

**Assessment on Implementation of
Core Human Rights Treaties
With Special Focus on
INTERNATIONAL CONVENTION ON THE RIGHTS
OF THE CHILD (CRC)**



Child Nepal (CN)
Sub-committee on CRC
HRTMCC
Pasanglhamu Sadak, Ktm-6
Phone/Fax: 01-4482909, 016217528 (cdma)
P.O. Box No.: 21829 GPO Ktm

**Assessment on Implementation of Core Human Rights Treaties
With Special Focus on
INTERNATIONAL CONVENTION ON THE RIGHTS
OF THE CHILD (CRC)**

Published Copies : 1,000
Published Date : December 2008
Publisher : Human Rights Treaty Monitoring
Coordination Committee
Copyrights : Human Rights Treaty Monitoring
Coordination Committee
Cover/Layout : Gita Mali
Printed at : Indreni Offset Press, Tel. 4770533, 4771448

Preface

Nepal ratified the Convention on the Rights of the Child, 1989 in September 14, 1990. Significantly, it has also ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000 and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000.

Despite these ratifications, Nepal's position in respecting and protecting child rights is not at level of requirement. The available data and statistics show that the country is lacking right based-approach towards protection of interests and development of child. Child's access to basic rights such as adequate nutritious food, health and education and entertainment is poor. According to the 2006 statistics of UNICEF on 'Situation of Children and Women in Nepal', over 50,000 children die in Nepal each year. The underweight and malnutrition are the underlying cause for more than 60% of those dead. According to the National Census Report of 2001, the child population, below 18 years, is approximately 10,400,000. Reportedly, while 80% of this child population gets enrolled in primary schools, with the largest percentage of children between 6-10 years of age, only 49% of it continues to the end of the primary education. The educational deprivation or exclusion is therefore huge.

Nepal has promulgated numbers of legislative pieces regarding child rights. Children's Act, Child Labour Prohibition Act, Juvenile Justice Procedure Guidelines are some to name few. However, Nepalese standards on child rights are often criticized by experts and professionals as they are not of internationally recognized standards of the rights of the child. Nepal requires adopting necessary legal measures and amending the provisions to make them compatible to the internationally recognized standards of the rights of the child. Thus, there was a need to

review all Nepalese legal provisions concerning child rights seeking their compatibility with the Convention on the Rights of the Child.

This study has tried to give a brief overview of major legislative measures taken by the government to of Nepal concerning CRC ensure rights of the child. It has also tried to provide list of the legislative pieces recommended to be annulled. After the article-wise summary of the CRC and Nepal's legislations, it has been tried to suggest some provisions to be amended and the areas in need of fresh pieces of legislation.

I would like to acknowledge the contribution of Advocate Kapil Aryal, Assistant Professor and coordinator of KSL Child Rights Research and Resource Center. Ms. Antara Singh, Late Kanchan Koirala and Mr. Prabin Subedi also owe thanks for their valued assistance for the completion of this research.

Krishna Subedi
Chairperson
Child Nepal (CN)
Coordinator
Sub-committee on CRC
Human Rights Treaty Monitoring Coordination Committee

Contents

1. Introduction / 1
2. Major Legislative Measures Taken by the Government of Nepal Concerning CRC / 1
3. Summary of Suggestions and Recommendations / 7
4. List of Legislative Pieces Recommended to be Annulled / 15
5. Suggesting Areas in Need of Fresh Pieces of Legislation / 16
6. Reservations Made in The Treaty / 18
7. Article-Wise Summary of The CRC and Nepal's Legislative Measures That Need to be Amended and/or Measures That Need to be Introduced / 18

1. Introduction

Nepal became a party to the Convention on the Rights of the Child (CRC) on 14 September 1990. In February 1995, the government submitted its initial reports on the implementation of the convention to the CRC Monitoring Committee. The Committee considered the initial report of Nepal (CRC/C/3/Add.34) at its 30^{1st} to 30^{3rd} meetings (CRC/C/SR.301-303), held on 29 and 30 May 1996 and adopted some concluding observations at the 314th meeting, held on 7 June 1996. Based on the initial observations, Nepal submitted an additional country report to the CRC committee in May 1996.

Nepal submitted its first combined periodic national report covering five years from 1997 to 2002 in 2002. The Committee considered the second periodic report of Nepal (CRC/C/65/Add.30) at its 103^{2nd} and 103^{3rd} meetings (see CRC/C/SR.1032 and 1033), held on 20 May 2005, and adopted at the 105^{2nd} meeting, held on 3 June 2005, highlighted some concluding observations. The Committee has invited the State party to submit its third, fourth and fifth reports in one consolidated report by 13 March 2010, and the due date of the fifth report¹.

Genuineness in the part of government in preparing and submitting periodic reports in time is not seen. Political instability and crisis pushed backward the eagerness of government towards its obligation. The culture of involving other organizations in preparing state report is not seen. Many organizations suffered from the lack of information regarding government initiatives, programmes, policies and actions. Especially, the draft bills are generally out of reach of NGOs and NGOs are not included in discussions in the drafting process.

2. Major Legislative Measures Taken by the Government of Nepal Concerning CRC

Nepal has adopted various Acts and Regulations as a progressive steps

1. See, CRC/C/15/Add.261, 21 September 2005

towards the realization the rights of the child. The end of Maoist insurgency resulting to the comprehensive peace accord with major political parties and joining to the mainstream politics, Nepal breathed a sigh of relief. Especially, section 7.6 of the comprehensive peace accord committed for the rights of women and children. The agreement made commitment towards the rights of women and children against sexual abuse, child labour, rights against any form of violence, non use of persons below 18 in armed forces, and rescue of such persons involved in war, those are of below 18.

Interim constitution of Nepal 2007

Interim constitution of Nepal 2007 is remarkable in many senses. It made a step forward to ensure citizenship certificate to many whose father was unknown declining from the tradition provision influenced by patriarchal structure of Nepalese society.² However, the provision has not fully recognized the personality of a woman, inclining with the term ‘until the father or mother of the child is traced’.³ The provision providing the rights to have citizenship certificate to all those born till the date mid April of 1990 and have been residing permanently in Nepal ended the uncertainty and statelessness of many youths.⁴

Article 13 (3) powered the state to make special provisions by law for the protection, empowerment and advancement of the interests of weaker sections, that also included children. Right to reproductive health, right against any form of violence against women, equal rights of son and daughter to ancestral property as fundamental rights can also be taken as progressive steps towards ensuring child rights.⁵

2. Article 8 (2) (b) of the Interim constitution of Nepal 2007 states that any person whose father or mother is a citizen of Nepal at the birth of such person can acquire Nepalese citizenship certificate and

3. Article 8 (3) states “Every child who is found within the territory of Nepal and the whereabouts of whose parents are not known shall, until the father or mother of the child is traced, be deemed to be a citizen of Nepal by descent.”

4. Ibid Article 8 (5)

5. Article 20 (1), (2) and (4)

Providing rights of child explicitly as fundamental rights is one of the remarkable steps. These provisions carry some landmark concepts of child rights. Such as, right to identity, right to health, right against exploitation and right to security.⁶ Numerous other provisions prescribed in fundamental rights parts and the provisions prescribed in part four relating to responsibilities, directive principles and policies of the state, have indirectly discussed for the welfare and development of children.

Juvenile Justice Procedure Regulation 2007

The regulation was made under the power prescribed in Article 58 of the Children Act 1992. The regulation has provided some important provisions relating to investigation and prosecution of juvenile delinquents. The provisions like, police should be pain cloth, notification of cause of arrest to children and the guardian, medical check-up of arrestee, investigation in the presence of father and mother or guardian.⁷

The provisions like deposition in the presence of father and mother or guardian,⁸ no inquiry more than one hour at a time and in the night time,⁹ hearing by sociologist, child expert, and psychologist,¹⁰ in-camera hearing¹¹ are some significant provisions.

Some Nepal Law Amendment Act 2007 has replaced section of 10(a) of National Code, chapter of *Adal* providing that any distinction, exclusion or restriction or practice of untouchability on the grounds of caste, religion, race, class or occupation, it would be a punishable offence' and person(s) if proved performing such practices shall be liable for three months to three years of imprisonment or one thousand to 25

6. Article 22 (1), (2), (3), (4) and (5)

7. Juvenile Justice Procedure Regulation 2007, Section 4

8. Ibid section 5

9. Ibid section 5(4)

10. Id section 11

11. Id 12

thousand rupees fine or both.

The Act has also added that alleging any person as a witch and inhuman, degrading treatment or punishment and social exclusion on the basis of such allegation is a punishable crime. It has further provided that inhumane degrading treatment towards a person suffering from any disease is also a punishable crime.

The amendment has tried to eliminate discrimination on various that is being practiced throughout the history of Nepal.

Marriage Registration Act of 1971 has been amended prescribing the minimum age for marriage as 20 years for both girl and boy. This provision contributed for the control of child marriage and safeguarding the reproductive health of women.

Directive Order by the Supreme Court on Nov 14, 2003 (2060/07/28) in the case of Sudarshan Subedi v. Secretariat of Council of ministers for free admission and free education to all persons with disabilities in all government schools, colleges, universities and training centers has been addressed through **Some Nepal Law Concerning Education and Sports Amendment Act 2007** and **First Amendment to the Scholarship Regulation 2007**. The provisions of the Act and Regulation provides reservation in government scholarships for the financially deprived, women persons with disabilities, person from ethnic community, dalit and people from remote regions. The Act has also amended the Scholarship Act 2021 providing that every educational institution of the country has to provide at least 10 per cent scholarships.

12th amendment of National Code on November 2007 (2064/08/14) added the chapter on abduction and detention of person that has aimed to control the crimes of child abduction for ransom.

