

ISSN: 2822-1575

National Journal on Children & Society

Issue 1

September, 2021



Government of Nepal
Ministry of Women, Children and Senior Citizens
NATIONAL CHILD RIGHTS COUNCIL
Shreemahal, Pulchowk, Lalitpur
Nepal

Publisher



Government of Nepal
Ministry of Women, Children and Senior Citizens
NATIONAL CHILD RIGHTS COUNCIL
Pulchowk, Lalitpur

Copies: 1100

Publication Date: September, 2021

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Ashmi Printing Press, Sankhamul, Kathmandu



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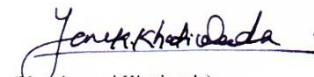
Message

Government of Nepal has established National Child Rights Council (NCRC) under the Act Relating to Children, 2018 for the protection and promotion of the rights of the child. From the very beginning of its establishment in the close coordination with Ministry of Women, Children and Senior Citizens, it is actively working for policy advisory, capacity enhancement and national child rights and child protection system strengthening. Further, it is robustly engaging in policy and programs to establish it as a national center for child rights resources. It is very encouraging to know that NCRC is going to publish a first issue of **National Journal on Children and Society** in order to support in research-based decision making and policy advocacy. I am confident that this initiation of NCRC will create a milestone to have a developmental and theoretical discourse among academicians and practitioners on the varied issues of child rights.

For the practical and effective implementation of global, international, regional and national commitments of Nepal for the protection and promotion of the child rights, it is necessary to generate, manage and transfer knowledge in various fields related to child rights. In addition, research on children's issues is important in formulating evidence-based policies, plans and programs, studying the effectiveness of programs implemented by the three tiers of government, and exploring the balance between national commitments and priorities. This journal will be helpful for further accelerating research based interventions in the arenas of child rights.

Finally, I would like to thank the entire team of NCRC for undertaking the great initiation by publishing the journal which will ultimately help policy makers, implementors, practitioners, and scholars seeking an understanding of children and young people in contemporary societies and the issues that affect their lives. And, wishes for the continued edition of this journal.

Thank You !!!


(Yam Kumari Khatriwada)
Secretary



नेपाल सरकार

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चलानी नं. :

Preface

National Child Rights Council (NCRC) is specialized national agency of Government of Nepal on Child Rights. It works to protect and promote rights of children in Nepal. The council is mandated for building capacities of child rights agencies and government authorities, promote national child rights campaigns, provide policy advice, operate child protection services and serve as child right resource center. It has prioritized the work for knowledge generation, knowledge management and knowledge transfer. For making this vision operational, it has formulated Research Sub Committee under the Council to lead and coordinate knowledge generation activities and established Research and Training Section to implement the activities, interventions and programs related to knowledge generation, management and transfer.

NCRC has published first issue of journal titled "National Journal on Children & Society" is expected to provide evidences that enables policy makers and implementers for making right decisions and the effective actions based on evidences. Additionally, it will be a reliable reference for the researcher and the advocates who engage in different works for the protection and promotion of the child rights.

For the publication of this journal, an editorial team was formed. The Editorial Team includes members of research sub-committee, which endorse the concept and authors guidelines accordingly. A public notice was issued for the collection of research-based articles. All the received articles are peer reviewed and reviews are incorporated by the contributors as well. For the first issue of Journal, we included the interview of the prominent social activist and human rights/child rights defender of Nepal Mr. Gauri Pradhan and the former Chairpersons (Mr. Dilliram Giri and Mrs. Babina Shrestha) and Executive Directors (Mr. Dharma Raj Shrestha and Mr. Tarak Dhital) of the then Central Child Welfare Board for revitalizing institutional memories.

The journal includes interdisciplinary themes on child rights that helps to debate on all aspects of childhood and policies and services for children. I believe that published journal on behalf of NCRC is a key resource for practitioners, policy-makers and scholars seeking an understanding of children and in contemporary societies and the issues that affect their lives.

I thank Mr. Gauri Pradhan, Mr. Dilliram Giri, Mrs. Babina Shrestha, Mr. Dharma Raj Shrestha, Mr. Tarak Dhital for allocating your valuable time to share your professional experience. I thank editorial team for their great contribution throughout the process of journal publication. I thank Mr. Atmaram Thapa and Ms. Sajana Kunwar for carrying out managerial and coordinating work on the behalf of Research and Training Section of NCRC. I thank all the contributors and peer reviewer for your intellectual contribution.

