

Chapter 9

Views of Commissions on Human Rights Situation in 2023

National Human Rights Commission

In 2023, the National Human Rights Commission divided its major activities into three categories: protective, developmental, and evaluative, within the ambit of rights conferred by the Constitution and related laws. The Commission prioritized cooperation and coordination with state bodies, civil society, international organizations, and national human rights institutions through its extensive network. Despite facing challenges, the Commission successfully maintained its 'A' category classification in the classification by adhering to the efforts made in the protection and promotion of human rights.

The Commission recommended the government provide compensation of 281,301,109 to the affected individuals. However, it was found that victims had only received approximately 70,000,000 in compensation, contrary to the recommended amount. Information obtained by the Commission indicated that 358 human rights violators were recommended for action, resulting in action against 37 individuals by the government.

The Commission has made 1,413 recommendations so far for implementation by the Nepalese government or related agencies. Of these, 15.3% have been fully implemented, 39.2% partially implemented, and 45.5% not implemented, indicating a significant level of non-

compliance. Among the cases referred to the Commission, investigations are pending for 4,115 cases, decisions are pending for 1,462 cases. Among the cases under investigations, 2,618 cases are related to armed conflicts.

The Commission has prioritized advancing its investigative work within the framework of the constitution, laws, and regulations concerning incidents of human rights violations and abuses. Particularly, it has given emphasis to issues related to civil and political rights, economic, social, and cultural rights, women's and children's rights, torture, rights of the elderly, and consumer rights, among others.

Status of Human Rights in 2023

Right to Life

Even though the right to live is recognized as a fundamental or primary right, in practice, the situation is still far from satisfactory. Due to state failures to effectively fulfill its role towards citizens, both directly and indirectly, there is situation where citizens are bound to lose life specially due to criminal activities, lack of healthcare and medication, poverty, suicide, migration for work, natural disasters, road accidents, and similar reasons.

The Commission conducts investigations and scrutinizes cases of homicide/death for recommendations to the Nepalese government for prosecution of the guilty and compensation for the families of the deceased. Government regulation and control over transportation manage-

ment are ineffective, due to which citizens are losing their right to live. Even though natural disasters may not always be preventable, failure to exercise precautionary measures is causing repetition of incidents of death every year.

There hasn't been much discussion about the deaths of workers in the construction and informal sectors. There is a lack of concrete data from government agencies and authorities regarding the number of injuries and fatalities that occur during work and how many lives are lost due to accidents in these sectors. There are many lives lost unnecessarily and untimely due to lack of timely treatment. Even without accurate statistics, it's evident that due to economic constraints, many people cannot access healthcare services, leading to complications and fatalities from various diseases (such as cancer, diabetes, heart disease, etc.), including those arising from communicable diseases.

Rights of Inmates

Despite some positive initiatives such as mental health counseling, advisory services, provision of food, drink, and healthcare, as well as recreational and educational materials like books, libraries, and sports equipment, the physical state of prisons is not satisfactory. Almost all prisons are overcrowded, with more inmates than they can accommodate. Basic necessities such as water, sanitation, and electricity are often lacking or inadequate according to the needs of the inmates. Some prisoners are even forced to sleep on the floor due to overcrowding.

When cases are not resolved in a time by the courts, inmates often end up spending long periods in prison awaiting trial. Inmates with various types of offenses and health issues are often housed together. There is no provision of separate rooms facilitating meeting with family, human rights activists, and legal advi-

sors. Adequate healthcare provisions for the sick are still lacking, and the transportation facilities necessary for legal proceedings are often unavailable as per the needs.

It is essential to integrate vocational training into the prison system, maintain records with photos of inmates, provide suggestion or complaint forms, and ensure compliance with codes of conduct that inmates must adhere to, while also establishing facilities for understanding and monitoring these practices. The Commission directs the government in these various matters and also provides recommendations to improve them.

Transitional Justice

Various stakeholders such as the government, political parties, victims, and the international community have been actively involved in addressing the issue of transitional justice in one way or another. However, due to factors like national and international pressure, conflicting interests, power struggles, and political instability, progress of transitional justice is hindered. Consequently, consensus could not be reached on implementing the orders of the Supreme Court, for which Act could not be made for long time. Moreover, the interests and pressures from national and international communities also make it difficult to address this issue easily and effectively.

The implementation of provisions regarding the investigation on disappeared persons, and Truth and Reconciliation Commission, 2014 have not been followed. The government has not yet addressed the concerns raised by national and international communities, victims' demands, and international pressure.

The provisions outlined in the Bill to Amend the Commission of Investigation on Enforced Disappeared Persons, Truth and Reconciliation Act, 2071 (2014 AD), and bill to amend the Act, have not

yet addressed the concerns of the victims' families and stakeholders. According to them, the bill does not comply with the orders of the Supreme Court and international laws and is accused of having provisions with advantages to the convicts. Victims and stakeholders have voiced their dissatisfaction with the current situation.