Other legislations that are directly and indirectly related with the protection and welfare of children are:

Minimum Standard for the Regulation and Management of Child Homes 2004**Human Trafficking Control Act 2007****Nepal Citizenship Act 2007, Nepal Citizenship Regulation 2007**

Nepal Police Human Rights Cell has issued a **Nepal Police Human Rights Permanent Order 2007**. Chapter 9 of this order explicitly provides provisions for the protection of minors and the human rights standards to be protected. It declares that all human rights guaranteed for the matured shall be equally guaranteed to the minors.

Civil Code 2007 has been drafted, that also includes the provisions regarding inter-country adoptions. Child Rights Protection and Promotion Act (Draft Bill) 2007 (2064) are some proposed laws.

List of Nepal laws that are related with the issues of child rights

Acts after ratification of the convention¹²

Following are the Acts directly or indirectly related with the rights of the child:

- The Children's Act (1992)
- Breast Milk Substitutes Control Act (1992)
- District Development Committee Act (1991)
- Insurance Act (1992)
- The Labour Act (1992)
- Local Election Act (1991)
- Municipality Act (1991)
- Social Welfare Act (1992)
- Village Development Committee Act (1991)

Regulations after Ratification of the Convention

- Civil Service Regulation (1993)
- Education Regulation (1992)
- Labour Regulation (1993)

12. Government's First Report pg 57 as cited in Shadow Report on CRC by NACRO

-
- Police Regulation (1992)
 - Tea Garden Labour Regulation (1993)

Acts before Ratification of the Convention on the Rights of the Child

- Beginning Prohibition Act (1961)
- Birth and Death Registration Act (1976)
- Citizens Rights Acts (1964)
- Civil Liberties Acts (1954)
- Contract Acts (1966)
- Curse and Defamation Act 1959
- Drug Abuse Control Act (1976)
- Education Acts (1971)
- Evidence Acts (1974)
- Hotel Management and Liquor Sales & Distribution Control Acts (1966)
- Human Trafficking Control Act (1986)
- Income Tax Act (1974)
- Local Administration Act (1971)
- Marriage Registration Act (1971)
- Muluki Ain General Law (1963)
- Nepal Citizenship Act (1963)
- Police Act (1956)
- Prison Act (1962)
- Provident Fund Act (1962)
- Small Pox Control Act 1963

Regulations before Ratification of the Convention

- Compensation Rules (1963)
- Demographic Statistics Registration Regulation (1977)
- Government Hostel Regulation (1972)
- Money Other Regulation (1974)
- Passport Rules (1970)

-
- Post Office Saving Bank Regulation (1976)
 - Prison Regulation (1963)
 - Royal Army New Recruitment Rules (1962)
 - Small Pox Control Rules (1966)
 - Sucking Baby Maintenance Rule (1962)
 - Young Boys Recruitment and Condition of Services Rules (1971)
 - Disabled Protection and Welfare Act (1982)
 - Various institutional developments in the sector of child rights have been done. Child Welfare Committee in 75 Districts, Child Protection and Development Projects in 25 Districts, Child Friendly Village Development Committee Level Programmes in 8 Districts, and Juvenile Justice Strengthening Programmes in 13 Districts are some positive initiatives by the government for the protection and promotion of child rights in Nepal.

3. Summary of Suggestions and Recommendations

After the end of decade long armed conflict, promulgation of the Interim Constitution enshrined core values of human rights including the rights of child, women and the marginalized. Commitment towards the protection and promotion of the rights of the child was seen in the political manifesto of most of the political parties. However, use of children in constituent assembly election campaign and other political activities was a bare violation of the peace accord. The rise of child rights advocates also raised issues of the rights of the child through litigations. Nepalese judiciary seemed very active in responding and respecting the rights of the child making some landmark judgments.

Summary

The rights of the child and the provisions for the welfare of children have been scattered in many Acts, Rules and Regulations. Nepal has tried to comply with the international standards regarding child rights. However, many of the provisions of the laws have been written in such a way that there is enough scope of interpretation as necessary. The

provisions provide discretionary power to the persons of authority to implement such provisions. Children can't claim it as a right. It makes all confused whether the rights are guaranteed or they are merely the subject of discretion of the person in authority. Most provisions of the law carry the word 'may', not 'should'.

For example, Section 24 of Juvenile Justice Procedure Regulation 2007 provides that 'translator may be provided' in case of need during proceeding. It is very difficult to claim that, that is a right of every person who needs translator.

Stakeholders are passive in performing the obligations prescribed by the law.

Age of Maturity, Labour and Criminal Liability

Despite adoption of various legislations, massive impunity and non-compliance of ratified convention is widespread. Criminal liability of every person above 10 years of age and consideration of person below the age of 16 as child has put the definition of 'child' in confusion. Again Labour Act and Child Labour Prohibition Act recognize any person of age above 14 years as capable to work.¹³ However the same Act defines the person below 16 is a child.¹⁴

Civil Rights Act 1954, section 14, Tea Garden Labour Regulation 1994 Rule 3(1) are some of the provisions that recognize the age of 14 as workable age. However, Smallpox Control Act 1963 defines a child as a person who hasn't attained the age of 12. Contract Act recognizes the age of 16 as capable to make a contract.

There should be uniform definition of 'a child' and all rights should be guaranteed as a child. Children shouldn't be prosecuted and sentenced as adult criminals. Children Act Section 11 should be amended.

13. Child Labour Prohibition and Regulation Act 2003 section 3

14. Ibid 2(a)

Nepal has made its legal provisions in accordance with the Convention concerning Minimum Age for Admission to Employment Convention No. C138 that allows the countries like Nepal to indulge children in work.¹⁵

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

The provisions of Law that are inconsistent regarding the definition of child should be made uniform.

There should be clear provision of law that provides corporal punishment to the child is a crime.

The provision of Children Act that permits the punishment of juvenile delinquent above the age of 10 should be annulled and should increase the age for criminal liability to 16.

The provisions that allow child labour should be annulled.

Right to Assembly and Association

Though the government record shows that there are more than 8875 organizations registered by the children in Nepal, many children are still facing problems in forming and registering organizations. There should be explicit provision in law providing the rights to assembly and association of the child. The provision requiring citizenship certificate while registering any organization is barring children to exercise the right to form an organization. Till date it is on the discretion of Chief District Officer whether to permit or not to register an organization by children.

15. Convention concerning Minimum Age for Admission to Employment Convention No. C138 Article 2 (4) reads "Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years"

Discrimination

Despite the guarantee of non discrimination by Interim Constitution, still, discrimination of the basis of case and ethnicity is going on. Dil Bd. Bishwokarma challenged the provision of Mahendra Sanskrit University Hostel By-law 1991 that provides the opportunity only the boys to stay in the Hostel as discriminatory to women and persons belonging to other ethnic community. The directive order was made by the court on September 2005 quashing such discriminatory provisions but the implementation of the order is not seen through the adaptation of laws. Effective implementation of court order should be made.

Section 3 and 10 of Children Act are in the line of gender discriminatory approach that gives priority to father in giving name to a baby. It has tried to institutionalize patriarchal structure of Nepalese society.

Recommendations:

1. The definition of a child should be made uniform making it consistent with all Nepal laws.
2. Section 3 and 10 of Children Act should be amended to ensure equal position and rights of both father and mother.
3. Section 7 of the Children Act should be repealed.
4. Section 11(2) and (3) of the Act should be amended to ensure that children won't be imprisoned.
5. Section 17, 25(a), 46, 47 of Children Act and all the provisions of Labour Act, Child Labour Prohibition and Regulation Act, and Children Regulation should be amended to ensure no recruitment of children in labour.
6. There should be clear provision in law that even if any child wants to work, the employer shouldn't appoint such child as a labour.
7. Section 10 of Child Labour Prohibition and Regulation Act provides that the benefits and remuneration of child workers would be as prescribed. The provision is vague and ambiguous. It should be amended to make it concrete.
8. Section 11 of Child Labour Prohibition and Regulation Act does-

n't provide concretely how the institution should maintain child health and security. The term 'as prescribed' should be amended and provide clear guidelines for such.

9. Section 15 of the same regulation provides that 'official may be deployed' in order to inspect the situation of a child in the work places. 10. It doesn't ensure that such official is certainly deployed. The provision has not made guarantee that child rights are monitored officially.
11. The provision 'labour office shall inspect as prescribed' of section 17 of the same regulation should be amended and provide a clear guideline for the inspection and monitoring guideline for the Labour Office.
12. Rule 21 (3) of Children Regulation provides that 'regular medical check-up and medical facilities may be provided in child welfare homes, orphanage homes'. The provision express that it is on the discretion not as a right. It should be guaranteed replacing the word 'may' by 'shall'.
13. Rule 21 (4) of Children Regulation should be amended by ensuring food and clothing to the children those living in child welfare homes, orphanage homes' and homes for mentally retarded children.

Following amendments and incorporation is recommended in **Juvenile Justice**

Procedural Regulation 2007:

- a. Rule 4: should ensure that no child shall be handcuffed
- b. Rule 5: should ensure that child shall not be forced to respond or answer, s/he shall have right to remain silent
- c. Rule 8: the training that the social worker, child expert and child psychologist should have is abstract. The type of training, whether formal course or informal, the duration (credit hours) of such training and the contents of training, and basis or grounds of recognition of such training should be pre-

- scribed in law. If the training is provided by the ministry or Child Welfare Committee, it should be written in law.
- d. Rule 24: in the place of 'translator may be provided' there should be guaranteed mentioning 'translator shall be provided wherever necessary'.
 - e. The regulation is silent whether the person(s) representing in juvenile bench can practice or represent any case in the same court or other courts or not. It is recommended to make provision to prevent such persons to make representation in any case in the same court or any other court. There may be undue influence.
 - f. The regulation is further silent in addressing to the consequence of any case of an expert or psychologist that is being heard in the same court where a person is representing in juvenile bench as an expert or psychologist. It is recommended to shift the case to any other court or to transfer such person in any other court.
14. Numbers of Nepalese legislations are incomplete in the sense that they have not properly addressed the issues of children, regardless of sufficient scope of addressing children's issues in the Acts. To address such lacuna, additional legal provisions should be there in the following Acts:

Immigration Act 1992: The Act is silent about the consequence if someone brought any child using illegal passport. If such person is of the age of 17-18, where s/he is considered child in his/her native country, what would be the legal procedures? It should be ensured that such children won't be treated as an offender and provided all basic needs and rights.