We welcome all constructive feedback to improve performance of NCRC in coming Days


.....
(Milan Raj Dharel)
Executive Director

"विपद्मा बाल अधिकारको सुनिश्चितता: हामी सबैको साझा प्रतिबद्धता"

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EDITORIAL

This is our pleasure to edit the first issue of **National Journal on Children and Society** published by National Child Rights Council. On behalf of our editorial team, we would like to offer a word of thankyou to NCRC for this publication as well as to all our readers, contributors, authors, editors all of whom have volunteered to contribute to the success of the journal and also for its mission to improve the quality of care and research in the form of publication in the sector of Children.

We are happy to lead the process of journal publication on the behalf of NCRC. For the first issue of the journal, we received four research-based article papers. All the papers are peer reviewed and contributors have incorporated all the reviews accordingly. Out of four research paper, titled *Application of convention on the rights of the child in Nepal: A review of legislative and judicial practice* is examining whether the legislative and judicial practices of Nepal are in compatible with the CRC ratified by Nepal. Another manuscript entitled *Children's own views : Insight into how children perceive injuries risk and preventive measures* seek to explore the children's perception about the injuries and all the preventive measures taken by the government. Next article entitled *Challenges in equal learning oppurtunities and building awareness on equality and non- discrimination of sexual and gender minority children in Nepal* has raised the issue of LGBTIQ children and necessary measures need to be taken the government for ensuring equal learning opportunities. Next article titled *Status of Child, Early and Forced Marriage and Impacts of Void Marriage upon Girls* has shown the status of CEFM incidences, triggering factors, adverse effects on physical and mental health, social lives and enjoyment of legalrights of young couples. It has further recommended for enjoyment of marriage freedom, sovereignty of sexual and reproductive health rights, promotion of democratic norms and values in family and exploration of economic opportunity in household to reduce the impact of CEFF. Whatever the issues raised and recommendations provided through articles are expected to provide evidences that enables policy makers and implementers for making right decisions and the effective actions. Additionally, it keeps reliable reference for the researcher and the advocates who engage in different works for the protection and promotion of the child rights.

Finally, we encourage contributions from all the stakeholders to ensure a continuity of a successful journal. Authors, reviewers and guest editors are always welcome. We also welcome comments and suggestions that could improve the quality of the journal.

Thank you..

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Brief Introduction about Gauri Pradhan

Gauri Pradhan has completed his service as a Commissioner (Member) and Spokesperson for the National Human Rights Commission (NHRC), a national constitutional body of Nepal. He is a well-known social activist and human rights defender in South Asia. He is a founding President of a number of national institutes including a pioneer child rights organisation CWIN (Child Workers in Nepal).



Mr. GAURI PRADHAN
A prominent HR and CR Defender

Understanding child rights concerning his/her social, family and state belongingness

Child rights are human rights. All the children are entitled to a dignified life regardless of their age, gender, ethnicity, and geographical place of birth. Children have the fundamental right to live in a society where their rights are respected and protected by the state, parents, guardians, and civil society. Children belong first to a family, a culture group, a neighbourhood and a wider community. Belonging acknowledges children's independence and interdependence with others based on relationships and defined identities. .

Contextualizing the concept and practice of child rights in Nepal

Children's rights are gradually becoming an accepted norm in Nepali society despite its conventional practices. The resentment to grant rights to children is also diminishing progressively. Traditionally, Nepali society considers children as pure as the god almighty. Indigenous traditions also put children at the heart of their existence, and children are loved and cared for. However, the concept of child rights originated late in Nepali society, particularly after introducing the Child Rights Convention in 1989. Due to the age-old hierarchy based social structure, children were considered strictly obedient. They were not supposed to participate in the discourse concerning themselves and about the progress of society. Undoubtedly, children do need all the care and basic needs for their development. However, patronisation never helped this process, whether from the parents or by the state. Due recognition of the children's right to entitlements took some time to seep into the thought process of many, including the policy-makers and practitioners in our country.

From Evolution of child rights to the contemporary initiatives in Nepal

The inception of the child rights movement in the late 80s led by the then youth and student activists paved the way for the inclusion of ' 'children's rights as a part of the broader human rights movement in Nepal. During the autocratic rule of the Panchayat system, all the political parties were outlawed, and the human rights movement was suppressed. In

this adverse political situation, raising a voice for the rights of the children was uncalled for. However, together with my colleagues, I took the lead initiation for the inception of Nepal's child rights movement by organising different university and colleges activities. The establishment of Nepal's pioneer child rights organisation in 1987, two years before the CRC, CWIN-Nepal, was a milestone in this process. We struggled very hard to transform an age-old charity-based approach to a rights-based approach that advocates all children/people as right-holders instead of pitied or cared for. It was not easy for us to bring the consensus from the government and society to accept the norms and values for respecting the child's rights at the beginning. It was challenging due to the regressive political system, which took it an offence to talk about the "rights' issues. We had to struggle hard to transform child rights from a state of non-issue to a national agenda.