Economic Rights and Employment

Under economic rights, individuals have the freedom to choose their work, earn fair wages for equal work in a discrimination-free environment, and have the right to join trade unions, open their own unions, and participate in existing ones. Social security rights such as social insurance, family security, and assistance should also be guaranteed. However, improvements in capital formation, job creation, production, and productivity have not improved as expected. The agricultural production has gone down due to untimely provision of fertilizers, dependence on rainfall and climate change.

Rights to Education

The Nepali government formulated a policy to eradicate illiteracy within two years in 2065 BS (2008 AD), but even after decades, the goal is not achieved. Despite commitments made in international forums and the requirement for education budgets to be above 20% according to international standards, Nepal still lags far behind in this regard with about half of this allocated in education sector. Provincial and local governments seem to be running educational campaigns while overlooking their uniqueness and fundamental principles.

The government has initiated various programs under the School Enrollment Campaign to ensure access to education for all children of which some are seen progressive. However, the situation is not entirely satisfactory. Despite efforts to provide free education, uni-

forms, books, and meals from government levels, the expected outcomes have not been achieved. Currently, an estimated 300,000 or more children aged between five to twelve years are out of school. Children with disabilities, economically disadvantaged children, orphaned or unaccompanied minors, and marginalized children are seen deprived of education. Although education is prioritized by the central, provincial, and local governments, efforts to integrate out-of-school children into formal education systems are still lagging.

The quality of community schools has yet to meet expectations for improvement. Without quality teaching, proper management, and effective supervision, the progress has not been observed yet.

Rights to Health

Investment in both public and private sectors and upliftment in awareness among citizens about health has caused considerable progress in health indicators. From the perspective of human resource production, Nepal has 1.15% doctors and 2.54% nurses per thousand population. Eight different types of diseases are being treated under "health facilities for backward citizens". The government has also ensured special provisions for the free treatment of heart diseases for children under 14 and seniors over 70, as well as for various other illnesses like heart, cancer, Parkinson's, Alzheimer's, spinal injuries, and sickle cell anemia. Additionally, there are 98 types of essential medicines distributed free of cost. Various national vaccination programs and other health-related services have significantly improved both the quality and quantity of healthcare services. As a result, the average life expectancy in Nepal has reached 71.74 years.

Despite these positive efforts, access to healthcare remains out of reach for all levels of citizens. Particularly, those in

remote and impoverished areas, marginalized communities, and individuals with disabilities or living in poverty struggle to access healthcare services easily, conveniently, and comprehensively. Although the basic healthcare services operational guideline of the Nepal government, aims to distribute 98 types of medicines free of cost, even district hospitals may not always have them readily available.

The increasing privatization in the healthcare sector has led to a mindset shift where government hospitals are seen as catering only to the poor. Accessibility to convenient and affordable healthcare services, aligned with the aspirations of the constitution, remains lagging for citizens of any specific location, level, caste, or community.

Citizens are unable to access quality healthcare services due to under staffing in health institutions. Despite physical infrastructure improvements in health facilities, sanitation remains a concern. Overall, the situation doesn't reflect citizens' rights to quality healthcare as outlined in the constitution and laws.

Rights to Food

Despite efforts in legislation and policy, access to food rights and implementation remains inadequate. The Food Rights and Food Sovereignty Act of 2018 aims to ensure citizens' access to sufficient, nutritious, and quality food without discrimination, freedom from hunger, and protection from food insecurity. Nepal ranks 69th out of 125 countries on the Global Hunger Index 2023, despite economic hardships. However, Nepal's dependency on food imports remains uncertain upon comparative studies of production and self-sufficiency. Analyzing government data and statistics doesn't assure citizens' food rights security. To achieve food self-reliance, effective implementation of sectoral policies like agriculture, trade, and industry is crucial.

As per the Food Rights and Food Sovereignty Act of 2018, local authorities are responsible for updating information on households at risk of food insecurity and distributing food assistance identification cards. The implementation, however remains inadequate.

Consumers Rights

Despite the protection of consumer rights in legal documents related to human rights, the implementation appears to be weak. Issues such as food insecurity, adulteration of food items, sale of expired food products, and unreasonable price hikes persist. Quality products, proper production storage, and distribution coordination are lacking. Additionally, factors like lack of resources, skilled manpower, lack of proper laboratories, inadequate inspection, and ineffective enforcement contribute to the problem.

According to the Consumer Rights Monitoring Directive issued by the Commission, market monitoring has been conducted in various Districts. Despite efforts by local administrations and authorities to monitor markets, the effectiveness has been limited. Lack of technical expertise and adequate knowledge, absence of equipment, and shortage of food testing laboratories have hindered effective local monitoring. Additionally, consumers continue to be deceived due to the lack sufficient awareness. Even though District Administration Offices have determined fare rates for local transportation, implementation has been ineffective. Health facilities operate without registration, prices are not properly displayed, diesel and petrol are sold openly in rural areas, expired goods are distributed, and there is a lack of uniformity in measurements, among other issues identified during monitoring.