Revenue Act 2001: The Act is silent on the consequence when someone performing as a legal guardian and protector cheats the revenue. In case, if such legal guardian and protector who is running business on

behalf of such minor cheat government revenue, it should be ensured that such children's property is not confiscated and auctioned or such children wouldn't be liable.

Legal Aid Act 1997: The Act discusses about free legal aid to those who have few income in a fiscal year. However, the Act is silent about providing free legal aid to children. There should be clear provision that if any child is in the need of legal aid, such service is to be provided free of charge.

Prison Act 1962: Section 8(3) has the scope of imprisoning the child below the age of 12 to 16. It should be ensured that no person below the age of 18 is imprisoned.

Donation Act 1973: The Act should clearly state that children shouldn't be employed in donation collection.

Cinema Production, Show and Distribution Act 1969: The Act is silent on the involvement, security and protection against possible abuse of children in cinema. The Act should clearly mention about these things.

Lottery Act 1968: The Act should clearly state that children shouldn't be employed in selling and distributing lottery.

Press and Publication Act 1991: The Act doesn't explicitly provide safety and protection against exploitation of children through printing materials. The Act should clearly provide that printing of the materials that are harmful for the wellbeing of a child is a punishable crime.

Birth, Death and Other Incidents Registration Act 1976: The Act should provide the provision that it a mandatory responsibility of parents to register birth of children. The Act should also add further

responsibility to the local authority to take into account of such incidents and initiate for the registration of such.

Deadly Poison Act 1991: The Act should clearly state that no one should sell or distribute deadly poisonous items to the children. Further, there should be provision that no one should employ children to experiment and use such items for any purpose.

Natural Disaster Rescue Act 1981: There should be an explicit provision in the Act that in case of natural disaster, children should be specially cared, protected and treated.

Construction Business Act 1998: There should be a clear provision in the law that no person in the construction business should employ children in construction works.

Election Crime and Punishment Act 1990: The Act in its Section 11 discusses about prohibited behavior but it doesn't mention about the use of children in election campaigning or any other purpose as a punishable crime. The Act should clearly make a provision regarding this issue.

Nepal Petroleum Act 1983: The Act should clearly state that children shouldn't be employed in selling and distributing petroleum products.

Alcoholic Liquor Act 1974: The Act should clearly state that children shouldn't be employed in the work of producing, selling and distributing alcoholic liquor. This kind of act should be defined punishable crime.

Human Organ Transplant Control and Prohibition Act 1998 : The Act should clearly state that human organ of children shouldn't be abstracted for any purpose or transplanted to any other person except

the members of family, even with the free consent of a child.

Drugs Control Act 1976: The Act should clearly state that no one should sell or distribute drugs to the children. Further, there should be provision that no one should employ children to drugs smuggling.

4. List of Legislative Pieces Recommended to be Annulled

Many provisions of laws that were challenged through writ jurisdiction have been declared void by the Supreme Court Judgment. However, delay in amending such laws and pattern of delayed publication of amended laws cause many people including law professionals to be in confusion.

Section 7 of the Children Act that permits father, mother, member of a family, guardian or a teacher to scold or battering for the benefit of the child, was challenged through a writ petition. The Supreme Court declared the provision null and void; however, there has not been such change in the law. The provision should be annulled immediately.

Section 11(2) and (3) of Children Act that prescribe criminal liability for the children above the age of 10 for their action against law should be immediately annulled. The liability shouldn't be in terms of imprisonment.

Section 8(3) of **Prison Act 1962** has the scope of imprisoning the child below the age of 12 to 16. It should be ensured that no person below the age of 18 is imprisoned.

As per section 5 of **Smallpox Eradication Regulation**, the person who performs vaccination to a child is given general type training. Section 8 of the same regulation allows such persons to give a certificate of illness of a child and to give a date when such child will be well. Such trainee also has to prescribe the date for vaccination. This provision

may put the health and life of a child in risk.

Section 50 of the Children Act 1992 provides that if any punishment of a child was postponed and sent such child in child reform home as a chance to reform him/her but if such child commits crime within the same year and decided to be imprisoned, the punishment decided last year would also be added and punished accordingly. This provision is contradictory with the provisions of the Act itself and with the notion of child rights. The delinquency that the child performed previously shouldn't be counted while deciding punishment for the offence s/he does another time. The provision should be annulled immediately.

As issue arose in Mahendra Sanskrit Hostel Case (Decided on September 2005), discriminatory law was repealed but it is only in the court judgment, but the law hasn't been amended.

5. Suggesting Areas in Need of Fresh Pieces of Legislation

Though there was directive order by the Supreme Court on May, 2005 for the adoption of special provision and policy to eliminate harmful traditional practices against women and children, till date there is not such law or policy adopted.

- Act prohibiting harmful traditional practices against women and children
 - Act prohibiting Commercial sexual exploitation of children (Regarding child pornography, prostitution and sex tourism)
- Consumer Protection Act 1998, Press and Publication Act 1992, and Some Public Offences Control and Punishment Act 1971, Children Act 1991 can be discussed in the context of use of female body in advertisements in Nepal.

Some Public (Offence and Punishment) Act 1971 was adopted aiming to control some public offences and to punishment and to maintain peace, system, comfort and morality of people. Section 2 of the Act provides the acts ought not to be done. Among them, Section 2

(c) prohibits to disturb peace through voice, language, sign, and symbol or expose vulgarity in public places and (c1) prohibits in publishing vulgar language or words those signify vulgarity or printing or publishing vulgar pictures or exhibiting of such materials in public places or selling of such except for the purpose of public health or health advertisement. Section 3 provides that suspect of such offence may be arrested without warrant and Section 6 provides punishment for such offences.

In comparison with other Acts, Some Public (Crime and Punishment) Act defines exposure of vulgarity and selling of vulgar-contained material as crime. However, the Act has not defined what the parameter of vulgarity is and whether it is equally applicable to advertisements or not?

Similarly, in Children Act 2048, Section 16 prohibits to use children to use in immoral professions. The Section also provides in Sub-section (2) of Section 16 that no one should take photos of children and distribute those with the purpose of joining them in immoral acts. Section 53(4) provides that any person involved in activities above mentioned may be sentenced for fine up to ten thousands or imprisonment for up to one year or both. The Act is ambiguous in the sense that it doesn't define immoral activities.

- Act prohibiting and controlling drug addiction among children
- Act prohibiting buying and selling of alcoholic liquor, tobacco, cigarette, match sticks, lighters and other dangerous materials by children
- Special Treatment of Women Children and Marginalized Community Act Number of Acts and Constitutional provisions provides for the special provisions for the weaker section of the society. There was a directive order by the Supreme Court on Oct 17, 2004 (B.S.2061/07/01) in the case of Pradosh Chhetri V. Secretriati of the Council of Ministers to adopt appropriate legislative measure in the issue.

-
- Specific provision to control and monitor adoption, particularly, inter-country adoption.
 - Peace and reconciliation Act that ensures safe return, rehabilitation, compensation and restitution of all displaced during conflict period

6. Reservations Made in The Treaty

Nepal has ratified CRC without any reservation. Nepal has also ratified both optional protocols to the CRC. However, Nepalese legislations don't fully comply with the provisions of CRC.

7. Article-Wise Summary of The CRC and Nepal's Legislative Measures That Need to be Amended and/or Measures That Need to be Introduced

Summary of the Provision in the Convention on the Rights of the Child¹⁶

Article 1: Definition

Definition of a child, as 'All persons under 18, unless by law majority is attained at an earlier age'.

Existing legal provisions

Children Act 1992, Child Labour Prohibition Act 2003 defines children as a person below the age of 16. Civil Rights Act 1955, section 14, Tea Garden Labour Regulation 1993 Rule 3(1) and Labour Act allows a person to work who has attained the age of 14. Smallpox Control Act 1963 defines child as a person who hasn't attained the age of 12. Contract Act recognizes the age of 16 as capable to make a contract. Some Nepal Law Amendment Act 2007 has amended Marriage Registration Act of 1971 prescribing the minimum age for marriage as 20 years for both girl and boy. Every eligible person above the age of 16 can get citizenship certificate but they can vote only after the age of 18 and criminal liability starts from the age of 10.

16. Summarized by Legal Research Associates and Child Workers in Nepal, Published by UNICEF, Nepal (Date not mentioned)

Grounds of inconsistency

Article 1 of CRC provides scope to the state party to define the age of maturity and Nepal has tried to define the age of 16 as the age of maturity. However, Nepal laws are inconsistent within themselves. Allowing to work at the age of 14 and criminal liability at the age of 10 are contradictory with the recognition of the age of maturity.

Though the Convention concerning Minimum Age for Admission to Employment (Convention No. C138) Article 2 (4) provides “a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years”. However, initiatives to reduce child labour is not seen.

There should be uniform definition of ‘a child’. Children shouldn’t be prosecuted and sentenced as adult criminals. Children Act Section 11 should be amended.

The inconsistency resulted in

Many children have been deprived the protection and care and to exercise their rights. Many children have been prosecuted in a formal justice system, thus has hampered their physical and mental conditions.

Amendment needed

All Nepal Laws should be made consistent providing the age of maturity at the age of 18.

Requirement of new legal measure

Amendment in all Nepal laws is necessary to make uniform definition of a child. Children should be provided all rights prescribed by CRC.