Fortunately, new dawn began for child rights after the 'people's movement successfully restored the democracy, followed by establishing a multi-party system in 1989. The promulgation of the new constitution in 1991 and the subsequent progress in the democratic process brought many positive changes in favour of children's rights in Nepal. Such transformation includes both societal attitude and structural changes supported by various laws, policies and guidelines. The then Central Child Welfare Board (CCWB) and District Child Welfare Board (DCWB) also contributed greatly to this discourse. Likewise, despite so many serious violations of the children's rights during the armed conflict of 1996-2005, the signing of the comprehensive peace accord (CPA) 2005 led to a significant political change followed by the formation of the Constituent Assembly. Adhering to the national and international human rights instruments, - Nepal has formulated many progressive policies, laws and guidelines that directly impact the lives of all Nepali children. With the promulgation of 'Nepal's new constitution of 2015, which guaranteed broader principles of child rights, Nepal now has become a federal republic democratic state. The new Constitution of Nepal has guaranteed the fundamental rights of children as per the spirit of Nepal's commitment to UN CRC. With the changed context of the federal system, child rights issues have a much broader arena to be decentralised to all 753 local governance systems. Child-friendly local governance being endorsed by the government of Nepal as a national rule puts forth much-needed attention to child-centred local development. Looking at the historical evolution, In my opinion, Nepal has progressed a lot in fulfilling the spirit of child rights in action. However, Nepal could have done much better to minimise the heavy loss and damage due to the decade long armed-conflicts, natural disasters like earthquakes and border blockades and pandemics like COVID-19.

Relation of political ideology and the child rights movement in the process of democratisation, prosperity and happiness

All forms of the rights movements are the movement for democracy, justice, and progress in one way or another. Many people think of prosperity and progress only in economic

terms. Nevertheless, it has many other indicators, including the absence of exploitation, discrimination, and injustice. No society can achieve its progress and prosperity without fair socio-economic and cultural relations among the people. Human rights, socio-economic justice and dignity are the essences of democracy, prosperity and happiness. The government of Nepal has developed four indicators of prosperity and six indicators of happiness for making Nepal a prosperous and developed country. It includes the aim to graduate from a low-income country to a middle-income one and achieve the national Sustainable Development Goals (SDGs) by 2030. If things go well as per the declared plans, Nepal will undoubtedly bring rays of a bright future to our people and children. However, the challenge of peace, justice, and stability has always troubled Nepal's developmental journey. Hence, the theory and practice of political ideology need to go hand-in-hand for achieving prosperity and happiness for all, particularly to the people and children living and working in the most challenging circumstances. Chanting the *mantras* will not bring the expected change if there is no enabling environment for pro-people development.

Co-relation between cultural and social practice in understanding and applying child rights in Nepal

The existence of any society also depends on its socio-cultural values and practices. So far, about understanding and applying child rights in a real sense, the socio-cultural practices make much difference in society. In every religion, culture and tradition, children are regarded as a source of hope and inspiration for future prosperity. However, examples have proved that the same things also can create barriers if they misunderstand and misinterpret the concept of child development and child rights in everyday practice. Issues like child labour, child marriage, gender and caste discrimination are also the cause and consequence of conventional socio-cultural practices. They have adversely also affected the rights and development of children in Nepal. However, things are changing, and new child-friendly cultures are gradually substituting the old thinking.

Contribution of civil society and the private sector in strengthening child rights practices in Nepal

One of the significant indicators of peace, progress and prosperity in society is a well-balanced state, market and civil society as per their defined role and responsibility. Civil society is a progressive and conscious group of people for social transformation. Civil society has a legacy characterised by fighting for democracy, human rights and social justice in Nepal and elsewhere. In the context of Nepal, civil society had played a momentum role in pioneering the child rights movement for social change. Without an active role in civil society, the development and enhancement of child rights discourse in Nepal would have been incomplete. From the inception of the child rights movement, civil society organisations (CSOs) have played an essential crucial role in integrating child rights into the more comprehensive development agenda and in the broader human rights

movement. Civil society in Nepal has immensely contributed to making people aware of the strengthening of child rights practices through an enduring vision, unceasing advocacy and public campaigns, national and international alliance-building, information and evidence generation through research, innovative interventions at the grassroots as well as the national arena.