During special occasions, concerns arise regarding the quality of daily consumable items such as rice, lentils, sugar,

oil, milk, sweets, meat, eggs, medicines, fruits, and vegetables. Consumption of adulterated products has adverse effects on consumers' health, convenience, and economic well-being. Despite occasional monitoring, persistent issues like irregular inspections and lack of transparency in pricing of consumable goods and services continue to prevail.

Women Rights

Despite legal and institutional frameworks, all women are unable to enjoy their rights respectfully. Analysis based on indicators of women's empowerment in Nepal reveals that women's political participation has not been meaningful.

Perpetrators easily escape punishment in incidents of violence against women, which further encourages impunity. In many cases, incidents of violence against women are not brought before concerned authorities and are instead reconciled which undermines women's rights to judicial rights. Women who are victims of violence sometimes face pressure not to report the incidents, especially if they involve their own families, and may end up returning to the same household where they suffered abuse. Some incidents of violence against women never become public. Domestic violence, rape, polygamy etc. are still prevalent. Types and natures of domestic violence are changing with time. In this year, nine cases of violence against women's rights were registered in the commission.

Child Rights

Looking at the situation of birth registration, it's observed that only 74 % of children under the age of five have birth certificates, among 3,007,648 children. Geographically, the highest birth registration rate is seen in the Himalayan region at 81.9 %, followed by 73.1 % in the hilly region, and 73.7 % in the Terai re-

gion. In terms of provinces, Karnali Province has the highest percentage of birth registration at 87.3 %, while Bagmati Province has the lowest with only 67 % of births registered.

Several programs are being implemented for the educational development of children. Various initiatives related to health and nutrition include the National Immunization Program, golden 1000 days, Vitamin A distribution, National Nutrition Program, Multi-sectoral Nutrition Program, establishment of Nutrition Rehabilitation Centers, Integrated child health program, HIV/AIDS control and treatment programs and so on. Throughout the country, programs such as nutrition allowances for children from Dalit communities, assistance for pregnant and lactating women in remote Himalayan and hilly districts under the President's Women Empowerment Program, and rescue and treatment support through helicopters are being conducted. In addition, free health services and medicines are provided in selected health institutions. However, the number of child friendly schools remains low.

The government, its agencies, and non-governmental organizations are continuously making efforts to protect children's rights. The long-term effects of poverty are more pronounced in children than in adults. While Nepal has policies and regulations related to children's rights and child-friendly provisions, it is essential to ensure effective implementation of these measures.

Caste-based Discrimination

Although constitution has guaranteed to ensure the rights against caste-based discrimination, the practical implementation of these measures appears to be weak. Dalit communities continue to face various forms of discrimination in political, social, and cultural spheres. The commission has been conducting research,

investigations, and various awareness-raising programs aimed at protecting the rights of Dalit communities. It collaborates with relevant authorities to ensure coordination and cooperation for uplifting the Dalit communities.

Even in the local bodies where representation exists, non-Dalit representatives often engage in non-cooperation and conduct various forms of sabotage to undermine the effectiveness of Dalit representatives. Particularly concerning is the lack of respect and marginalization faced by Dalit women ward members from the respective ward chairpersons. Their representation is often seen as secondary, and they are excluded from essential decision-making processes, budget allocation for Dalit-friendly initiatives, policy formulation, program planning, and implementation.

In this fiscal year, two complaints were registered in the Commission and are in the process of decision.

Rights of Disabled People

Despite the existence of various provisions in the constitution, laws, and regulations for the protection and development of persons with disabilities, their effective implementation remains lacking, leading to their inability to fully enjoy human rights. The absence of a positive social perception and disability-friendly mindset, as evidenced by the analysis of information, data, and findings obtained through investigation and research in the offices of the commission, contributes to various behavioral and social biases against persons with disabilities. Ensuring inclusiveness in areas such as education, health, employment, and political participation remains uncertain. Incidents of discrimination, violence, and sexual abuses against individuals with disabilities are frequently reported. Reports indicate instances where teachers with disabilities have been denied atten-

dance in schools citing various reasons, even after their appointment or transfer to another.

Individuals with mental and psycho-social disabilities continue to endure situations where they lack access to treatment, are confined to home, and lead inhumane lives. In informal sectors and daily wage labor, individuals with disabilities are often given lower priority. Schools reject enrollment of children with disabilities, and there is a lack of disability-friendly curriculum and textbooks. Policy-making levels still struggle to ensure easy access for persons with disabilities, and their rights are often viewed with a sympathy rather than a rights-based perspective. This fiscal year, four complaints related to the rights of persons with disabilities have been registered in the commission.