Suggestion/Recommendation

All Nepal Laws should be made consistent providing the age of maturity at the age of 18.

Article 2: Principle of 'non-discrimination'.

All rights apply to all children without exception, and the state's obligation to protect children from any form of discrimination. The state must not violate any right, and must take positive action to promote them all.

Existing legal provisions

Article 13 of the Interim Constitution provides the right to equality. Article 13 (3) empowered the state to make special provisions by law for the protection, empowerment and advancement of the interests of weaker sections, that also included children.

Article 5 and 6 of the Children Act provides rights to equality among girl child and boy child and among adopted child and child of their own.

Preamble, by-law 14.3, 14.6, 14.7.4, 14.8.5, 14.8.7, 14.10.9, 14.11, 14.12, 14.16, 14.18, 14.19 and annex of Mahendra Sanskrit Hostel By-law 1991 are completely gender discriminatory. The provisions allow only the boys to be admitted in the hostel.

Grounds of inconsistency

The provisions of the law reflects direct discrimination by the state towards women and persons belonging to ethnic community, not allowing such people to stay in the hostel of government school and college.

The inconsistency resulted in:

Many women and children from ethnic community were deprived to study Sanskrit and to stay in hostel.

Amendment needed:

Ensure equal opportunity to all regardless of caste and sex.

Suggestion/Recommendation

Amendment on by-law of the Act should be in such a way that allows all to study and stay in hostel regardless of their caste, creed, color, or sex respecting the court judgment of September 2005.

Article 3: 'Best interest of the child'

All actions concerning the child should take full account of his or her best interests. The state is to provide adequate care when parents or others responsible fail to do so.

Existing legal provisions

There is not such law in Nepal that prescribes the parameters of the 'best interest of the child'. There is not such minimum standard of living and healthcare guaranteed by the law. However, there are numerous legal provisions scattered in various legislations that provides protection against exploitation. Interim Constitution explicitly provides the rights of the child in the fundamental rights. Article 23 of the Children Act explicitly provides that the main duty of the guardian shall be to protect interests of Child. Article 51 provides that case may be filed on behalf a Child.

There are numbers of Acts and Regulations that are directly or indirectly related with the best interest of the child. However, numbers of Nepalese legislations are incomplete in the sense that they have not properly addressed the issues of children, regardless of sufficient scope of addressing children's issues in the Acts. There should be additional legislative measures as recommended in part 3 of this report.

There is not such provision that provides minimum standard of living, nutrition and healthcare.

Requirement of new legal measure

Provide minimum standard of living, nutrition and healthcare should be guaranteed by the law.

There should be additional legislative measures in the laws as recommended in number part 3 of this report.

Suggestion/Recommendation

Best interest of the child can only be served if the laws are implemented effectively. Law should clearly state that primary responsibility to care and serve the interest of the child goes to parents. If parents are unable to do such, state should provide them support. These things should be clearly stated in law.

Basic needs of a child should be guaranteed by the clear provision of law providing the full responsibility to the state, if any child doesn't have parents or guardian.

Article 4: 'Implementation of rights'

The state's obligation to translate the rights in the convention into reality.

Existing legal provisions

The reflection of the government's expression and commitment to ensure the rights of the child can be seen in fundamental rights and in responsibilities, directive principles and policies of state of the interim constitution 2007.

Child specific instruments like Children Act 1992, Child Labour Prohibition and Regulation Act 2000, Children Regulation 1994, Children Development and Rehabilitation Fund Regulation 2053 and Juvenile Justice Procedure Regulation 2007 have addressed children's issues and shown its commitment for the full implementation.

Words and terms used in the Acts and Regulations are vague and ambiguous.

The inconsistency resulted in

Some vague and ambiguous words and terms in above mentioned laws

are hindering for the full enjoyment of the rights. (Detail in suggestion and recommendation part 3, bullet 14). The provisions have provided 'may' in many places putting in confusion whether it is merely of discretionary power of the person in authority or it is a right that everyone can claim.

Amendment needed:

Legal provisions as recommended in Part 3 should be amended ending all vagueness and ambiguities.

Suggestion/Recommendation

Amend all provisions mentioned in part 3 point 13 should be amended replacing the word 'may' by 'should'.

Article 5: 'Parental guidance and the child's evolving capacities'

The state's duty to respect the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child's evolving capacities.

Existing legal provisions

Section 3 of Children Act 1992 provides responsibilities to the parents to name (to give identity) to their child. However, there is not such provision in the law that prescribes explicitly everything regarding rights of parents for the guidance of their children.

Suggestion/Recommendation

The law should guarantee the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child's evolving capacities.

Article 6: 'Survival and Development' of children

The inherent right to life, and the state has the obligation to ensure the child's survival and development.

Existing legal provisions

Interim Constitution 2007 in its fundamental rights Article 12 guarantees a right to life with dignity. Further, it states that no law shall be made that provides for death penalty. Similarly, the interim constitution Article 13 provides right to equality and 13(3) provides for affirmative action for the welfare of women, child and marginalized. Article 14 provides right against untouchability and discrimination, Article 17 provides rights for the free education up to secondary level and primary education in the mother tongue. Article 22 is explicitly for the rights of the child and Article 26 provides the rights against torture.

The legal provisions of Children Act, Children Regulation, Child Labour Prohibition and Regulation Rules, Juvenile Justice Procedural Regulation etc. provide various provisions for the survival and development of the child.

Some of the hindrances for child development are the provisions of Children Act that permits for the imprisonment of the children whose physical and mental condition is not fully grown. Other hindrances are the provisions that permits for employing children of age 14 and above as worker.

Grounds of inconsistency

Though Nepal's economic, educational and technological development is very slow, Nepal has not declared in any of its official documents that it will stop child labour in near future. The provision provided by the ILO Convention concerning Minimum Age for Admission to Employment Convention No. C138 should not be always an excuse. Nepal's obligation under the ratified treaty should be seen to be done and thus Nepal requires proving its commitment to eliminate child labour strengthening its economy and educational facilities.

The inconsistency resulted in

Nepal's excuse of poor economy and educational facilities has com-

pelled thousands of children to work as labour squandering their precious childhood in workplaces. Thus, it has hampered in their survival with dignity and for their development.

Requirement of new legal measure

There should be clear legal measure or official declaration providing the date on ending child labour strengthening economic and educational facilities of the country.

Suggestion/Recommendation

Considering Nepal always a poor and a developing nation can never end child labour. Thus, children at least below 16 should be provided all basic needs to ensure their development and a dignified life. State should ensure that no children below the age of 16 have to be employed as a labour.

Article 7: 'Name and nationality' of children.

The right to have a name from birth and to be granted a nationality.

Existing legal provisions

Interim Constitution of Nepal 2007, Birth, Death and Other Incidents Registration Act 1976, Children Act 1992, Nepal Citizenship Act 2007 and Citizenship Regulation 2007 can be discussed regarding the issue of name and nationality of children.

Part 2 Article 8 of the Interim Constitution discusses explicitly regarding citizenship rights. The provisions are significant for guaranteeing nationality to children. Article 8 (b) provides that any person whose father or mother is a citizen of Nepal at the birth of such person can get Nepali citizenship. Similarly the provision ensuring the right to acquire citizenship for many children without nationality, who were born till mid April, is also a landmark one¹⁷. The constitutional provision has

17. Interim Constitution of Nepal 2007 Article 8(5)

also provided right to a person who is born from Nepali mother and a foreign father to acquire citizenship, if s/he has not acquired any citizenship from such father¹⁸. Especially, the provision of Article 8(3) is a landmark one. That reads “Every child who is found within the territory of Nepal and the whereabouts of whose parents are not known shall, until the father or mother of the child is traced, be deemed to be a citizen of Nepal by descent.” Such provisions have ensured right to nationality to all.

Similar types of provisions have been prescribed by the Citizenship Act and Regulation. Further, the Interim Constitution, the Citizenship Act and Regulations provided for the mobile team to visit place to place to provide citizenship certificates who can't get it because of various reasons. Despite all these provisions, many people who were born, raised and became old in streets have not been able to get citizenship certificates as there is no one to sign guarantee paper or to recommend them for the citizenship.

Children Act 1992, Children Regulation 1994 Rule 29, and Birth, Death and Other Incidents Registration Act 1976 provide provisions for providing name to a child. Children Act Section 3 provides first responsibility of father to give name to a child. If such child doesn't have father or the father is not available, responsibility goes to mother, and even if mother of such is not available, other family members have to give name to a newly born child. However, Birth, Death and Other Incidents Registration Act 1976 is silent in this matter. The provision of law for mandatory registration of a birth has not been implemented and the basis for granting citizenship certificate is merely based on who the father or mother of a child is.

Grounds of inconsistency

Section 3 and 10 of Children Act are in the line of gender discriminatory approach that gives priority to father in giving name to a baby. It

18. Interim Constitution of Nepal 2007 Article 8(7)

has tried to institutionalize patriarchal structure of Nepalese society.

The legal provisions don't make it compulsory to register the birth of a baby, neither the Acts prescribe responsibility to the officer or responsible person of VDC, Municipality, District Development Committee, or Chief District Officer to initiate for the registration of a birth of a baby whose father and mother is not identified.

The inconsistency resulted in

Numbers of children are living without name and they even don't know what to say if someone asks what their name is. They just give an artificial smile.

Suggestion/Recommendation

The Act should provide the provision that it a mandatory responsibility of parents to register birth of children. The Act should also add further responsibility to the local authority to take into account of such incidents and initiate for the registration of such.

Article 8 : 'Preservation of Identity' of children

The state's obligation to protect and, if necessary, re-establish the basic aspects of a child's identity (name, nationality and family ties').