Moreover, civil society in Nepal also initiated a partnership with the children to strengthen their agency and, more importantly, by having their dynamic presence in the communities and the people. These have all contributed to visible changes occurring in our society, strengthening child rights practices. Constructive partnership and collaboration initiated by civil society with the state actors and authorities had established a unique replicable model for 'children's development and protection in Nepal. There are also pro-active actions in strengthening and enhancing the child rights movement when people from CSO backgrounds assume state-level leadership positions.

Likewise, the role of the private sector is equally important to strengthen child rights practices. The private sector is gradually showing concern and interest in involving civil society and government agencies to help strengthen child rights practices. They have occasionally teamed up with various campaigns to promote child rights. Their continuous engagement is desired to strengthen institutional capacity building of various mechanisms that promote child rights. The private sector can also significantly promote and protect children's rights if they translate their social responsibility protocols into action. In brief, the coordinated and collaborative action of the state, market and CSOs can bring a desirable change for the rights of the children.

National priorities to enhance child rights and achieve a happy child prosperous Nepal

The Constitution of Nepal, 2015, has ensured the fundamental rights of every child. Nepal has formulated national plans and strategies and integrated the child protection agenda in the constitution and international child rights conventions. However, child development planning has not yet been recognised as an agenda of national pride like other infrastructure-building planning. Hence, Nepal needs to formulate consolidated and inclusive planning to ensure no child is left behind.

All children of Nepal have the right to be protected from abuse, discrimination, and exploitation as per the constitution. As we all know that Nepal's government has declared the national plans of action to achieve a prosperous Nepal and happy Nepali in action, priority should be given to the development of children, women, and people living in poverty and vulnerability. Examples have proved that a big chunk of the family income goes in the health, education and social security areas where the government's investment

is very high. We need to find a convincing answer to why this thing is happening in our country. For this, a proper response to the chain of poverty cycle needs to focus on ending all forms of socio-economic injustice by strengthening the family system for children's protection and development.

Essential political environment and collaborative role of three- tier government for achieving national targets and goals for child rights

Promotion of peace and stability with democratic values, adherence to national laws and international commitments, accountability, and good governance are must for achieving the declared target goals of child rights. Further, there needs a clear vision for inclusivity, decentralisation, and development of child rights. Such things can be achieved through effective and efficient state mechanisms, including dynamic civil society and the responsible private sector.

As a result of vigorous people's movement, Nepal has achieved a new constitution with the character of the Federal Democratic Republic. A consolidated federal system to function efficiently needs proper coordination, devolution of power, and self-determination rights to embark on a journey to genuinely reflecting the aspirations of people/children. All three tiers of government: Federal, Provincial and Local governments, have a significant role in building up child rights systems coordinated. Though all the governments have policy, operational, and coordination roles at different levels, the Federal government should focus on policy roles by introducing national policies, programmes, and guidelines. In contrast, the Provincial governments bridge between federal and local governments and coordinate the policy, programme and operational activities. Likewise, the local levels mechanisms have a significant role in responding to the issues and concerns of child rights in a coordinated and collaborative way.

Recommendations for Ministry and National Child Rights Council to achieve Child-Friendly Nation and implement constitutional commitment

The National Child Rights Council is the apex body under the Ministry of Women, Children and Senior Citizens responsible for planning, coordination, and implementation to achieve the declared national goals on child rights. These bodies need to work robustly, resilient, and result-oriented ways to promote and protect child rights under the constitution and national laws. Followings are some recommendations to enhance the role of these bodies in action:

- Endorse National Strategy for children with determination and commitment to bring desired changes in the lives of children, especially for those from the marginalised communities,
- Must consider voices and perspectives of children in policies and programme interventions directly affecting their lives,

- Must continue to collaborate with civil society for increasing outreach, broadening child rights practice and innovativeness,
- Strengthen integrated child protection system/judiciary/ law enforcing agencies/ local government mechanisms,
- Review policy, programmes and national budget – costed implementation plan for eliminating vices like child labour exploitation/ sexual exploitation and trafficking,
- Respond to emerging issues such as online child protection equipping with desired policies/laws,
- Efficient coordination by Federal Government with Provincial line ministries for maintaining common minimum standard in responding to child protection concerns and promotion of child rights,
- Vision for translating the state's commitment into practice by setting up a national mechanism to actively engage with all 753 local governments,
- Capacity strengthening of the existing child rights mechanisms, government officers and CSOs, and best use of knowledge, skills and experiences of CSOs in promoting and protecting child rights,
- Promote child rights and child development as an agenda of national pride and work accordingly.

