently, GON has prepared Immediate Health Plan 2005 and NPC has been reviewing it.

226. The Tenth Plan has stipulated two objectives: (a) overarching national objectives and (b) objectives. The overarching national objective is to reduce the magnitude of poverty among the

Nepali people substantially and in a sustainable way by developing and mobilizing the healthy human resources. Under the objectives (b): 1. apart from improving the quality of health services, extend the access of the poor and backward people of the rural and remote areas to the health services (2) besides systematizing the rising population, access of reproductive health and family planning services will be extended to the rural areas extensively in consideration of maternal health service (Tenth Plan, p. 475).

227. The strategies in the Tenth Plan include: increasing investment to provide essential health service to the poor and the backward communities; developing Ayurved, naturopathy services and traditional healing systems like homeopathy, and Yunani as the supplementary health service by promoting local medicinal herbs and enhancing skills and expertise; decentralizing the health services according to The Local Self-Governance Act, 1999; enhancing access to essential health services in rural and remote areas through special services such as safe motherhood, reproductive health, child health, nutrition, tuberculosis, *kala-zar* (typhus), malaria, Japanese encephalitis, and other communicable diseases; providing basic health services from the local and central level institutions, governmental, non-governmental, and private health institutions; managing the human, financial and physical resources by improving the quality of health services provided by the collaboration of the Government, private and non-government sectors; reducing maternal, and child mortality by launching reproductive health programmes and family planning service (Tenth Plan, p. 477).

228. The policies and work plans in the Tenth Plan include: extension of essential health services; developing Ayurved, naturopathy services, and traditional healing systems like homeopathy, and Yunani as the supplementary health service; management, and decentralization of the health sector; special health service to control communicable, and non-communicable diseases; disseminating system; partnership/participation of the Government, non-government, and private sectors and reproductive health services. The Plan has stipulated that an independent National Microeconomic Health Commission will be set up within the accepted structure of the national programme of poverty eradication to conduct the programmes of health sector in a coordinated manner (Tenth Plan, pp.477-480).

229. The Tenth Plan has prioritized the health service programmes in three priorities on the following bases: burden of diseases, implementing capacity, equity, programmes targeted to the poor, the oppressed and those devoid of opportunities, programmes contributing to poverty eradication and the availability of resources. Under the first priority programme, expanded vaccination and national polio vaccine; control of acute respiratory infection; diarrhoea; nutrition; safe motherhood; family planning reproductive health of adolescents; mobilization of female community health volunteers and *sudenis* (trained traditional birth attendants); epidemiology and control of diseases (malaria, typhus, natural disaster and management); vector-borne diseases and their control, research and training; tuberculosis; leprosy; HIV/AIDS and sexually transmitted diseases (STD); health information, communication and education; supply management; community medicine; health insurance; information management programmes have been included. Under the second priority, establishment of national health training centre; developing Bir Hospital as a

national hospital; developing Shahid Shukraraj Tropical and Infectious Disease Hospital as a centre for services, facilities and study and research of tropical diseases; developing Kanti Children's Hospital as central hospital for children by providing all types of specialist facilities for the curative services of the children; developing the Indra Rajya Laxmi Maternity Hospital as a focal point of maternity health for the World Health Organization to provide quality services relating to maternity, gynecology, newborns and family planning; coordinating and providing technical assistance to the urban health institutions by MOHP; establishing Ayurved Hospitals in five regions and conducting mobile Ayurved health camps; developing specialist-oriented experimentation to expand laboratory and other auxiliary services; strengthening supervision, monitoring and evaluation systems; adopting a policy of arranging blood banks and blood transmission services for health service in the central, zonal and district hospitals and making effective the Health Research Council on research activities have been included. Under the third priority, the programmes are: developing the Nepal Eye Hospital as an institutions to deliver specialist services; providing excellent services to the eye patients through the Netra Jyoti Sangh by coordinating with the non-government organizations; adding hospital beds and providing specialist services of cancer by BP Koirala Memorial Cancer Hospital; establishing the Shahid (Martyr) Gangalal National Health Centre as an ultra modern heart related hospital with 200 beds; formulating a dental health care policy; developing such methodologies as *panchkarma* and *kshatrasutra* (alkynes/salt formula) and operation of emergency service, establishment of library and museum for herb samples at *Ayurved* Hospital of Naradebi; enhancing the capacity of Singha Durbar Vaidyakhana, homeopathy, yunani and naturo-therapeutics system; management of medicines; advancing post graduation programmes; developing and extending hospitals and controlling addictive drugs (Tenth Plan, pp.481-490).