Rights of Migrant Workers

Everyone has the right to obtain employment according to their qualifications, capabilities, and choices. Various international and national mechanisms have been established regarding the rights of migrant workers. Most workers leaving Nepal go to countries such as Malaysia, Qatar, UAE, and Saudi Arabia. Based on demand received from employers, foreign employment agencies send workers to the third country under institutional labor approval. It is also common for individuals to arrange their own employment or work through personal connections without formal labor approval. There are also instances of individuals traveling to the third country for work without proper labor approval or through illegal means.

The number of Nepali migrant workers going to India for employment without labor approval is also significant. However, there is no consolidated data available from any agency regarding the exact number of Nepali workers going to

India. Due to the ease of access and the absence of the need for labor approval, many youths from Karnali, Sudurpashchim Province, and border areas are attracted to work in India. The estimated number of Nepalis living abroad is around 3,500,000, as per various surveys.

Due to the lack of knowledge about foreign employment, some Nepalis fall victim to fraud before reaching their destination. After reaching the foreign land, they face exploitation due to the lack of necessary skills and expertise. The incidence of losing one's life or becoming disabled during foreign employment has also been observed.

Although there are various policy and legal provisions to ensure the rights of migrant workers, their implementation remains weak. As a result, migrant workers often face challenges and hardships both during their journey and upon returning to their home country. Recognizing the reality, the Commission has recommended the government to streamline the recruitment process for migrant workers, increase access to justice for them both in destination countries and in Nepal, ensure rehabilitation and prompt rescue, provide fair compensation, and facilitate their sustainable reintegration into society.

Rights of Indigenous People

Nepal has committed to implementing various policies and legal provisions related to the rights of indigenous peoples. However, compared to the past, although there has been some improvement in the economic, social, and cultural aspects of indigenous communities, significant progress is still lacking. With the transition to a federal system in the country, the political representation of indigenous peoples has increased. Indigenous representation can be observed in various local levels of government. Some local bodies even have indigenous lead-

ers. However, such representation is often limited to individuals with economic, social, and political influence, leaving the situation of indigenous peoples in rural and remote geographical areas weaker. Currently, indigenous representation in civil service stands at 10 %. While this may not be sufficient considering their population percentage, it signifies relative progress. Despite this, communities like Raute, Sural, Kusunda, Majhi, Chepang, among others, continue to face extremely difficult situations.

Based on the information obtained from the commission's investigation, development projects associated with various activities have posed risks to the rights of indigenous peoples. In many cases, disputes between the government, project planners, and stakeholders have resulted in project delays, which have directly impacted the socio-economic status of indigenous communities who are located to the project area. The construction of the Marsyangdi Corridor (Manang-Udayapur) transmission line, with the capacity of 220 KV, has created issues related to the enjoyment of human rights for local residents, including indigenous peoples. The commission's public hearings and site investigations in the Manang-Lamjung section revealed insufficient information provided to affected local indigenous communities regarding land acquisition, expansion of transmission lines, environmental impact assessments, among other issues.

The commission has conducted investigations and made recommendations regarding the allegations of Solu Hydropower exploiting on the rights of local indigenous peoples in Solududhkunda Rural Municipality-8 of Solukhumbu District. It has been found that due to the involvement of social elites and political figures in the entire process of such projects, the rights of ordinary citizens are at risk. The participation of affected individuals in the

translation, implementation, and evaluation of national and regional development plans and programs, as well as the recognition of their cultural values, ownership, and rights to resources, ensured by Convention of Indigenous People, 1989 and International Labor Organization has not been adequately ensured.

In this fiscal year, two complaints have been registered with the commission citing violations of the rights of indigenous peoples.

Rights of Senior Citizens

The respect and protection of human rights for senior citizens seem to be lacking. Issues such as poverty, family conflicts and disintegration, social and moral degradation seem to have a significant impact on the elderly population. Cognitive decline, responsibility in child-rearing, conflicts in inter-generational perspectives, solitude, and spiritual quests also contribute to the compulsion of senior citizens to seek refuge in elder care homes. Those residing in elder care homes have suffered from various family related, psychological, and social problems, as well as physical ailments. Old age leads to dependency, lack of proper nutrition, health issues, interpersonal challenges, deprivation from citizenship rights, social exclusion, solitary living, and biased treatment from family members, among others. These shared problems experienced by senior citizens are exacerbated when joint families become nuclear due to reasons such as migration for foreign employment. Some elderly individuals, economically disadvantaged, are compelled to engage in various types of labor activities to make a living.

Some senior citizens residing in elder care homes seem to be deprived of social benefits and healthcare services due to lack of citizenship. Monitoring has found that even some affluent and educated families do not hesitate to send

their elderly parents to elder care homes. Furthermore, some elderly individuals in these facilities may not receive the attention they need, as they are not actively sought by their families, or their family members may lack understanding about their needs. Additionally, some elder care operators fail to provide adequate care, proper behavior, cleanliness, and nutrition. Geriatric care units, which are essential for the elderly, are not adequately managed, and there is a lack of effective management of human resources. Health insurance programs specifically designed for senior citizens are also not effectively implemented. Government decisions to provide public transportation and healthcare subsidies for the elderly are not being effectively enforced.