Something essential left out to mention

We have covered many issues related to the system, mechanisms, and programmes for promoting and protecting child rights in Nepal. We have made tangible progress in the last 30 years; however, there are still many things to achieve by 2030. We need to work in a consolidated way by balancing the Five Ps approach as suggested by SDGs: People, Planet, Peace, Progress and Partnership. We can also follow this approach by effectively activating and mobilising the systems, including the policy, mechanism and programmes of action for promoting and protecting the child's rights. If we have spent 30 years to achieve the present status of children, we need to double our efforts to meet the rest of the goals by 2030.



Children's Own Views: Insight into how children perceive injuries risk and preventive measures.

Ruja Pokhrel, Pratikshya KC, Pema Sherpa, Writu Bhattarai

ABSTRACT

Injuries are widely prevailed and a major public health burden. In-depth understanding of injury by the children is vital for the prevention of injury. The study aims to collect views on how children perceive injuries risk and preventive measures in the context of Nepal. Children of 11-14 years were selected purposively from the seven provinces of Nepal. The FGDs were conducted in the month of June via virtual means. Major themes were identified, coded and categorized from content analysis. Children viewed unintentional injury such as falls, cuts, fractures, road accidents, electric shocks, as injury. Rural Children concerns Fall and urban Children concerns Road Crash as most common forms of injuries. The high risk groups are children below 5 years, children with disability, children in sports, mischievous children are. Negligence of parents and children themselves; absence of safe infrastructures were perceived to be the causes if injuries. Children perceived injuries as minor and do not consider that such injuries could have severe effects on their health. Injuries could lead to physical pain and economic loss. There is an urgent need to address child injury from the micro level to the macro level. Parental supervision together with implementation of safety legislations could prevent injury. There is need of further study on prevalence, risk mapping and first response services.

1. Introduction

Injuries are widely prevailed and one of the major global public health problems which cause more than 5 million deaths each year that accounts for 9% of the world's deaths, nearly 1.7 times the number of fatalities that result from HIV/AIDS, tuberculosis and malaria combined (WHO, 2014). The most common causes of the injuries are road traffic crashes (24%) followed by other unintentional injuries (18%), suicide (16%), falls (14%), homicide (10%), drowning (7%), fire related burns (5%) poisonings (4%) and war (2%). (WHO, 2014) Injuries cause financial losses as well as physical, psychological and social harm to people, family, society and nation. Injuries impact the physical and psychological activities of individuals, and led towards disability as well as death.

Children are vulnerable to injuries and childhood injuries have been documented as a major non-communicable epidemic globally in 21st century of modernization, technological development and demographic transition. Road traffic accidents, falls, poisoning, burns, and drowning are common unintentional or accidental injury to children (Hyder, A. A. et al., 2009). Injuries account for 13% of all morbidity in children under the age of 15, and fatality is 3.4 times greater in low- and middle-income nations than in high-income ones (Hyder, A. A. et al., 2009). Safety precautions at home and school play a vital role in the causation of injury of children because children spend maximum time at their home and school under direct supervision by guardians and teachers, which has so far been ignored (Hyder, A. A. et al., 2009).

The most common causes of child injury death globally are other unintentional injuries such as smothering, asphyxiation, choking, animal and venomous bites, hypothermia and hyperthermia as well as natural disasters (31.1%), followed by road traffic crashes (22.3%), drowning (16.8%), fire related burns (9%), homicide (5.8%), self-inflicted injuries (4.4%), falls (4.2%), poisoning (3.9%) and war (2.3%) (WHO, 2008).

Injuries are a major public health problem in Nepal and disabilities due to violence in the past two decades due to rapid urbanization, traffic accidents, domestic accidents and violence and changes in lifestyle (Joshi, 2007). The most common cause of injuries in Nepal is road traffic injuries (42.5%) and a single injury causes a total loss of about 125 US\$ to the nation and high number of fatalities (65.4%) in the age group 15 – 44 years (Joshi, 2009). Injuries are preventable whether self-inflicted, inflicted by others, or unintentional through behavioral science (Gielen, & Sleet, 2003). United Nations Sustainable Development Goals (Goal 3.6) targeted to reduce road traffic injuries and deaths by 50% by 2020; however the traffic deaths are likely to worsen with increasing motorization in many countries (Sleet, 2018). As there is no formal injury surveillance system in Nepal, there is a need to study perception of children on the risk of injury and preventive measures. A few research studies have been conducted on the perception of injury in the community, whereas no researches have been conducted on how children themselves perceive the risk of injuries and preventive measures to the best of our knowledge. A study on policy review on injury prevention and first response in Nepal showed that a number of agencies in Nepal are mandated to work on injury prevention and first response; however, no lead agency exists for these functions (Pant et al 2021). Hence, in this context the research study aims to collect views on how children perceive injuries risk and preventive measures in the context of Nepal.