230. The Medium Term Strategic Plan (MTSP) aims to develop an effective health system for the provision of affordable and accessible Essential Health Care Services (EHCS); to promote a public-private-NGO partnership for the provision of health care; to decentralize the health system and ensure participatory approaches at all levels; and to improve the quality of health care provided through the public/private/NGO partnership by total quality management of human, financial, and physical resources (GON, DOHS, Annual Report 2003/2004, p.17).

231. The Nepal Health Sector Programme (NHSP) 2004-2009 covers reproductive health, child health, and control of communicable and infectious diseases and zoonoses. EHCS is one of the important components of NHSP. EHCS are prioritized public health measures and essential curative services that address the most essential health needs of the population and are highly cost effective. There are twenty elements under the EHCS, i.e. reproductive health; immunization; prevention and control of HIV infection, AIDS and sexually transmitted diseases; leprosy control; integrated management of childhood illness; nutrition supplementation, enrichment, education and rehabilitation; prevention and control of blindness; environmental sanitation and hygiene; school health services; oral health services; substance abuse including tobacco and alcohol control; mental health services; accident prevention and rehabilitation; community based rehabilitation; occupational health services; emergency preparedness and management; vector-borne disease control; and curative services (EHCS, 2005).

232. The National Human Rights Action Plan, 2004-2007 has included several health related human rights programmes, these include: review and amend laws to bring them up to international norms and standards; build additional primary health care facilities and strengthen and better equip existing rural health care centres and expand basic and primary health services at the community level; conduct awareness programmes in rural areas about the human rights to good health and right to reproductive health, coordinate collaborate with NGOs on reproductive health and conduct awareness programmes that include sanitation and cleanliness, HIV/AIDS, sexual health and immunization as a part of school curriculum; maintain drug and equipment quality, control prices and establish monitoring programmes, effective control of HIV/AIDS and sexually transmitted diseases and provide counseling and reproductive health education to adolescents; conduct high vaccination coverage programmes and supply vitamin 'A' and micronutrients programme; and conduct research in the health sector (NHRAP, 2004, pp.19-21).

New Initiatives

233. GON has been conducting special package programme to ensure health services for the people of 25 districts having low health development indicators. Of the 25 districts, 14 districts are found to have lowest health development indicators. Under this programme, the GON has been initiating several programmes, which include: sending doctors to the low health development indicators districts by making special appointments. By the middle of August 2005, seven medical doctors have been sent to six districts out of 25 low health development indicators. GON has been conducting environmental health programme under the special package programme in the 14 districts of lowest health development indicators. GON has a programme to construct care taking home for the pregnant women in ten districts (Achham, Arghakhanchi, Bajhang, Dailekh, Gulmi, Jumla, Kaski, Rukum, Salyan, and Surkhet); delivery room in two health post of 25 districts; provide training to mother and child workers and village health workers for 125 unemployed School Leaving Certificate (S.L.C.) graduates of the five districts of Karnali Zone so that the trained people could get employment in the future. GON has initiated cost sharing scheme for transportation and free health services for the women who come to the government hospitals for delivery. GON has been collecting data of the *Dhami* and *Jhankri* (traditional healers) of the remote and hill area of the Mid-Western and Far-Western Regions and provides them training so that they could inspire the people for using most necessary health services.

234. GON has been providing ANM training to 432 Maternal and Child Health Workers (MCHW) in the current year and 500 MCHW were given such training last year. Under the decentralization programme, the Government has already handed over 1,424 sub-health posts to the LBs in the previous years; another 18 hospitals will be handed over to the DDCs and health institutions of ten districts to the local communities. The LBs and local communities will become responsible for the management of such health institutions. Two public hospitals are being managed by private sectors. These indicate that the situation has improved with the involvement of private sectors in managing the hospitals. GON provides necessary budgets for their management.

235. GON has been running school health education programme in all 75 districts. It has carried out such programmes in different schools about 3,981 times till 15 April 2005. GON has been carrying out vaccination programmes, i.e. BCG, DPT, Polio, Measles and Hepatitis B effectively all over the country. 3 doses of DPT vaccination were provided to 3.3 million children (67%) every year.

236. GON has been distributing vitamin 'A' capsules to about 3.5 million children of 75 districts every year and has carried out a programme for AIDS control (Financial Budget, 2005/06).

237. Essential health services during Fiscal Year (FY) 2003/2004 were provided by 84 hospitals, 188 Primary Health Care Centres (PHCCs)/Health Centres (HCs), 699 Health Posts, and 3,179 Sub-Health Posts. Primary health care was also provided at Primary Health Care Outreach Clinic (PHC/ORC) sites. These services were further supported by 48,307 Female Community Health Volunteers (FCHVs) and 15,553 Trained Traditional Birth Attendants (TTBA). The governmental health institutions are provided in the following table:

Table 10: Government Health Facilities

S.N.	Government Health Institutions	Total
1	Specialized/Central Hospitals	5
2	Regional Hospital	1
3	Sub-Regional Hospital	1
4	Zonal Hospital	8
5	District Hospital	67
6	District Health Office	75
7	Primary Health Care Centre (PHCC)	182
8	Health Post (HP)	699
9	Sub- Health Post (SHP)	3,131
Total		4169

Source: HMG/N, MOHP, Fact Sheet, 2005.