Developmental and Environmental Rights

The development programs undertaken by the government do not seem to prioritize human rights or environment. Most development projects tend to overlook the rights of the local communities. The involvement of social and political stakeholders, leading to insufficient attention to environmental concerns and the rights of local citizens is seen. Legal provisions for mandatory environmental impact assessments are often limited only to paper processes. Principles such as access, accountability, transparency, inclusiveness, diversity, impartiality, and unity are considered essential for human rights-oriented development approaches. The state has assigned to respect and fulfill the right to enjoy the benefits of development and ensure its provision. The principles of international law should be fully respected by the state. However, in Nepal, most development plans and projects are not inclusive enough to ensure the participation of ordinary citizens, affected individuals, and stakeholders.

Business and Human Rights

The Nepali government has prepared national guidelines on business and human rights, aligning with the United Nations' principles. The government has been conducting studies, research, and evaluations on business and development rights for several years. Various stakeholders have been involved in discussions and interactive programs. Recommendations, including suggestions for major projects and initiatives in Nepal, have also been proposed.

Under the investment of the Electricity Authority and private companies, construction has commenced on hydroelectric projects in reservoir areas and lands adjacent to rivers, affecting local indigenous communities. Despite their independent and customary rights, these communities have not been adequately consulted or involved in decision-making processes. Projects like the Marshyangdi Corridor (Manang-Udipur) 220 KV transmission line and the hydroelectric projects in Manang-Lamjung section and Shankharapur Municipality-3, Kathmandu District, have not sufficiently considered the rights of affected local citizens in their planning and implementation. Concerns have been raised about the impact on the livelihoods and well-being of local residents, particularly those affected by the Upper Solu Hydro, prompting investigations and recommendations to relevant authorities. Additionally, the rights and grievances of those displaced by road expansion and the construction of the Fast Track highway remain unaddressed. Residents living along the banks of the Sirsiya River suffer from pollution-related health issues, including cancer, prompting protests in Maitighar Mandala, Kathmandu, on 28 May 2023.

Rights of the Workers

The Nepali government's initiation of a program to include informal workers

as well within formal sector and foreign migrant workers in the Social Security Fund, has been seen as a positive step towards ensuring the protection of informal sector workers. It's been observed that there's an increase in informal economic activities in Nepal. This has led to a situation where individuals migrate abroad in search of employment opportunities or become participants in the informal sector if they fail to secure formal employment. Labor migration remains economically and socially significant for Nepal.

During the monitoring process of the human rights situation of laborers working in tea gardens in Jhapa and Ilam, it has been found that there has been no implementation of the Labor Act 2017 to ensure the rights of laborers. The Commission has received information that approximately 80 % of the laborers in tea gardens are women and children who are also involved in labor activities. It has been observed during the monitoring that laborers in the tea gardens face various problems such as lack of toilets and clean water facilities, and inability to stay in their homes during adverse weather conditions like heavy rainfall.

In various industries and enterprises in Nawalparasi, Tanahun, and Kaski districts, the full implementation of the Labor Act 2017 has not been achieved. Although some industrial establishments and companies have been included in the Social Security Fund, others have not been covered. Issues regarding the exploitation and discrimination against female laborers have been identified during the monitoring process.

Rights against Human Trafficking

In the global market of human trafficking and exploitation, Nepal also faces significant risks, particularly in the context of it being highly industry. Human trafficking, especially involving women and children, remains a serious problem

and challenge. Accurate statistics about human trafficking are not available. With the increase in demand of foreign employment and open border with India, the issue of human trafficking has become a lucrative business for traffickers. As a result, incidents of human trafficking have increased over the past three years. Women make up 50.24 % of the victims, while children account for 38.86 %.

Efforts to combat human trafficking as a crime against humanity have been ongoing, with investigations, studies, and research being conducted. Currently, the government is implementing sixth strategic plans that prioritize gender equality, actions against human trafficking, and the enhancement of prevention and control measures. Since Nepal ratified the Palermo Protocol in 2020, efforts to domesticate it are underway. The National Human Rights Commission has recommended to the government to domesticate the protocol through parliament. Identifying areas for improvement in laws related to human trafficking control and initiating amendments and updates through consultation with civil society is also underway.

Rights of Human Rights Defenders

The establishment of a special rapporteur for human rights defenders by the United Nations Human Rights Commission in 2000 was crucial for ensuring the effectiveness and certainty of their actions. Through the rapporteur, special works are being carried to enhance the security, protection, recognition, and empowerment of human rights defenders. This includes gathering, transmitting, rescuing, protecting, ensuring justice, and establishing remedies for information related to local, regional, and national human rights violations. Maintaining cooperative and coordinated relationships with relevant parties is essential to address incidents of human rights viola-

tions in Nepal, ensuring accountability, eliminating impunity, promoting human rights education, and protecting the rights of victims. Human rights defenders play a vital role in these efforts.