2. Methods

Study Setting

This study was conducted in all six Provinces of Nepal under the Federal Structure of Governance of Nepal. Participants from both the Rural and Urban Municipalities of each

province were included in the study. Province 2 was not included in the study because of time limitation for conducting the FGD,

Study Design

This study is a qualitative study on how the children perceive injures risk and preventive measures that would be conducted by research team of SwatantrataAbhiyanNepal (SAN), a leading organization in Nepal working on the policy advocacy, research and capacity building. Focused Group Discussion (FGD) was the tool for this study which was conducted virtually via zoom meetings. Focus group discussion is a qualitative approach to gain an in-depth understanding of social issues (Nyumba, Wilson, Derrick, & Mukherjee, 2018) N The method aims to obtain data from a purposely selected group of individuals rather than from a statistically representative sample of a broader population. We used this tool as Key Informant Interviews (KII) was not possible as the research was conducted in a short span of time. The study was conducted in the month of June 2021.

Sample Size

Sample size is an indication that the research study constitutes an important marker of the quality of qualitative research (Vasileiou, Barnett, Thorpe, & Young, 2018). While conducting qualitative research, determining an appropriate sample size is ultimately a question of judgment and experience in weighing the quality of the data obtained against the intended applications, the research technique and purposeful sampling technique used, and the research outcome (Sandelowski, Dr. Margerete, 1995). The participants were from members of child club. Prior consent was taken by the child right network from the children for participating in the research. The age groups of the participants were 11-14 years. The sample size was 63 using the purposive sampling.

Data Collection Instrument and process

A guideline (with probing) was developed to follow the process; relevant probing was considered based on the discussion. The guideline was pretested among the colleagues for testing its relevancy. Two researchers from SwatantrataAbhiyan Nepal were trained on the guidelines for conducting the FGD.

Data Analysis

Thematic Content Analysis method was used for analyzing the data. Thematic Content Analysis (TCA) is a descriptive presentation of qualitative data. Thematic analysis involves identifying descriptive themes from the original data of other studies and developing overarching analytic themes that develop new concepts or explanations that apply across them (Joffe, 2012) Themes were developed based on the FGD data. Two researchers from the research team first read and coded 10% of the transcripts, each separately to identify

initial codes and emergent themes. The themes and subthemes were finalized by the research team.

Ethical Consideration:

Ethical consideration is one of the research parts that guide how the research should be carried out. The key ethical values that guide research are; respect for the dignity of research participants, full consent from the participant prior to the research participants should always be given with a clear understanding of what the research involves and their involvement in it, ensure the protection of privacy of the participant and confidentiality of research data, honesty and transparency of communication in relation to research should be done, any type of misleading information as well as representation of primary data findings in a biased way must be avoided(Bryman, 2007). The other ethical considerations of any research include participant should never be pressured or coerced to engage in research and participants should always have the right to withdraw from a research at any time without penalty or consequence.

Results

The seven Focused Group Discussion (FGD) involved (N-)participants in total. The discussion lasted from 60 minutes to 90 minutes. The age group of participants ranges from 11-14 years. The results are presented according to major themes identified in the study.

1. Demographic Information

Total Participants: 63		Boys: 27		Girls: 36	
Province 1	Bagmati Province	Gandaki Province	Lumbini Province	Karnali Province	Sudurpaschim Province
Total Participant: 11	Total Participant: 10	Total Participant: 12	Total Participant: 9	Total Participant: 10	Total Participant: 11
Boys: 4	Boys: 5	Boys: 5	Boys: 2	Boys: 6	Boys: 5
Girls: 7	Girls: 5	Girls: 7	Girls: 7	Girls: 4	Girls: 6
Age Group: 11-14	Age Group: 13-14 years	Age Group: 11-14 years	Age Group: 11-14 years	Age Group: 11-14 Years	Age Group: 12-14 Years

2. Perception of Injury

General understating on Injury

The children perceived both intentional injury caused by domestic violence and unintentional injury such as falls, cuts, fractures, road accidents, electric shocks, as injury. They viewed

injury as getting hurt physically and getting wounds. They believed that injuries are common as it happens in schools, home and in roads.

Majority (N-10) of the participants explained about causes of injury rather than definition of injury when asked about injury in general.