238. The health sector has got higher priority. GON has allocated Rs.7,555,431, 00 for the current FY 2005-06. It is a 6.05% of the total budget. The budget allocated by the GON during six years is given in the following table:

Table 11: Allocation of Budget in the Health Sector, 2001-2005

S.N.	Fiscal year	Annual budget (in 000)	Percentage
1.	2000/01	4,605,602	5.3
2.	2001/02	5,190,955	5.9
3.	2002/03	4,872,416	5.5
4.	2003/04	5,047,302	7.2
5.	2004/05	6,553,441	5.8
6.	2005/06	7,555,431	6.9

Source: HMG/N, MOHP, August 2005.

239. As a result of improvement in health services, over the last 40 years, small- pox has been eradicated. Tuberculosis, leprosy, goiter, malaria, and diarrhoea have been sufficiently reduced. According to health indicator, life expectancy has increased to 62 years. The infant and child mortality rate has gone down to 64 and 91 per 1,000 live births respectively. Child delivery services of trained health workers have reached 20.2% of expectant mothers. HIV/AIDS and sexual disease awareness programmes 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. The 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 Ayurved, natural and herbal cures, homeopathy, and Yunani are also expanding in the country.

Challenges Ahead

240. Despite the policies and programmes, the level of health services available in the country is insufficient as evidenced by the fact that only 70% of the population has access to basic healthcare services. GON has no sufficient resources (financial, human and technological) for the effective implementation of the EHCS programmes. Insurgency in the past was one of the reasons that affected the delivery of health services to the people. Most of the doctors and health workers did not go to the designated hospitals and health posts and health centres due to fear of abduction by insurgents. However, the health sector was less affected compared to other sectors.

241. GON has been conducting mobile health camps in the remote areas. People get free check up and medicines in the mobile health camps. NGOs have also conducted such camps.

242. GON has been anticipating increasing financial and technical support from the UN bodies and donor countries for the implementation of EHCS programme and has been gathering a support for the victims of conflict.

Article 13: Right to education

Basic Information

243. The right to education is guaranteed in Nepal. The initial report has provided basic information on it. The Tenth Plan of Nepal has emphasized the universalization of primary education to equip citizens with the knowledge and skills they need to live better lives. The Plan has envisaged a Net Enrollment Rate (NER) of 90% in primary education, 70% literacy in the 6+age group, 63 % literacy in the 15+ age groups, and female literacy of 55 % by 2007.

244. NHRAP has stipulated that education is one of the basic rights. Therefore, it is necessary to improve the overall access and quality of education to all. The Action Plan has emphasized to reform education laws to bring them up to international standards; to guarantee education as basic

and inherent human rights; to make a quality education easily accessible to every one; and to preserve, protect, promote, and publicize.

245. MDGs has targeted that by 2015, the complete course of primary schooling should be provided to all children, boys as well as girls.

246. In Nepal, primary education (grade 1-5) is free in public schools. There isn't any fee of any kind charged for the primary level students. Textbooks for the primary level students of all over the country are being made available by the Government free of cost. To make the primary education accessible to all, Nepal has adopted a comprehensive National EFA Action Plan, 2015, as anticipated by the Dakar Framework of Action. Moreover, educational programmes of each year are being prepared to response the educational needs of the poorest and most disadvantaged in line with the PRS and the MDGs. For the effective monitoring of the programmes, flash reports are issued in an interval of 6 months by the Department of Education. The fee charged by the public school is very nominal comparing to the private school.

247. GON has been providing budget for the operation of public schools, technical education and vocational training. The Government has established the Council for Technical Education and Vocational Training (CTEVT), Sanathimi. It has 14 technical schools and 19 annual schools of its own in different parts of the country and the Council has been giving affiliation to various polytechnic institutes in the private sector. GON has signed a "Skills for Employment" project with the ADB, Manila, to provide skills training to the school dropouts as a poverty reduction strategy. For the children who have not completed the primary education, there are alternative schooling programmes.