Existing legal provisions

Constitution Art 22, Children Act Section 3 and 10 are related with Article 8 of the CRC. The provisions provide the responsibilities to the parents to provide names to their child. Section 10 has been written influenced by patriarchal mind-set prescribing the necessity to write the name of father in the various forms. However, these provisions don't provide anything as 'preservation of identity' as children's right.

Suggestion/Recommendation

The Act doesn't cover the right provided in Article 8. Preservation of ones' identity is an important right that should be protected by the state.

If the right is not protected by the state, there might be infringement of rights relating to have name, nationality and family ties.

Article 9: 'Separation from parents'

The child's right to live with his/her parents unless this is deemed incompatible with his/her best interests; the right to maintain contact with both parents if separated from one or both, the duties of states in cases where such separation results from state action.

Existing legal provisions

The legal provisions of the Children Act that prohibits for indulging children in begging and to offer children in the name of god are some protections against the separation from parents. Section 8 of the Act provides the rights of separated or divorced parents to meet with their children. Rule 30 of Children regulation 2051 provides that such meeting or visit of the father or the mother may only be for the best interest of the child.

Section 9 of the Act provides the rights for the adopted daughter or son to visit his/her natural parents. National Code, chapter on adoption section 12 provides that parents having only one son or daughter may not provide such child to others for adoption. However, the provision of Article 11(2) and (3) of Children Act 1992 that permits for the imprisonment of delinquent below the age of 16 is a clear threat towards the respect of the right against separation from parents.

Even if the child has committed some offence, s/he should be sentenced for community service or other non-custodial measures of punishment, not the imprisonment.

Grounds of inconsistency

The provisions of the law provide sufficient scope of such young age children being imprisoned for the delinquency they performed because of their immature mentality.

The inconsistency resulted in

If young age children are separated from parents for the delinquency, there might be negative impact on children's psychology.

Requirement of new legal measure

Legal measure is necessary to ensure non custodial measures for juvenile delinquents.

Suggestion/Recommendation

There should be amendment in the Children Act to ensure that the children below the age of 16 won't be imprisoned and separated from the parents for juvenile delinquency.

Article 10: 'Family Reunification'

The right of children and their parents to leave any country and to enter their own in order to be reunited or to maintain the child-parent relationship.

Existing legal provisions

The existing law is silent in this issue.

Suggestion/Recommendation

There should be a legal provision that guarantees the right of children and their parents to leave any country and to enter their own in order to be reunited or to maintain the child-parent relationship.

Article 11: 'Illicit transfer and non-return'

The state's obligation to try to prevent and remedy the kidnapping or retention of children abroad by a parent or third party.

Existing legal provisions

The National Code, Chapter on Adoption Section 12(a) and (b) have tried to control illicit transfer of children by the requirement of taking

approval by the intending person who wants to adopt a Nepali child as son or daughter.

12th amendment of the National Code has added the chapter on abduction and detention of person and defined kidnapping as a crime. However, Nepalese legislative measures don't provide the state's obligation to try to prevent and remedy the kidnapping or retention of children abroad by a parent or third party.

Requirement of new legal measure

Legal measures are inadequate having loopholes for the illicit transfer of the children. Thus, effective legal measure is necessary.

Suggestion/Recommendation

Illicit transfer of a child within the country and outside the country should be made more transparent through effective laws. The law should further prescribe the monitoring mechanism for the children sent outside of the country for any purpose.

Hague Convention on control of Inter-Country Adoption should be ratified.

Article 12: 'The child's opinion'

The child's right to express an opinion, and to have that opinion taken into account, in any matter or procedure affecting the child.

Article 13: 'Freedom of expression'

The child's right to obtain and make known information, and to express his or her views, unless this would violate the right of others.

Existing legal provisions

Interim constitution 2007 provides the right to expression and opinion as fundamental right. However, neither Children Act nor the constitutional right provided to the children guarantee children's right to

express opinion. It is only in a formal and general form, not specific for the children.

Children's opinion and expression is generally not heard. Even the Civil laws don't require taking consent of the children below 16 while making any purchase or selling of fixed or movable property.

The inconsistency resulted in

Children feel that they are being ignored and they won't be able to realize their importance in their own home.

Requirement of new legal measure

Right to expression and opinion should be clearly mentioned in Children Act.

Suggestion/Recommendation

The right to expression and opinion should be provided in the child specific instrument making it clear that this right is not only for the matured but also for the children.

Article 14: 'Freedom of thought, conscience and religion'

The child's right to freedom of thought, conscience and religion, subject to appropriate parental guidance and national law.

Existing legal provisions

The child's right to freedom of thought, conscience and religion has not been ensured in the child right specific instruments. The rights have been mentioned in Interim Constitution in general way.

The inconsistency resulted in

Children won't be able to know that they can have their own thought and they can freely choose any religion. They always feel subordinated by elders and members of the family.

Requirement of new legal measure

There should be clear provision on law providing these rights.

Suggestion/Recommendation

Ensuring these rights will encourage to have their thought and to express such. It would be helpful for the development of the child. Thus, there should be clear provision on law so that the children will understand that they also have such rights, not only the parents.

Article 15: 'Freedom of Association'

The right of children to meet with others and to join or set up associations, unless the fact of doing so violates the rights of others.

Existing legal provisions

Interim constitution 2007 has provided freedom of assembly and association as a fundamental right. Organization Registration Act 1977 also provides right to form and registration an organization for social service. However, the requirement of a citizenship certificate has created hindrance for the registration of an organization by the child.

A case filed by Tilottam Poudel on Jan 18, 1999 (2055/10/4 B.S.) on the issue of denial for the registration of organization by children was decided on August 9, 2001 (2058/04/25 B.S.)¹⁹. Despite the judgment for the registration of organization by children, the implementation was very poor and children are still facing the problems in registering organizations.

Grounds of inconsistency

The requirement of citizenship certificate in registering any organization and eligibility to get citizenship only after the age of 16 is a major hindrance for registering organizations by children. The mandatory requirement of citizenship certificate in registering organization should be removed.

19. State of the Rights of the Child in Nepal, Annual Report Summary 2008, CWIN

The inconsistency resulted in

Many children have been denied to register organization. This has created frustration among children and has hindered for the child rights promotion and development.

Requirement of new legal measure

The law should provide special legal measure for the registration of child rights organization.

Suggestion/Recommendation

Children should be exempted from the requirement of citizenship certificate in registering child rights organizations. There should be easy and fast and special provision for the registration of child rights organization by children.

Article 16: 'Protection of Privacy'

The right to protection from interference with privacy, family, home and correspondence, and from libel/slander

Existing legal provisions:

Interim Constitution 2007, Article 28 in fundamental rights has guaranteed right to protection of privacy. It reads that except on the circumstance as provided by law, the privacy of the person, residence, property, document, statistics, correspondence and character of anyone is inviolable.

Section 16 of Children Act protects children against exposures for ill motive. Section 49 of the Act restricts the people to enter into the court room who are irrelevant with the case of child. Rule 12 of Juvenile Justice Procedure Regulation has tried to protect the privacy of child from unnecessary exposure during trial in the court.

However, there is not such protection mechanism during police investigation and interrogation phase.

Further, children are scolded and defamed rampantly. But the legal provisions and access to justice for such abuses is a lengthy process. One of the causes is there is not any clear provision and defined provision of defamation that a child can sue or complain.

Grounds of inconsistency

There is provision for protection only in the court. If child is not protected from unnecessary exposure from the very beginning, it is worthless to protect only at the court.

Amendment needed

There should be an amendment in the Defamation Act defining 'defamation' in a precise term taking into account the pattern of scolding and mistreatment towards children.

Requirement of new legal measure

There should be legal provisions to protect children from unnecessary exposure during investigation and prosecution phase.

Suggestion/Recommendation

Adopt legal provisions that protect children from exposure during investigation and prosecution phase.

Define 'defamation' and widen the scope of application of law in case children are abused, scolded with bad name or misbehaved.

Article 17: 'Access to appropriate information'

The role of the media in disseminating information to children that is consistent with moral well-being and knowledge and understanding among peoples, and respects the child's cultural background. The state is to take measures to encourage this and to **protect children from harmful materials.**

Existing legal provisions

Interim Constitution Article 27 provides right to information as a fundamental right. Section 16 of Children Act provides that children shouldn't be indulged in immoral profession. The section also restricts media from disseminating photos of children to indulge them in immoral profession. However, the law doesn't provide responsibility of the media in disseminating information to children that is consistent with moral well-being and knowledge and understanding among peoples, and respects the child's cultural background.

Grounds of inconsistency

The term 'immoral' is vague to define. Thus there should be clear definition of 'immoral activities'.

The inconsistency resulted in

There is sufficient scope of interpreting the term 'immoral activity' and 'vulgarity' providing sufficient scope for impunity of perpetrators.

Suggestion/Recommendation

Responsibility of media in disseminating child friendly materials and allocating sufficient time in their overall program hours should be mentioned.

The term 'immoral activities' should be defined in a precise manner.

Article 18: 'Parental responsibilities'

The principle that both parents have joint primary responsibility for bringing up their children, and that the state should support them in this task.

Existing legal provisions

Section 3 of Children Act provides that from birth, every child shall be granted a name according to the religion, culture and tradition by his father, if the father is not available by his mother and if the mother is

also not available by any other member of his family. In cases where the father, mother or any other member of his family is not alive or their whereabouts are not known, the person or organization bringing up the Child shall give a name to such Child. Section 4 provides responsibility for maintenance, healthcare, education, section 5 and 6 provides for non discrimination. Rule 29 of Children Regulation provides responsibility for parents and family members to give name to a child.

These provisions have given priority for father than mother and contributed for institutionalizing patriarchal society.

Grounds of inconsistency

Male members have been given priority. There is gender based discrimination between father and mother.

The inconsistency resulted in

Children may think that father is more important than mother in a society. Male children may start subordinating female children.