Risk of Injury

When asked about risk of injuries in the surroundings majority stated about cut from sharp object(N-10), falls(N-8), injury caused by fights(N-5), Burn(N-6), Road Traffic Accidents(N-10), Drowning(N-6), electric shock (N-4), injury caused by natural calamities such as floods and landslides (N-5) as major mechanism that could cause injury. However, they view these injuries as minor and do not consider that such injuries could have severe effects on their health. The children from rural areas shared about injuries due to falling from trees, flood and landslide, falling from the grounds while playing in hilly areas. Children from urban areas mostly share about road accidents.

Risk Group/Categories

Majority of the participants stated about behavior and nature being the cause of injury as most of them (N-17) mentioned that children with mischievous nature get injured the most. A few(4) of them stated children with disabilities and mental health problems are at risk of injury as they cannot perceive the environment that are likely to cause possible injury. Some (N-12) said that teenagers and children below five years are at risk. Some (N-12) other said that children active in sports are also likely to be at risk of injury. A few (N-8) stated about children who live in risk areas of flood, landslide and riverside are also at the risk of injury.

A participant mentions "Children of mischievous nature are at high risk on injuries as they are curious to play around and explore things."(FGD-G,R4)

Cause of Risk of Injury

When asked about reasons behind the risk of injury, almost all participants (N-34) on carelessness of children and parents as the major reason behind the risk of injury. *A participant mentions, "Neglecting safety measures by parents leads to injuries and accidents among children."(FGD-G,R-3).*

The other reason mentioned by the participants were lack of good roads leading to slip, falls, drowning in the pot holes as well as road traffic accidents.

Perception on arrangement for injury response

Regarding arrangement for injury response almost all participants stated (N-31) that providing primary treatment in case of minor injuries such as First Aid before reaching

hospital should be provided. Most of them (N-10) agreed that there should be good transportation facility for taking the injured person to the hospital on time.

Children's perception on Injury Prevention

Almost all the participants (N-30) believed that being conscious, being self –alert and assessing the safe and unsafe environment could be done by children to prevent injury. A participant mentions, "*Take care of yourself, pay attention while crossing the road, don't do the things which you couldn't*"(FGD-L,- L9)Some (N-14) said that being self-disciplined and following traffic rules, school rules could also prevent injury.

Regarding role of adults, majority stressed (N-15) that Parental supervision and monitoring could prevent the injury. A few(N-8) mentioned that adults can organize awareness raising programs at the community for injury prevention.

Some (N-10) stated that there should be child friendly infrastructures at schools for preventing injury at school. A participant mentions, "*Remove and dispose broken items such as desk, bench from the school and there should be a person to take care of children while playing at school*"(FGD-L,-L4).

Some (N-12) stated that parental supervision is vital for injury prevention. A participant states, "*The children need to work and do activities such as playing, doing household works under supervision of adults*"(FGD-K,K7)

3. Experience of Injury

Self-Experience of Injury

Participants shared about their incidents of injury. Mostly the injury incidents explained by the participants were non-fatal. The most common examples were related to Motorbike Accidents, falls, cuts, fractures and injury caused during playing outdoor sports. The timing of injury ranges from morning, afternoon to evening. Household injuries generally occurs at morning while helping or supporting in the kitchen, Falls generally occur during afternoon while playing or going for grazing cattle. Injuries by accidents generally occur in the evening when there is busy traffic. Participants stated that they either got First Aid treatment immediately or got rushed to hospital after their injury. A participant explains,

" I had experience of bike accident in the evening time. I fell down from the bike while my friend was riding and got injured on face. I did First Aid at home. After injury, I went to hospital with parents next day and took medications. I also did head X-ray but fortunately, my head was safe. It took 2 months to be cured."(FGD-L, L5)

Another participant shares, "*During a football game, I fell down and hurt my finger. The*

incident happened during afternoon. It was minor injury I went to health post and treated with ointment and bandage"(FGD-B,R3).

The incidents of self-injury were common with the children from urban areas where there is living nearby the highways or busy roadside.

Effects of Injury

The effects of injury were mostly physical pain mentioned by most of the participants (N-8). Only a few (N-3) stated about economic burden on parents for hospitalization. A few (N-3) also mentioned that there was not much effect as there were minor injury which got treated by First Aid.

Most of them (N-10) stated that the primary treatment was done at home for minor falls, cuts, burns and muscle sprain. Some (N-3) also stated use of Ayurveda medicines for the treatment of injury like cuts.