New Initiatives

248. The alternative schooling programme is the complementary arrangement of education for the children who have not come under the formal education system due to geographical, social and economic reasons. The main activities under this programme are: (i) Out of School Programme (ii) School Outreach Programme, and (iii) Flexible Schooling Programme. These programmes are especially aimed at providing opportunity to schooling for the educationally under-served children of 6 to 14 years of age group. For example, the Flexible Schooling Programme provides opportunity for the working children of 8-14 years to complete primary education within three years through a consolidated curriculum. On the completion of schooling through Alternative Programme, students are encouraged to enroll in the formal schooling system. The number of students transferred from non-formal to formal education system is presented in table 13. In 2003, a total of 4,841 students were transferred to Grade I from non-formal education. The alternative schooling programmes have been considered a potential means of reaching the children of hard-core group in order to realize the objectives of EFA. However, the coverage of the Alternative Schooling Programmes is low; therefore, the quantity as well as the quality of these programmes needs to be improved.

249. The literacy rate of Nepal is 53.7 %. The net enrollment of girls and boys in each grade is presented in table 13. The percentage of enrollment of girls in the primary school against boy in 2004 was 46.3 %. The net enrolment is given in table 14. The net enrollment of student in 2004 was 84.2 %, which was 72.1 % in 1999. The net enrolment of girl in 2004 in primary school was 78.0% only compared to 90.1 % of boys. There is a difference between girls and boys enrolment however, we can see that the net enrolment of children is rising each year. There is high percentage of dropout in Grade I (15%) and Grade V (13.5%) according to 2003 data. The dropout rate is given in table 15. The graduation statistics or promotion of grade is given in table 16. The promotion from Grade I to Grade II in 2003 was only 50 %, which can be considered very low. The secondary school graduation or the S.L.C. graduation percentage is given in table 17. Only 46.18 % student passed S.L.C. exam in 2004. This can be considered a poor performance.

250. Despite enormous efforts, a chunk of school age population (about 16%) still remains outside the mainstream of basic education, mainly belonging to disadvantaged groups. A number of programmes for advocacy and awareness are being undertaken at different levels to mainstream these groups. The enrolment week (Welcome to School Campaign) in the Second Week of April of academic year has shown a tremendous effect in the enrollment of children. The Government has strived to provide equitable access to the children of socially, economically, ethnically, and educationally backward communities in the primary education through 100% scholarship throughout the country. The distribution of scholarship to *Dalit* community children has increased in enrolment in the *Terai*. The total pre-primary and primary level grade-wise disadvantaged student enrolment is presented in table 18. There are some other incentives programmes for education e.g., Food for Education Programme, a Mid-Day-Snack Programme to school children in 21 food shortage districts where almost of the disadvantaged people are living. The Mid-Day-Snack programme is jointly organized by the GON and the UN World Food Programme (WFP).

251. The issue of girls' education and gender equality has been high on the agenda of the GON. A number of programmes are being undertaken to ensure access to and completion of basic education by girls. EFA also aims to achieve gender equality. For this purpose GON has established a National Scholarship Programme which provides scholarships of Rs.250 per child per annum benefiting around 300,000 girls of low Human Resource Development (HRD) districts (in around 40 districts). Gender sensitization and advocacy programmes are also undertaken to develop awareness among parents to encourage them to send their girls to schools. In the 11 low gender parity and food shortage districts there is a Girls Incentive Programme; a girl student takes home 2 litres of cooking oil. This programme has been effective in increasing girls' enrolment and their retention at school. In the poor communities there is a demand to expand this Girls' Incentive Programme. Reports on all these programmes suggest that they have remained a contributing factor for the improvement of girls' education and reducing the gender disparity in the primary education.

252. The Ministry of Education and Sports, Curriculum Development Centre, has prepared a Bilingual Transition Education Programme for teaching students other than Nepali speaker in their mother tongue. The course books of grade 1-5 are being translated from Nepali to Maithili, Awadhi, Tharu, Newar, Tamang, Limbu, Magar, Rai Wantawa, Gurung, Sherpa, and Rai Chamling. In the

school textbooks, chapter on human rights is included, i. e, child rights, in grade 4 and 5, and human rights in grade 9 and 10. Human rights subject matters have been incorporated in other grades in the context of the civic and social studies reading lessons. Moreover, human rights education has been included at the curriculum of LL.B. and LL.M. under T.U. and Purbanchal University. The human rights courses have also been incorporated under the humanities and social sciences faculties of T.U. Recently, GON has included a paper of law at 10+2 level as an optional subject. Some of the units of the law subjects are related to human rights.