Amendment needed

Both father and mother should be given equal priority to give name to a child.

Requirement of new legal measure

Provisions of Children Act should be amended and given equal status to both father and mother.

Suggestion/Recommendation

The legal provision should be amended to ensure gender equality.

Article 19: 'Protection from abuse and neglect'

The state's obligation to protect children from all forms of maltreatment perpetrated by parents or others responsible for their care, and to undertake preventive and treatment programs in this regard.

Existing legal provisions

Some Nepal Law Amendment Act 2007 has provided that alleging any person as a witch and inhuman, degrading treatment or punishment and social exclusion on the basis of such allegation is a punishable crime. It has further provided that inhumane degrading treatment towards a person suffering from any disease is also a punishable crime.

Section 7 of Children Act provides right against torture. However, the act of scolding and minor beating to Child by father, mother, and member of the family, guardian or teacher for the interests of the Child himself/herself is not deemed to be violation of this Section.

There was a Supreme Court Order to stop such act and directive to the state to define such treatment towards children as a punishable crime. However, there is no effective implementation of the court judgment.

Grounds of inconsistency

The term beating itself is an inhuman degrading treatment. It is against recognized standard.

The inconsistency resulted in

Children are being neglected and abused. They are treated in such a way that they can do nothing except tolerate whatever happens to them. Such situation hampers child psychology and development. They can't develop their creativity.

Amendment needed

Despite the court decision, the legal provision has not been amended yet. It should be amended to ensure protection against neglect and abuse.

Requirement of new legal measure

The new legal measure should define any kind of neglect and abuse to

a child is a punishable crime.

Suggestion/Recommendation

The state should provide and disseminate sufficient information regarding the harmful consequence of neglect and abuse towards children. The state should make such a situation that citizens obey law by their will but not by the fear of sanction.

Further, there should be effective procedures and mechanisms against such abuses. State should further ensure that there won't be repetition of such abuses or violations as the result of children's complaint against them.

Article 20: 'Protection of children without families'

The state's obligation to provide special protection for children deprived of their family environment and to ensure that appropriate alternative family care or institutional placement is made available to them, taking into account the child's cultural background.

Existing legal provisions

Chapter 3 of children Act is explicitly about protection of children and about guardianship. Section 21 provides about looking after an orphan and custody of his property. Section 22 provides for the provision of appointment of guardian.²⁰ Section 30 provides provision for the maintenance of children who don't have sufficient income. Part 4 of the Act has explicitly provisioned for the welfare of children. Section 35 of the Act provides for the provision of abandoned child to be kept in the children's welfare home. Children Regulation 1994 Rule 21 provides for the education, training and other facilities of children lining in orphan-

20. Section 22 of Children Act 1922 reads: "(1) In cases where a Child is deprived of his family for reasons of not living of his parents or adult relative belonging to the same home, or even if they are living but are unable to bring up or look after the Child for reasons of physical or mental incapacity, every person may, for the purpose of being a guardian to the Child, submit an application to the Children Welfare Officer. On receipt of such application, the Children Welfare Officer shall, upon necessary inquiry into the matter, appoint a Guardian for the Child subject to the provisions of this Section..."

age homes or homes for mentally challenged children.

Despite all these provisions not a single provision provides for the consideration for cultural background of children. Many of the provisions of the Children Regulation Rule 21 have been written in such a way that there is enough scope of interpretation as necessary. The provisions provide discretionary power to the persons of authority to implement such provisions. Children can't claim it as a right. It makes all confused whether the rights are guaranteed or they are merely the subject of discretion of the person in authority. Most provisions of the law carry the word 'may', not 'should'.

Grounds of inconsistency

Consideration of cultural background while providing care to children has been ignored.

Many rights provided in the regulation are on desertion of the persons in authority.

The inconsistency resulted in

Many children are forced to change their way of living. They are forced to change food habits and sometimes they are denied of right to conscience and religion.

If law doesn't provide right explicitly and left merely on the discretion of the persons of authority, in a least developed country, it would be difficult to exercise such rights.

Amendment needed

Amendment is needed in Children Act and Regulation.

Suggestion/Recommendation

Amend children Act and Regulation to ensure that the children those are provided shelter and other services are provided full respect for their cultural background. There should be full guarantee for the essen-

tial services for children, not on the discretion on persons of authority.

Article 21: 'Adoption'

In countries where adoption is recognized and/or allowed, it shall only be carried out in the best interests of the child, with all necessary safeguards for a given child and authorization by the competent authorities.

Existing legal provisions

The National Code, Chapter on Adoption Section 12(a) and (b) have tried to control illicit transfer of children by the requirement of taking approval by the intending person who wants to adopt a Nepali child as son or daughter. It further provides that parents having only one son or daughter may not provide such child to others for adoption. The section provides that Nepal Government may allow to adopt any Nepali child by a foreigner on the terms it deems appropriate.

However, the loopholes in law and the procedures and poor monitoring mechanism for the adoption have become a lucrative business for many.

Grounds of inconsistency

The essential terms for adoption by any Nepali and a foreigner should be clearly mentioned in the law. It shouldn't be uncoated and left merely on the hand of government officials.

The inconsistency resulted in

It may let the people in authority misuse power and to allow or disallow to adopt child as they like. The limitation for complaining on illegal adoption is only 2 years. The person(s) intending to adopt illegally may be encouraged that if they can hide the issue for two years than they don't have any problem.

Amendment needed

Amendment is necessary in National Code, the chapter on Adoption.

Requirement of new legal measure

A specific law on intra and inter adoption should be adopted providing committee to look after the issues arises during after adoption. The committee should also be provided complaint handling, monitoring and investigation on the issues.

Suggestion/Recommendation

Ratify Hague Convention on the Inter- Country Adoption and adopt laws to comply with the provisions of the convention considering its socio-cultural context.

Article 22; 'Refugee children'

Special protection to be granted to children who are refugees or seeking refugee status, and the state's obligation to cooperate with cometenent organizations providing such protection and assistance.

Existing legal provisions

Interim Constitution 2007 in responsibilities, directive principles & policies of the state and Government on Internally Displaced People (IDP) policies provide for the rehabilitation, compensation and restitution for the conflict induced IDPs. However, there is not such law in Nepal that provides the rights of refugee children.

The inconsistency resulted in

Lack of laws regarding the protection of refugee children has caused for the rights of refugee children being neglected. They are denied of protection of law and application of law.

Requirement of new legal measure

Legislative measures should be adopted complying with the international standard for the protection of refugees and reduction of statelessness.

Suggestion/Recommendation

Instruments relating to the rights of refugees and statelessness should be adopted to ensure basic rights and necessities to the refugee children.

Article 23: 'Handicapped children'

The right of handicapped children to special care, education and training designed to help them to achieve greatest possible self-reliance and to lead a full and active life in society.

Existing legal provisions

Interim Constitution 2007 in Article 13(3) provides special protection for the weaker section of population that includes persons with disabilities. Article 18(2) provides the right to have employment and social security for women, laborer, old age people, weaker section and poor and persons with disabilities. Article 22(4) provides that helpless, orphan, mentally retarded, conflict victims, displaced, vulnerable and street children shall have the right to get special privileges from the State to their secured future. Similar sorts of welfare schemes have also been provided in state responsibility, directive principles and policies.

Disable Person Welfare Act 1982, Disable People welfare Regulations 1994 are the explicit legislations that provides the provisions for the protection and welfare of disable peoples. Other related laws regarding this are National code, Education Act 1971, Social Welfare Act 1992, Children Act 1992, Local Self-governance Act 1999, Disable Service National Policy 1996, The tenth plan 2002-2007, Special Education Policy 1996, Scholarship Act and Regulation, Some Nepal Law Concerning Education and Sports Amendment Act 2007 and First Amendment to the Scholarship Regulation 2007. These Act and Regulations provide rights and facilities to the persons with disabilities such include free education, free health check-up for persons above 65

and with disabilities, tax exemption facilities, free legal aid, discount in transport fares, and disability allowance as social security²¹.

None of the Nepal laws says for the disable people friendly infrastructures that are built for public purpose.

Grounds of inconsistency

Persons with disabilities have been compelled to tolerate the difficulties and hardships because of unfriendly infrastructure.

The inconsistency resulted in

Such negligence has caused discrimination on the bases physical condition.

Amendment needed

There should be amendment in existing laws providing the compulsory requirement for adequate infrastructure considering physical challenge that the persons with disabilities have to face.

Suggestion/Recommendation

Make mandatory provision that all government infrastructures and the infrastructures built for public purpose should have proper design considering physical challenge that the persons with disabilities have to face.

Article 24: 'Health and health services'

The right to the highest level of health possible and to access to health and medical services, with special emphasis on primary and preventive health care, public health education and the diminution of infant mortality. The state's obligation to work towards the abolition of harmful traditional practices. Emphasis is laid on the need for international

21. Report on the Implementation Status of Existing Laws, Acts, Rules and Facilities Made for the Development, Promotion and Protection of the People with Disabilities, National Human Rights Commission, 2006

cooperation to ensure this right.

Existing legal provisions

Interim Constitution 2007 in Article 16 has provided right to environment and health as fundamental rights. Article 16(2) provides right to get basic health service free of cost from the State as provided for in the law. Article 22(2) has provided right to get nurtured, basic health and social security as exclusive right of the child.

Section 4 of Children Act provides the right of maintenance, education and healthcare. The provision also provides state responsibility to support parents to immunize children from disease. Section 4(3) provides the reproductive rights of a mother. Section 5 prohibits for the discrimination on nutrition merely on the ground of sex.

Section 14 of the Children Act prohibits on offering of Child in name of God or Goddess. National Code has provided that alleging any person as a witch and inhuman, degrading treatment or punishment and social exclusion on the basis of such allegation is a punishable crime. It has further provided that inhumane degrading treatment towards a person suffering from any disease is also a punishable crime.