In recent times, there has been a growing concern about individuals seeking to identify themselves as human rights defenders for personal gain, and access. In this context, the Commission has been actively engaged in formulating necessary policies and regulations regarding the identification, documentation, and protection of human rights defenders, along with security and respect issues. Active efforts are being made to monitor, investigate, discuss, and take proactive measures, including legal representation and advocacy, to ensure the rights and status of human rights defenders. Monitoring the situation of human rights defenders and researching incidents of human rights violations against them, along with making recommendations, is also underway.

Rights of HIV Infected Persons

Due to factors such as globalization, urbanization, migration, foreign employment, economic conditions, lavish lifestyles, and open sexual relationships, HIV/AIDS transmission has been observed to expand from one individual or location to another. However, it is noted that the number of deaths due to AIDS has decreased by 65 % compared to 2010.

The Human Rights Commission has conducted an investigation into the human rights situation of HIV/AIDS-infected individuals residing in Sudur-paschim and Lumbini Province. Through this process, information has been gathered on how those infected with HIV/AIDS are affected and how they cope with their situation. Recently, there has been a slowdown in awareness programs related to HIV/AIDS. Geographical difficulties, especially in mountainous and remote districts, make it challenging for all ART

centers to be easily accessible. Moreover, geographical distance of permanent residence for infected individuals make regular medication intake difficult.

It is observed that individuals going to India for employment are at higher risk of HIV/AIDS. Such risky activities are more prevalent in border areas. These activities, put the family members of those involved, at risk. While there has been an increase in awareness recently, it is still challenging for people in rural areas to be open about it. Even though facilities for HIV testing are available at home, fear of social stigma often leads individuals to seek testing and medication from health institutions away from their communities.

The information that vocabulary related to the self respect of infected individuals is being used in the school curriculum and there is need for its revision to ensure respect for the human rights of those infected and to prevent discrimination. While the effectiveness of government AIDS and STD control centers has been observed, further expansion and outreach are necessary.

Rights of Gender Minorities

Programs such as periodic monitoring and intervention are being implemented to address the situation of individuals with rights related to gender minorities. The obtained facts from the monitoring indicate that these individuals are often socially excluded from their families and communities. Consequently, they endure isolation. The behavior and perspectives of households, village communities, and all levels of government towards sexual and gender minorities are not human rights friendly. Many individuals from sexual and gender minority groups avoid revealing their identities due to societal stigma and fear, which poses challenges for data collection in relevant fields. Additionally, addressing human rights issues

such as identification, employment, and equal access to marriage and other rights for sexual and gender minorities remains unaddressed. In citizenship and documentation, the term “sexual minority” is often replaced with “other” in gender categories.

Members of these communities are unable to obtain recognition in their citizenship and national identity documents, leading to violations of their human rights. Many individuals from these communities remain unrecognized due to fear of discrimination and social exclusion from their families and communities when they reveal their identity. As a result, a significant number of sexual and gender minorities remain unidentified, as revealed by research. Currently, there is minimal political participation from this community. They face discrimination from society and even violence due to lack of security from their families and communities. The right to a dignified life and identity is not protected, and there are instances where basic rights such as education and recognition are denied to sexual and gender minorities. Incidents of harassment and violence, including police brutality, have been reported in areas like Kathmandu’s bus parks.

Murari Kharel
Acting Secretary

National Dalit Commission

We are excited to hear the news of the annual publication of Informal Sector Service Center, “Nepal Human Rights Year Book 2024” being prepared for publication. It is widely known that this plays an important role in holding the state and other violators accountable for the protection of human rights.

The book will cover in detail how 2023 was from a human rights perspective. In Nepal, Dalits are a community where not only are their human rights are

violated, but their existence as human beings is not accepted. The minimum right a human being needs is to have their existence accepted. The psychology of the Nepalese society and the state mechanism that enforces it, does not allow the Dalit community to imagine other rights. The marginalized communities, classes, genders and regions are not getting the special protection they should get from the state despite to the historical changes resulting from a long struggle by the Nepali people with fundamental questions such as federal republic, secularism, inclusiveness.

Although many voices are raised about the violation of human rights of the Dalit community that happen on a daily basis, the state seems unconcerned about bringing an end to it. The question of the Dalit community should not only be written in the constitution and laws. The provisions written in the law should be reflected in the lives of the Dalit community. It measures their physical presence at the civic/national life. Questioning positive discrimination processes adopted to mainstream them is a sign of this and the state cannot create non-inclusivity. This is the voice we human rights activists raise and advocate. Human rights of many Dalit communities have been violated this year. The act of humiliating the Dalit community collectively during a Maha Yagya in Birgunj, Parsa was shocking. The state was not ready to take action against the chairman of the rural municipality who committed collective discrimination. On the issue of temple entry in Okhaldhunga, DAO, police chief and the mayor pressed for reconciliation. In Morang an entire village was boycotted, the perpetrators are threatening to file complaints against Dalit settlements and to bribe/buy judges and lawyers. Apart from there, there are some hopeful examples - since the honorable court decided to punish the accused of Rukum massacre,

Dalits have felt legal protection.