253. Teachers are the main medium through which students learn. Therefore, the importance of teachers is fully appreciated in Nepal. Teachers are categorized in various grades: Primary I, II & III grades; Lower Secondary I, II & III grades; and Secondary I, II & III grades. The starting salary of Primary Level teachers of grade I is NRs.9,000.00, grade II NRs.5,880, and & grade III NRs.4,920.00. Lower Secondary teachers of grade I gets NRs. 9,600.00, grade II NRs.9,000.00, and grade III NRs.5,880.00 as their starting salary. Similarly, Secondary level teachers of grade I get NRs.11,600.00 grade II NRs.10,380.00 and grade III NRs.9,000.00 as their starting salary. There is no difference in between the civil servants and the teaching staff of the public schools. There are all together approximately 148,000 teachers in Nepal according to 2004 data. The total number of teachers by level is given in table 19. The number of teachers by sex, school level and number of fully trained, partially trained and untrained is given in table 20. According to 2004 statistics, only 33 % teachers are fully trained in Nepal. In the future attention shall be given to train the teachers. The Ministry of Education and Sports, Teacher Service Commission, has introduced 'Teacher Licensing' system from 2004. Teacher Licensing tests are continuously held each year. The commission publicizes the teacher licensing exam in mass media. It is hoped that the licensing system will provide licenses to qualified persons and bring teachers with quality in this field.

254. The Government has provided opportunity for the private sector to establish and run the schools. As of 2004, there are 26,277 schools in the country. Out of these schools 24,746 are primary, 7,436 lower secondary and 4,545 secondary schools. The total number of public and private schools by level and unit is given in the table 21. There are 5,919 private schools in Nepal. In the recent years, the number of private schools has decreased. One of the reasons was serious threat posed by the insurgents. The tables No. 12-21 are provided under Annex III.

255. The priority has been given to education sector from several years. This sector has got budget from 12.49 to 16.70 % of the total budget from 1998 to 2005. The total budget and the percentage of budget spent on education has increased, which is presented in the following table:

Table 22: The Total Budget and the Percentage of Budget spent on Education (in NRs.000)

S.N.	Fiscal Year	Total National Budget	Budget on Education	Percentage
1	2062/063 (2005/06)	126,885,100	21,250,447	16.7
2	2061/062 (2004/05)	111,689,900	18,059,654	16.1
3	2060/061 (2003/04)	102,400,000	15,613,274	15.2
4	2059/060 (2002/03)	96,124,796	14,402,421	14.9

5	2058/059 (2001/02)	99,792,219	14,072,847	14.1
6	2057/058 (2000/01)	91,621,335	11,749,579	12.8
7	2056/057 (1999/00)	77,238,226	10,176,074	13.1
8	2055/056 (1998/99)	69,693,337	8,704,373	12.4

Source: HMG/N, Red Book, Ministry of Finance, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005.

256. Financial and technical assistance of the development partners of Nepal have remained important. Some of the key development partners and their assistance have been mentioned below:

- (i) **Asian Development Bank:** ADB is providing assistance for the capacity building of teachers' education. The purpose of this Technical Assistance (TA) is to improve the knowledge and pedagogical skills of primary schools teachers by building capacity of the teacher training institution, particularly of the National Centre for Educational Development (NCED). Moreover, the skill for Employment Project has been signed in 2004 as a poverty reduction strategy. The bank is helping the Government for the Sector Wise Approach (SWA) programme to education as government programmes.
- (ii) **DANIDA:** The Technical Assistance support from Educational Sector Advisory Group (ESAG) has been usually used for activities such as short, medium and long term capacity building, experiments, procurements of good and services. The main objectives of direct funding are to assist MOES, Department of Education and other central level agencies to carry out innovative and developmental activities. The major activities include; establishment of school libraries, establishment of sign language centres at T.U., NGO support through special needs education.
- (iii) **European Commission:** EC technical assistance was related to capacity building, policy reform, studies, monitoring and information. More especially the areas of assistance were decentralization process, government/NGO/community partnership, and gender.
- (iv) **FINIDA:** Finish TA has been providing input in the form of day-to-day technical interaction with MOES staff, particularly to the Curriculum Development Centre (CDC) specialists. For this reason, the Finish TA work plan is in essence with the CDC work plan.
- (v) **Japan International Cooperation Agency (JICA):** The technical assistance support of JICA has focused on the preparation of 'The Project for Construction of Primary Schools in Support of EFA. In addition it has been supporting community based alternative schooling project and girls' toilets construction projects in some districts.
- (vi) **NORAD:** NORAD has provided assistance for several studies and research projects.
- (vii) **UNICEF:** UNICEF has been assisting for Early Childhood Development and Non-Formal Education Programmes.

(viii) **WFP:** WFP supports for Food for Education Programme, a mid-day-snack programme in 21 food shortage districts' schools (together with Girls Incentive Programme, De-worming Programme to school children and Maternal Child Health Care, MCHC) to reduce dropout and absenteeism in the school due to hunger.