Grounds of inconsistency

The provisions don't explicitly provide anything towards the elimination of harmful traditional practices.

The inconsistency resulted in

Various harmful traditional practices are being practiced.

Requirement of new legal measure

Legislations are required prohibiting harmful traditional practices.

Suggestion/Recommendation

Identify overall harmful traditional practices that are being practiced in Nepal.

Make necessary laws to modify or to abolish harmful traditional practices. Establish separate mechanisms to have regular study, aware and disseminate knowledge and information in this regard.

Article 25: 'Periodic review of placement'

The right of children placed by the state for reasons of care, protection or treatment to have all aspects of that placement evaluated regularly.

Existing legal Provisions

Children Act Chapter 3 is explicitly related with this provision. Section 26 explicitly provides that guardian should submit the report of his/her guardianship to the concerned Children Welfare Officer stating all the particulars relating to the expenses incurred on his part for the maintenance, health care and education of the Child and the income accrued from the property of the Child and the expenses incurred out of such income for the maintenance of the Child.

Section 44 of the Act provides for the Inspection of Children's Welfare Home, Juvenile Reform Home, and Orphanage etc. Children Regulation 1994 also prescribes for such periodic review of such placement.

Suggestion/Recommendation

Despite various legal measures and mechanisms, there is very poor implementation of the laws.

Article 26: 'Social Security'

The right of children to benefit from social security.

Existing legal Provisions

Right to equality including special protection clause has been provided by the Interim Constitution. Article 16(2) has provided right to get basic health service free of cost from the State as provided for in the law. Article 17(2) provides right to get free education up to secondary

level. Article 18 explicitly provides about right to employment and social security. Article 20 provides reproductive rights to women. It also provides equal right to parental property to the women. Article 22(2) provides the right to get nurtured, basic health and social security.

Suggestion/Recommendation

Effective implementation is necessary.

Article 27: 'Standard of Living'

The right of children to benefit from an adequate standard of living, the primary responsibility of parents to provide this, and the state's duty to ensure that his responsibility is first fulfillable and then fulfilled, where necessary through the recovery of maintenance.

Existing Laws

The provisions of the Interim Constitution and Section 4 of Children Act including the provisions mentioned above regarding social security provide the right to have a livelihood. These provisions don't provide for the standard of living.

The inconsistency resulted in

None of the Nepal law provides for the standard of living. Thus it has caused for the neglect the standard of living of children.

Suggestion/Recommendation

There should be the legal provision providing minimum standard guaranteed to all children and government's responsibility to support the parents who are unable to provide such.

Article 28: 'Education'

The child's right to education, and the state's duty to ensure that primary education at least is made free and compulsory. Administration of

school discipline is to reflect the child's human dignity. Emphasis is laid on the need for international cooperation to ensure this right.

Article 29: 'Aims of Education'

The state's recognition that education should be directed at developing the child's personality and talents, preparing the child for active life as an adult, fostering respect for basic human rights and developing respect for the child's own cultural and national values and those of others.

Existing Laws

Article 17 of the Interim Constitution provides the right to education and culture. This provides for the elementary education in mother tongue and free education up to secondary level. Education Act 1971 Section 7(1) prescribes that the medium of teaching will be Nepali. The Act also provides some scholarship schemes under Section 11(c), 11(p) and 16(d). There is provision for mobile schools in remote mountainous regions.

Grounds of inconsistency

Different courses are being taught in government and private schools. The quality of teaching and the product of such different schools are different. There is not clear provision on what the course should cover. Because of natural setting and difficult topography, many schools of mountainous regions are closed for almost four months.

Nepali is the medium of education in secondary level. This has caused many students fail the exam or score very low marks.

Suggestion/Recommendation

Quality check and control should be made effective. It should be clearly prescribed that what all schools' course should cover. There should be provision to have education in mother tongue up to secondary level.

Nepal's medium language should be taught together with other subjects.

Article 30: 'Children of Minorities or Indigenous populations'

The right of children of minority communities and indigenous populations to enjoy their own culture and to practice their own religion and language.

Existing Laws

Article 13, 14, 17, 21, and 23 are related with the rights of children of minorities or indigenous populations. However, these rights haven't been provided explicitly to the children. Their rights are general for all. Nepal has ratified the ILO convention regarding the rights of indigenous people.

Grounds of inconsistency

Except in some tarai and some mountainous regions, children of minority communities and indigenous populations are compelled to speak in Nepali in all schools.

Suggestion/Recommendation

As per the population of students, environment should be made in such a way that all children of minority communities and indigenous populations can enjoy their own culture and to practice their own religion and language.

Article 31: 'Leisure recreation and cultural activities'

The right of children to leisure, play and participation in cultural and artistic activities.

Existing Laws

Nepal laws don't provide any right to recreation, and participate in artistic activities explicitly. However, the Child Labour Prohibition Act

and Children Act prohibit indulging children more than 6 hours of work and continuous work without leisure. Half an hour rest after three hours of work and one day holiday in a week has been protected.

After Court Decision on the case of Tillottam Poudel, children are now somehow managing to register their organization. However, no law explicitly prescribes for children's participation.

Grounds of Inconsistency

Nepal laws have ignored the importance of recreation to the children; neither has it provided for their participation.

Inconsistency resulted in

Children haven't been able to understand that recreation is their right. Many poor children have been thinking that only the children of rich people can have recreation. It has devastated their psychology.

Requirement of new legal measure

It should be clearly written in law that all children shall be guaranteed of opportunity to play and recreation.

Suggestion/Recommendation

There should be clear provisions for all child care centers, orphanages and schools to arrange for recreations for children. There should be government recreation centers to all in every districts, if possible, in every community.

Article 32: 'Child Labour'

The state's obligation to protect children from engaging in work that constitutes a threat to their health, education or development, to set minimum ages for employment, and to regulate conditions of employment.

Existing Laws

Labour Act and Child Labour Prohibition Act recognize any person of age above 14 years as capable to work.²² However the same Act defines the person below 16 is a child.²³

Civil Rights Act 1954, section 14, Tea Garden Labour Regulation 1994 Rule 3(1) are some of the provisions that recognize the age of 14 as workable age. Despite the fact that Nepalese standard on child rights is not contrary to the international standard, Nepal's initiatives don't show any progressive step towards reducing child labour.

Grounds of Inconsistency

Stating Nepal educationally and economically a developing country, children shouldn't be compelled to work as a labor.

Inconsistency resulted in

Employing children as a labor may hamper their psychology and may negatively hamper in their development.

Suggestion/Recommendation

Declare the date from when children below the age of 16 won't be employed as a labor. For that the policies and plan of actions should be implemented effectively.

Article 33: 'Drug Abuse'

The child's right to protection from the use of narcotic and psychotropic drugs and from being involved in their production or distribution.

Existing Laws

Children Act 1992 Section 16(4) provides that no child should be indulged in the sale or distribution or smuggling of intoxicating sub-

22. Child Labour Prohibition and Regulation Act 2003 section 3

23. Ibid 2(a)

stances, narcotic drugs or any other drugs. Drugs Control Act 1976 is silent in this issue.

Grounds of Inconsistency

The law doesn't provide anything for the children involved in drug abuse.

Inconsistency resulted in

Many children involved in drug abuse have been neglected and often been prosecuted and put in custody.

Amendment needed

There should be provision for the rehabilitation of children involved in drug abuse.

Suggestion/Recommendation

Drugs Control Act 1976 should clearly state that no one should sell or distribute drugs to the children. Further, there should be provision that no one should employ children to drugs smuggling.

There should be effective implementation of the rights and monitoring of the children involved in drug abuse.

Monitor and maintain statistics of children involved in drug abuse and provide medical treatment and rehabilitation centers for such.

Article 34: 'Sexual Exploitation'

The child's right to protection from sexual exploitation and abuse, including prostitution and involvement in pornography.

Existing legal provisions

Interim Constitution article 22, Consumer Protection Act 1998, Press and Publication Act 1992, and Some Public Offences Control and Punishment Act 1971, Children Act 1992 can be discussed in the con-

text of sexual exploitation of children. Section 16 of the Children Act provides that no one should indulge children in immoral activities. 16(2) prohibits for taking photos with the intention to use for immoral profession and to distribute or exhibit such and 16(3) prohibits for printing and publishing such materials. Some Public Offence control and Punishment Act 1971 Section 2 provides about the acts ought not to be done. Among them, Section 2 (c) prohibits disturbing peace through voice, language, sign, and symbol or to expose vulgarity in public places and (c1) prohibits in publishing vulgar language or words those signify vulgarity or printing or publishing vulgar pictures or exhibiting of such materials in public.

Grounds of inconsistency

The provisions are vague and ambiguous. The provisions don't define 'immoral activities'. The provisions are not sufficient to address child prostitution with consent and sex tourism.

The inconsistency resulted in

'Sexual exploitation' has been understood narrowly. The provisions don't cover the various forms of exploitation of male children.

Amendment needed

The new amendment in Children Act is necessary to address various forms of sexual exploitation again both male and female children.

Requirement of new legal measure

In the absence proper law, it is difficult to prepare proper charge sheet. The general trend is to charge in accordance with Public Offence Control and Punishment Act.

Suggestion/Recommendation

The nature and gravity of child sexual abuse is different than public offence. The nature and consequence of sexual abuse against male

child and female child is different. Thus, considering the fact, new amendment should adopt such a legislation that addresses this problem.

Article 35: 'Sale, trafficking and abduction'

The state's obligation to make every effort to prevent the sale, trafficking and abduction of children.

Existing legal provisions

Interim Constitution Article 29 provides the rights against exploitation. That includes 29(2) exploitation on the basis of custom, tradition and convention or in any manner is prohibited; (3) traffic in human beings, slavery or serfdom; and (4) force labour in any form.