Building a culture of human rights, advocating against the violation of human rights like INSEC has, close cooperation for the protection of human rights, coordination and solidarity can build a civilized and advanced society.

Devraj Bishwakarma
Chairperson

Madheshi Commission

Madhesh Commission has been formed in compliance with Article 27 and 262 of the Constitution of Nepal as an independent constitution commission. This shows the commission has been formed for effective implementation of social inclusion, human rights, constitutionalism and rule of law. Implementing provisions of human rights, proportional representation, social justices mentioned in the preamble of the Constitution to its articles is the responsibility of this commission. The Madhesh commission was established in 2015 and came into operation from April 21 2019. The commission has been tirelessly working to fulfill its responsibility in accordance with constitutional and legal provisions. The Covid-19 largely affected Nepal and its negative impacts in economic and social sectors are still noticeable. The pandemic affected the work performance of the commission too. Despite the global pandemic commission has tried to make it accessible to the people by using technology. The term "Madhesh" and its geographical delineation have been defined in accordance with constitutional responsibilities. Similarly, the Madheshi community has been identified, along with the fragmented population of Madheshi individuals. To provide an accurate portrayal of the Madhesh profile and cultural situation, a documentary has been produced. In-depth discussions have been conducted three times within the Women and Social Affairs Commit-

tee of the Federal Parliament, the House of Representatives, as well as within the Women and Social Affairs Committee of the National Assembly. Additionally, intensive discussions have taken place with the National Affairs and Coordination Committee of the National Assembly. Since its establishment, the Commission has successfully completed historical works, including the compilation of comprehensive records. These efforts represent unprecedented long-term teaching and research initiatives in the history of Nepal.

The commission conducted a study entitled “Access of the Madhesi community in the state” in fiscal year 022-23. As per the study only 3% percent of Madhesis are in the army, 8% civil servants, 09%-armed police force, 12% police, 12.11% in Nepal Rastra Bank. This representation encompasses Madhesi Dalits, Madhesi tribal communities, Tharus, Muslims, and other ethnic groups. In this manner, when all castes and communities are aggregated, the total population amounts to 49 percent. Recommendations will be made to the states based on this study report available in both digital and hard copy, laying the groundwork for the Madhesi community’s adequate access to the state. In collaboration and coordination with all rights-focused constitutional commissions, the commission has been working tirelessly for the proper and just access of the target community to the state.

Since its inception, the commission has been conducting orientation programs at the central, provincial, and even local levels of border districts in Terai-Madhesh in partnership with the Government of Nepal, through ethical Madhesh and robust moral education.

According to the preamble of the commission’s act, the commission has also championed the campaign to empower foreign civilizations in line with its statu-

tory responsibility of ‘identifying history and culture and protecting, promoting, and empowering them.’ Some scenarios are as follows:

A preliminary discussion has been held regarding the “Madhesh Day” project provided by the commission’s law and decided by the commission. However, due to state neglect, the commission has not been able to function as expected. It is not appropriate to keep the commission without authority.

- A) Amendment of the Madhesi Commission Act 2074 is recommended, replacing the term “suggestion/advice” with “instruction.” This change will streamline the commission’s operations, foster trust among service users and the target group, and promote uniformity among commissions.
- B) Employees should be organized in accordance with the provisions outlined in the preliminary act of employees. This will enhance administrative efficiency and service delivery.

Dr. Bijay Kumar Datta
Chairperson

National Women Commission

A balanced and just society forms the basis for equality, cooperation, and mutual development within the mankind. And to build the society in such way, human rights acknowledge the equal dignity and existence of all humans, including women, ensuring the protection, promotion, and enhancement of women’s rights.

National Women Commission has been established to ensure gender equality and empowerment and legal guarantee of women’s rights in Nepal. It has been addressing the issues faced by women 24/7 through the toll-free number, “1145” offering both legal and humanitarian assistance. Additionally, it provides policy and practical recommendations on the

basis of monitoring and studies, to ensure the rights of women. The efforts of human rights are observable in the economic, social, political, and educational dimensions of women. There is positive progress in maternal and reproductive health, indicating a favorable social dimension compared to advanced countries. However, it remains a bitter reality that Nepali women often have to make compromises in various aspects of their lives due to the patriarchal social structure requiring a son to take a share and run the family. Consequently, it effects in the practical provision of equal rights to women's ancestral property. Moreover, traditional roles such as cooking, care giving, and cleaning are not counted for in the gross domestic product, leading to the baseless concept that "*Investing in women is like pouring water in the sand*" This highlights the undervaluation and lack of recognition for the contributions of women in various societal aspects. To address issues like corruption, superstition, and harmful practices, it's important to invest in women's education and skills, create more job opportunities, and promote a zero-tolerance attitude towards the politicization of crime. We must enhance the capacity of the judicial system to address incidents of violence against women effectively. Moreover, we need the meaningful participation of women in political structures. It is crucial to address the specific challenges faced by women who are excluded based on factors such as caste, race, geography, and structural issues within the broader category of women.