257. As a result of these efforts, there has been significant improvement in the education sector. The NER has increased from 69 % in 1995 to 84 % in 2004. The improvement in the enrolment rate for girls were much better for boys and gender gap in NER reduced from 23 % to 12 % in the same period. About 2,000 public schools have been handed over to communities for their management.

Challenges Ahead

258. Nepal has been facing many challenges in achieving the educational policy goals of which the most important one is the decade-long armed insurgency. It is difficult to determine the exact number of school age children who had been denied access to schooling, especially in areas affected by the insurgency. The abduction of school children by the insurgents has affected the children's psychology and their study environment. There has been an influx of children to relatively secure areas resulting in overcrowding in schools in or near district headquarters. And it has been hoped that the recent change in political situation here in Nepal may provide a solution to it (NMDGs, 2005, p.24).

259. Educational institutions had been adversely affected by the insurgency in numerous ways. For instance, a significant number of school days had been lost as a result of forced closures whether as a result of education-specific strikes or general shutdowns by the insurgents. The closure of educational institution had also impacted teachers' training. Some regional-and district-level government education offices were bombed and destroyed or partially damaged. Similarly, the supervision and monitoring of the school was hampered by the security reasons (NMDGs, 2005, p.24).

260. The enrolment campaign as well as the insurgency had led to overcrowded classrooms. This programme has added 200,000 more school children in the public and community schools. There is lack of classrooms, furniture, and playground, materials for games, toilet and drinking water facilities in some schools.

261. The policy of handing over the management of schools to communities has led to increase interest on ownership of schools by the communities.

262. There is a gap between the centre and the grass roots level educational institutions. There are various reasons behind it. One of the reasons is unavailability of physical facilities along with qualified teachers.

263. Reducing repetition and dropout rates is a serious problem for the GON, particularly in Grade 1. There are many reasons, such as: overage and underage children, large class sizes and lack of trained teachers.

264. Nepal has been facing a serious challenge in financing the necessary intervention programmes to provide quality primary education for all children. Although GON has given first priority up to the education sector in the FY 2005/06, however, the budget is not sufficient to carry out the programmes effectively. According to a Need Assessment Study, 2005, Nepal needs a total of Rs.22,128 million in 2005. There is a gap of Rs.9,424 million in 2005 (NMDGs, 2005, p.24).

265. There is a lack of monitoring of the educational programmes at both the central and the local levels. Moreover, there has been no provision of quality indications for performance at schools, which undermines the monitoring process.

266. GON has been searching for more financial assistance from the UN bodies and other countries for the purpose an investment in education. GON has declared educational institutions as Zone of Peace (ZOP) during the period of insurgency. However, there is a need to reconstruct the destroyed and damaged schools. In this context, the UN bodies and donor agencies are expected to cooperate with the GON to provide access to education for all Nepali and to raise the standard of education in Nepal.

Article 14: Provision of Compulsory Education

Basic Information and New Initiatives

267. Nepal has already made primary education (grade 1-5) free to all the children and provided free education for girls up to grade 10 in public schools. Textbooks for the primary level students are provided by the Government free of cost. GON in its Ninth Plan, 1997-2002 stipulated that primary education would be improved, expanded and made compulsory. The NHRAP has also stipulated the provision of free/compulsory primary education to children from families that are socially and economically deprived and living below poverty line. Therefore, GON has been putting its best effort to implement this policy.

Challenges Ahead

268. Nepal has several challenges to make primary education compulsory. Geographical setting, poverty, population pressure, financial constraints are the major challenges. There is low population density in some mountainous and hill areas and there is no school nearby the home. The small children cannot walk for long distance to attend school. The insurgency also affected adversely the implementation of compulsory primary education in the remote areas of mountainous, hill and *Terai*. Donor agencies have been providing assistance for the promotion and development of education in Nepal, still there is a need of more assistance to be provided. GON has been requesting them for continuous and expanded financial and technical assistance.

Article 15: Right to cultural life, scientific research and creativity

Basic information

269. Cultures, religions, languages, scripts, and arts of the INs are the properties of Nepal. Protection and promotion of these assets are very much important. Upliftment of the HMINs is a must in this regard. GON is very much committed to work together with civil society, private sectors and international partners to this noble cause, and is working accordingly.

270. Nepal is rich in culture and cultural heritage. The Nepali legal frameworks have guaranteed the right to cultural life of the people. The initial report has provided basic information on it.

271. GON has enacted and enforced the Indigenous Nationalities Development National Foundation Act, 2002. The Act has established the National Foundation for the Development for the Indigenous/Nationalities, the National Committee for the Development of Nationalities of Nepal. 59 nationalities have been recognized as indigenous nationalities in the country.