Human Trafficking and Transportation Control Act 2007 has been adopted explicitly to deal about the problems of trafficking. It provides for the control of human trafficking and transportation. It also provides for the compensation and rehabilitation of victims.

The on abduction has been adopted by the new amendment on National code.

Grounds of inconsistency

The crime of human trafficking is merely understood linking with prostitution. Various purposes, methods and dimensions have not been addressed. Victim's role in investigation process has not been ensured. The burden of proof is against the constitutional and recognized standard.

The inconsistency resulted in

Victim's protection from the very beginning has been ignored.

Amendment needed

Amendment is necessary to ensure victim protection through out the trials.

Requirement of new legal measure

Despite the provision for in camera hearing, the court procedure and investigation trend doesn't protect victim from unnecessary exposure.

Suggestion/Recommendation

If victim protection system is not strengthened, victims may be stigmatized and there might be low complaints later on. Right to appeal from the victim himself/herself should be guaranteed.

Article 36: 'Other forms of exploitation'

The child's right to protection from all other forms of exploitation not covered in articles 32, 33, 34, and 35.

Article 37: 'Torture and deprivation of liberty'

The prohibition of torture, cruel treatment or punishment, capital punishment, life imprisonment, and unlawful arrest or deprivation of liberty. The principles of appropriate treatment, separation from detained adults, contact with family and access to legal and other assistance.

This issue has been already discussed in Article 19

Article 38: 'Armed conflicts'

The obligation of states to respect and ensure respect for humanitarian law as it applies to children. The principle that no child under 15 take a direct part in hostilities or be recruited into the armed forces, and that all children affected by armed conflict benefit from protection and care.

Existing legal provisions

Nepal has ratified four Geneva Conventions and its additional protocols (see introduction part of this report). Article 22(5) of the Interim constitution 2007 provides that no minor shall be employed in factories, mines or in any other such hazardous work or shall be used in army, police or in conflicts. However, the Children Act has failed to address such issue.

Article 39: 'Rehabilitative care'

The state's obligation to ensure that child victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social re-integration.

Existing legal provisions

Interim constitution in Responsibility of State, Directive Principles and Policies part describes about the rehabilitative care of child victims of armed conflicts, torture, neglect, maltreatment or exploitation and to receive appropriate treatment for their recovery and social re-integration. Further, the state has launched IDP policies.

Children Act 1992 Section 35 provides for the provision of abandoned child to be kept in the Children's Welfare Home.

Suggestion/Recommendation

The issues discussed in Responsibility of State, Directive Principles and Policies part is not enforceable by court. The social security part of the Children Act should be made adequate to ensure all the issues discussed above. This should also ensure education and guarantee of enrollment in any time.

Article 40: 'Administration of Juvenile Justice'

The right of children alleged or recognized as having committed an offence to respect for their human rights and in particular, to benefit from all aspects of the due process of law, including legal or other assistance in preparing and presenting their defence. The principle that recourse to judicial proceedings and institutional placements should be avoided wherever possible and appropriate.

This issue has been already discussed in introduction part 'age of maturity and criminal liability. Also discussed in Part three summary and recommendation, bullet 13.

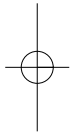


Article 41: 'Respect for existing standards'

The principle that, if any standards set in national law or other applicable international instruments are higher than those of this convention, it is the higher standard that applies.

Existing legal provisions

Treaty Act 1990 Section 9 provides that the international treaty or convention ratified by Nepal prevails over the domestic law where the latter contradicts with the former. However, the constitutional provision is supreme than the ratified treaty. In case the constitutional provision contradicted with the treaty provision, the rights provided by the treaty can't be exercised.



8. Summary Matrix

SN	Legal measures related to the particular treaty	Provisions requiring amendment to the existing laws	Legal measures that need to be introduced
1.	Children Act 1992, Child Labour Prohibition Act 2003, Civil Rights Act 1955, Tea Garden Labour Regulation 1993,	Definition of a child	Recognize person below 18 as children and provide consistent and uniform definition in all Nepal laws
2.	Mahendra Sanskrit Hostel By-law 1991	Preamble, by-law 14.3, 14.6, 14.7.4, 14.8.5, 14.8.7, 14.10.9, 14.11, 14.12, 14.16, 14.18, 14.19 and annex that are discriminatory and provisions that don't ensure 'Best interest of the child'	Ensure equal opportunity to all regardless of caste and sex
3.	Children Act 1992	Provisions that don't ensure 'Best interest of the child'	Provide minimum standard of living, nutrition and healthcare should be guaranteed by the law. Define corporal punishment to a child is a crime
4.	Children Act 1992, Child Labour Prohibition and Regulation Act 2000, Children Regulation 1994, Children Development and Rehabilitation Fund Regulation 2053 and Juvenile Justice Procedure Regulation 2007	Vague and ambiguous terms used in these laws that are hindering for the best implementation of the laws	Legal provisions as recommended in Part 3 should be amended ending all vagueness and ambiguities.
5.	Children Act 1992	Section 3 that ignores 'Parental guidance and the child's evolving capacities'	The law should guarantee the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child's evolving capacities.
6.	Children Act 1992, Section 17, 25(a), 46, 47, Child Labour Prohibition and Regulation Act 2003 section 3, Tea Garden Labour Regulation 1994 Rule 3(1)	Recruitment of Children in labour	Provide that no children under the age of 16 is employed as a labour
7.	Children Act 1992, Children Regulation 1994 Rule 29, and Birth, Death and Other Incidents Registration Act 1976	No provision for mandatory registration of birth, Discrimination between father and mother	Ensure the provision of law for mandatory registration of a birth; Add responsibility to the local authority to take into account of such incidents and initiate for the registration of such; End discrimination between father and mother

8.	Children Act 1992	Section 11(2) and (3) regarding imprisonment of children	Legal measure is necessary to ensure non custodial measures for juvenile delinquents
9.	The National Code,	Chapter on Adoption Section 12(a) and (b)	Legal measures are inadequate having loopholes for the illicit transfer of the children. Illicit transfer of a child within the country and outside the country should be made more transparent through effective laws. The law should further prescribe the monitoring mechanism for the children sent outside of the country for any purpose.
10.	Children Act 1992	Freedom of opinion and expression	Right to expression and opinion should be clearly mentioned in Children Act
11.	Children Act 1992, Rule 12 of Juvenile Justice Procedure Regulation 2007,	Section 16, Section 49 regarding protection of privacy	Adopt legal provisions that protect children from exposure during investigation and prosecution phase. Define 'defamation' and widen the scope of application of law in case children are abused, scolded with bad name or misbehaved.
12.	Children Act 1992	state's obligation to protect from harmful materials	The term 'immoral activities' should be defined in a precise term.
13.	Children Act 1992	Right to information and participation	Responsibility of media in disseminating child friendly materials and allocating sufficient time in their overall program hours should be mentioned in law
14.	Children Act 1992	Section 3, 4, 5, 6, Parental responsibilities	Provisions of Children Act should be amended and given equal status to both father and mother.
15.	Children Act 1992	Section 7, corporal punishment	The new legal measure should define any kind of neglect and abuse to a child is a punishable crime.
16.	Children Act 1992, Children Regulation 1994 Rule 21	Part 4, Section 21 Section 22, Section 30 Section 35	Amend children Act and Regulation to ensure that the children those are provided shelter and other services are provided full respect for their cultural background. There should be full guarantee for the essential services for children, not on the discretion on persons of authority.
17.	Disable Person Welfare Act 1982, Disable People welfare Regulations 1994 National code, Education Act 1971, Social Welfare Act 1992, Children Act 1992, Local Self-governance Act 1999, Disable Service National Policy 1996	Infrastructures considering physical disabilities	Make mandatory provision that all government infrastructures and the infrastructures built for public purpose should have proper design considering physical challenge that the persons with disabilities have to face.

18.	Children Act 1992	Section 14, Healthcare and Services don't address harmful traditional practices	Make necessary laws to modify or to abolish harmful traditional practices. Establish separate mechanisms to have regular study, aware and disseminate knowledge and information in this regard.
19.	Children Act 1992	Section 4 provisions regarding social security don't address standard of living	There should be the legal provision providing minimum standard guaranteed to all children and government's responsibility to support the parents who are unable to provide such.
20.	Education Act 1971	Section 7(1) Section 11(c), 11(p) and 16(d).	It should be clearly prescribed that what all schools' course should cover. There should be provision to have education in mother tongue up to secondary level.
21.	Children Act 1992, Section 16(4) Drugs Control Act 1976	children involved in drug abuse	Law should provide rights to have medical treatment and rehabilitative care for children involved in drug abuse
22.	Consumer Protection Act 1998, Press and Publications Act 1992, and Some Public Offences Control and Punishment Act 1971, Children Act 1992	Sexual exploitation	The nature and gravity of child sexual abuse is different than against male child and female child is different. Thus, considering the fact, new amendment should adopt such a legislation that addresses this problem.
23.	Section 16 of the Children Act Human Trafficking and Transportation Control Act 2007	Victim protection	Amendment is necessary to ensure victim protection through out the trials. Right to appeal from the victim himself/herself should be guaranteed.
24.	Children Act 1992	Section 35 on care for abandoned child	The law should ensure education and guarantee of enrollment in any time of such children.
25.	Juvenile Justice Procedural Regulation 2007	Rule 4, Rule 5, Rule 8, Rule 24	Ensure that no child shall be handcuffed; Ensure that child shall not be forced to respond or answer, s/he shall have right to remain silent; Provide standard of training for the person sitting on juvenile bench; Ensure of availability of translator whenever, wherever necessary; Make provision to prevent persons sitting on juvenile bench to make representation in any case in the same court or any other court; if any case of an expert or psychologist is being heard in the same court where a person is representing in juvenile bench as a expert or psychologist, make provision for shifting the case to any other court or to transfer such person in any other court.