Parbati Aryal
Secretary

Indigenous Ethnicities Commission

Despite the constitutional provision of 21 fundamental rights and the establishment of 13 constitutional bod-

ies, implementation appears weak, overshadowing human rights issues due to government negligence. Improvements across political, administrative, judicial, economic, social, cultural, and environmental fronts are crucial for enhancing the human rights status. The Indigenous Ethnicities Commission, established to protect and promote the rights of indigenous and ethnic communities, actively advocates for the preservation and promotion of their language, script, literature, art, culture, customary knowledge, and skills. The commission's views for Nepal Human Rights Yearbook 2024 are as follows:

- 1) Traditional knowledge, skill and technology related to indigenous people should be protected and promoted, their right to generation-to-generation transfer should be recognized as human rights and this should be included in school and university curriculum. Since Nepal's indigenous and ethnicities are cultural communities, all three sets of government should recognize it as human rights by promulgating national cultural policy and act for the protection and promotion of ethnic culture.
- 2) Nepal ratified Convention for the Safeguarding of the Intangible Cultural Heritage in 2010 so the government should begin the process to enlist intangible cultural heritages of indigenous and ethnicities into UNESCO ICH without further delay.
- 3) The Nepal government has already ratified ILO 169, an international treaty adopted by the International Labor Conference of the ILO, the United Nations Declaration on the Rights of Indigenous Peoples, Convention on Biological Diversity 1993 and Nagoya Protocol. The government should incorporate those principles in the legislation and implement them.

- 4) The Action Plan on Rights of Indigenous and Ethnicities and Sustainable Development should be implemented without further delay.
- 5) Effective implementation of Article 51 (J) (8) of the Constitution of Nepal.
- 6) Effective implementation of Article 56 (5) of Nepal's Constitution, a protected or autonomous region should be declared for social, cultural and economic development of monitories, backward and endangered communities.
- 7) Indigenous and ethnic people's right to use natural resources—water, land and forest—should be treated as their human rights.
- 8) As per the Constitution, a full proportional inclusiveness policy should be implemented in all public sectors.
- 9) The languages spoken by indigenous and ethnic communities should be named as official government language and their right to study in their native language should be implemented in practice as per the constitution.
- 10) The government hasn't paid enough attention to the displacement of indigenous peoples while constructing mega projects-- hydropower projects, transmission lines and national parks. Complaints are often filed at the commission seeking compensation. So, an action plan or work procedures should be promulgated to implement free, prior and informed consent.
- 11) Law should be promulgated and implemented for free, prior and informed consent implementation while managing or rehabilitating indigenous and ethnic communities to begin development projects as per UNDRIP.
- 12) Traditional food sovereignty of indigenous and ethnic people should be determined.
- 13) Legal recognition should be given to the ethnic people's practice of collective use of natural resources.
- 14) The state should formulate and implement a special policy for the special protection of the religious, cultural traditions and festivals of indigenous and ethnic people.
- 15) The state should formulate pro-indigenous and ethnic communities so that they could feel recognized and respected.
- 16) The knowledge and skills of indigenous and ethnic people are at risk of disappearing if not protected and promoted. The right to life of those living below the poverty line is being violated, highlighting the urgent need for special arrangements to promote the right to live with dignity.

Shobha Pandey
Section Officer

Tharu Commission

The National Health Insurance Board has not included essential medications for patients suffering from sickle cell disease free of cost. Additionally, the absence of a provision for NPR 1,00,000 allocated by the government for diagnosis and emergency treatment of sickle cell patients from the Tharu community, has led to a failure in safeguarding the health rights of individuals affected by this condition.

The implementation of an adequate education and scholarship program for freed Kamlaharis and their children appears to be ineffective, and there is a lack of opportunities for them to secure regular employment.

To address the issue of bonded labor, there is a provision stipulating that the land provided by the government to the laborers cannot be sold for 10 years. However, even after this period, the pro-

vision remains unchanged, preventing the workers from transitioning to other occupations and hindering their access to alternative income-earning opportunities.

Due to the absence of essential laws required for implementing the right to access the state system based on the principle of proportional inclusion, as outlined in the separate cluster provision for the Tharu community in the constitution, this community has yet to fully exercise the rights granted to them by the constitution under the principle of proportional inclusion.

Furthermore, it has been observed that some Tharu community members who have been resettled by the government in Dade Banke district and other areas have not been able to utilize the land provided to them for habitation, as individuals from other communities have encroached upon it.

Additionally, land where the cultural heritage and village estates of the Tharu community are situated has been subject to encroachment.

Krishna Kant Upadhyay
Secretary