272. The NHRAP has stipulated to review laws, related to promotion, protection and preservation of cultures and traditions of all different ethnic, linguistic and cultural groups.

273. There are several institutions responsible for the protection, conservation, and preservation of cultural life of people and cultural heritage. These include: the Department of Archeology, Guthi Sansthan, Cultural Corporation, and The National Foundation for the Development for the Indigenous/Nationalities, and the National Committee for the Development of Nationalities of Nepal, the Royal Nepal Academy. The National Policies regarding cultures has been prepared by the Ministry of Culture, Tourism and Civil Aviation (MOCTCA) and is in the final stage.

274. In 2001, the Ministry of Youth, Sports and Culture was restructured and renamed as the Ministry of Tourism, Culture and Civil Aviation, which is the focal ministry to preserve and promote cultural life. The National Policies regarding culture is being prepared by MOCTCA and is in the final stage.

275. The people of Nepal are of different races, religions, languages, cultures and traditions. CBS has provided data on 100 caste/ethnic groups in 2001. They have 92 different mother tongues. GON has approved 59 INs groups after the recommendation of National Foundation for Development of Indigenous Nationalities (NFDIN). The population of INs is estimated to be 37.2 % of the total population.

276. Nepal is committed to the fundamental human rights of its citizens. The Constitution guarantees the right to equality and has special provision for the protection and advancement of the interest of the weaker section of the society and directs the state to eliminate social and economic inequalities, maintaining and promoting plurality and diversity of cultures, advancing Dis-

Advantaged Group (DAG) through special measures and involving people in their governance to the maximum extent.

277. NFDIN is a principal agency to carry out the policies and programmes for the promotion of cultural life of Indigenous Nationalities as stipulated in the Act.

278. GON has established a Nepal National Ethnographic Museum in 2005 in Kathmandu to preserve the different cultures of nationalities. The lifestyle of Brahmin Tamang, Gurung, Tharu, Magar, Rai, Newar, Sherpa, Thakali, Chepang, Sunuwar, and Limbu has been demonstrated in the Museum.

New Initiatives

279. GON has devised several policies, plans and programmes for the preservation and promotion of right to cultural life of the people. The Tenth Plan has stipulated several objectives with regard to protection and promotion of the cultural life of ethnic groups and minorities, these include: to eradicate the disparities sustained by the Indigenous Nationalities in the economic and social fields; to uplift the level of the Indigenous Nationalities by sincere research and protection of their respective cultural heritage; to improve the capabilities of the indigenous nationalities through empowerment in the field of economic, social, educational, cultural and community activities; and to involve the indigenous Nationalities in the process of national development by enhancing their knowledge and skills to improve their access to national resources by means of professional modernization.

280. The Local Self Governance Act (LSGA), 1999 is the legal instrument to institutionalize the process of development by enhancing the participation of all people including the INs in bringing out social equality in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of the fruits of development. To this end LSGA has the provision to nominate also from among INs in the council, board and mediation committee of LBs. LBs require giving priority to the projects that benefit women and children including the marginalized people while formulating development plans according to LSGA. Provision for the nomination also from among the INs to the National Assembly (Rastriya Sabha) gives an additional opportunity to these people to represent in the legislative body.

281. Efforts have been made in the development plans of Nepal to address the INs' issues. The Eighth Plan (1992-1997) had special socio economic programmes targeted to deprived groups including INs. The Ninth Plan (1997-2002) also adopted specific policies, strategies and programmes for these people. But the outputs of these two plans were not so inspiring.

282. One of the indicators for the M&E of the projects under the Tenth Plan is that the minimum number of beneficiaries should be 30 % from among the *Dalits* and INs at the local level.

283. GON has made arrangements to provide fund through DDCs and VDCs for the programmes of indigenous people in the Tenth Plan. Total outlay for the sector is Rs.1600 million, of which Rs.500 million is to be borne by PAF and remaining Rs.1100 million as grant in-aid to LBs for the programme. The expenditure of the line ministries is not included in this amount.

284. NFDIN, an autonomous body, has been established to look after social, economic and cultural development and upliftment of INs of Nepal and for promoting their equal participation in the mainstream of national development. It has initiated several positive activities including several linguistic and cultural preservation and socio-economic empowerment programmes for marginalized INs groups.

285. GON is committed to work together with the civil society to address the issues of INs. Nepal Federation of Indigenous Nationalities (NEFIN) is an umbrella organization of ethnic organizations devoted for the upliftment and empowerment of the indigenous communities focusing on HMINS. *Janajati* Empowerment Project (JEP) is one of its main programmes supported by DFID to strengthen the Indigenous Nationalities Organizations. It leads 48 organizations affiliated to it and other several organizations. It has wide representation from many INs organizations.

286. The Governance Reform Project (GRP) has planned for the reservation to *Dalit*, INs, women and persons with special abilities in the public services. It is still to be enacted to have implementation. MOES and T.U. have also initiated some reservation schemes in the higher study for *Dalits*, INs, women and persons with special abilities. A high level Committee was formed to recommend on reservation for *Dalit*, INs and women in education, employment, health, and civil service and representative institutions. There is a scholarship programme for DAGs and INs for the fiscal year 2005/06 in MOES spending about Rs.470 million. The budget has also provided reservations for *Janajatis* (15%), women (*Janajatis* and *Dalits*) (20%), and *Dalits* (10%) for the higher education in the community colleges and universities. However, in the case of *All Students' Union of Nepal Engineering College Unit, TU Vs HMG/N and others*, the SC issued a directive order to the Government to implement the policy announcement of the budget speech of the fiscal year 2005/06, about reservations, after enacting necessary laws.

287. GON has made a policy announcement on 17 August 2003, which calls for the elimination of all kinds of discrimination and exploitation, ascertains representation of INs and *Dalit* in ratio to their national population in the National Assembly and representation of women by twenty five percent in the Parliament and other representative institutions, make their representations in the areas of education, health, representation and employment, and provision of the use of national languages as second language in the LBs. MOES has taken initiation for the development of curriculum on indigenous languages.

288. In the same way Nepal has expressed its commitments in National Development Fund (NDF) meeting held in Kathmandu on 2004 to address the issue of INs including other issues through decentralization, effective service delivery systems and conflict and development strategies.

289. ILO Convention No.169 is one of the international instruments that protects and promotes the rights of INs. Since its adoption on 1989, it has been recognized as an effective international instrument to solve numerous problems and to protect the rights of indigenous people. Some 17 countries, mostly from Latin America, have ratified this Convention. Civil society together with NEFIN has initiated a discussion regarding the ratification of the Convention by Nepal. Most of the provisions of the Convention are already applied in a way or other though Nepal has not ratified the Convention.

290. At District Level, the Indigenous Nationalities Coordination Committee (INCC) is formed under the chairmanship of the Chairperson of DDC including the stakeholders to work as a watchdog for the implementation of plans and programmes that are launched through GOs and NGOs at the local level. A focal point or desk is established in each DDC and municipality to look after this matter. This desk is also responsible for the implementation of the provisions of LSGA regarding INs.

291. Besides several legal and institutional measures a big number of INs come under the marginalized groups in the societal level in Nepal. The progress made in last few decades is inspiring though not sufficient. The environment to participate in the national development process is still not conducive to the HMIP. Empowerment activities are still not sufficient and effective to this end. The situation of insurgency had further compounded the problem. It has been very difficult for the effective implementation of legal, policy and institutional arrangements in this regard. However, GON is sincerely trying to achieve the objectives.

292. MOCTCA is implementing several programmes to preserve and promote the traditional culture of the country. The ministry has given the high priority to establish and strengthen cultural relation through bilateral cultural agreement with the different countries. In this regard, efforts to promote Nepalese culture abroad have been continuously performed by the ministry.

293. The preparation project of the inventory of intangible cultural heritage all over the country under this ministry was already completed in the Eastern Development Region, and has been running in the Far Western Development Region, in the current year. The ministry has been providing financial assistance through National Talent Memorial Fund (*Rastriya Prativa Smarak Kosh*) to the non-governmental sectors for its effort in promoting and developing literature, culture, and fine art. It also has been providing minimum financial support to the non-governmental sectors for the preservation of traditional cultures. Submission of essential and necessary documents has been made to the UNESCO for the declaration of the procession of *Rato Machindranath Jatra* as a masterpiece; which runs for the longest period in the country. The office of the copyright registrar has been established, which has started its work for the protection of copyrights of the intellectual property.

Challenges ahead

294. Despite the efforts, there are different problems faced by the GON from the social, economic and political point of view. GON is aware of the fact that it has to develop and implement the public concerning culture rather than to formulate them. Proper implementation of formulated plans and policies will definitely contribute for the empowerment of INs. Therefore, there is a great need of financial support to fulfil the objectives of these plans and policies.

295. Nepal has been facing several challenges to implement the Covenant. Lack of resources, weak institutional base, the high rate of population growth, poverty, the slow- down in economic growth, agrarian rural economy, foreign debts, the effect of some aspects of structural adjustment programmes, insurgency and political instability, prevalence of certain customary traditions, inconsistent legislation with international human rights instruments are the major challenges. Therefore, Nepal has been seeking continued and expanded financial and technical assistance from the UN bodies and donor agencies for the effective implementation of the Covenant.