Prevention of the Injury

Regarding the question on what could have prevented the injury that they have experienced; majority (N-14) stated that being more careful on road, at the kitchen or at the school could have prevented the injury. Some participants (N-7) were of the opinion that when children are at a risky place without supervision, fatal consequences may arise. They stressed the need for parental supervision in outdoor environment, a participant states, *"As my leg was stepped on by buffalo during grazing, now I think being with someone older at that time could have prevented that injury."* (FGDG, R5)

4. Roles of family, school and Government in Injury Prevention

Roles of Family in Injury Prevention

- Parents should provide comfortable environment for children to share about their injury instead of making them fear about getting injured(N-7)
- Monitoring and supervision of children to prevent injury. Parents being careful and should keep sharp objects, medicines and electronic appliances out of reach from children (N-14)
- Parents should teach their children about safety measures of injury prevention at home, school and outside environment.(N-9)

Role of School in Injury Prevention

- School, municipality should conduct injury related awareness program in community(N-6)
- Schools should have provision of health worker and with First Aid Kit(N-10)
- Schools should have provision of safe playgroud.(N-6)

Role of Government in Injury Prevention

- The Local Government should allocate budget for injury prevention. It should construct road and pave it to avoid chances of falling and getting hurt especially during monsoon(N-10)
- Setting up health post in each municipal, ward including ambulance facility and transportation facility (N-8)
- Strict implementation of traffic rules and other injury prevention policies (N-7)

5. Discussion

The qualitative study presented the findings from the opinion of 56 participants of seven provinces of Nepal which was conducted virtually. Overall, the findings of the study suggest that children perception on injury risk is determined by the level of awareness and knowledge on injury and methods of injury prevention. It was found that children have knowledge on the risks of injury; however most of them could not define injury as such. They rather explained about the causes of injury in general. The most common mechanisms of injury found in this study were cuts, falls, burns, road traffic accidents, drowning consistent with the other study conducted in Nepal (Pant et.al, 2014). Children related injury causality with children's behavior, chance and surroundings which was also identified in a study conducted in Stockholm and in Nepal (Pant et.al, 2014, Torell,Bremberg, 1995).Similar to other study by(Chowdhuryet.al, 2008) this study revealed that younger children (0–5 years) were more vulnerable than older children. Younger children are at greatest risk of falling because of their urge to explore their surroundings: children have a natural desire to explore their environment and to assess or react to the risk is not within their capacity. The findings also stated that younger children are also at risk as they they more challenging or risky actions during playing sports or with hanging out with their peers. Findings suggested the cause of injury to the lack of parental supervision, environmental conditions and demographic characteristics of children, consistent with the epidemiology around injury (Barsset.al, 1998, Chowdhuryet.al, 2013)However, only a few studies have been conducted on perception of children around injuries. The risk factor for many unintentional childhood injuries was lack of parental supervision (Salujaet.al, 2004)Supervision is required for most childhood prevention (Munro, Van Niekerk, Seedat, 2006). However, there is no consistent research to support supervision or parental ability in preventing injury (Matheny, 1988).Previous studies have found that a comprehensive effort is needed to address child injury by education, engineering including environmental modification, and enforcement of safety laws and procedures. This study also reveals that a comprehensive effort is needed for childhood injury prevention. The other causes of injury revealed in this study were as poor road condition, narrow roadsides, vehicle speeding and overtaking, failing to obey traffic rules and regulation consistent with the other study conducted in Nepal(Gautam., Mytton, Pilkington, Joshi , 2021).Regarding immediate response to injury prevention children perceived First Aid treatment to be effective before rushing the injured to the

hospital which was consistent to the finding of the research conducted in first aid in burn injuries (Tay, Pinder, Coulson, & Rawlins, 2013)

The children attributed their experiences of injuries to themselves and to some characteristics of the situation. In congruence with earlier studies (Green & Hart,1998, Morrongiello, 1997) the children in this study attributed their injuries to themselves. In line with other study (Green &Hart,1998) the children in this study also attributed their injuries to their desire to learn and have fun. Being self-conscious, alert and accessing safe and unsafe environment could prevent injury. However, education on injury prevention is needed for the self-consciousness and assessment of the environment. The effects of injury were attributed to physical pain and economic burden to family in case of hospitalization. Roles of family, school and local government were identified for the prevention of injury. Child safety education at home, school and road could prevent the injury as well as implementation of road safety legislations. Child Friendly infrastructure at school could also prevent many unintentional injuries at school. Good road infrastructures, transport facilities behavior change of individuals along with adequate health workers in community could prevent the fatalities of injury.

Conclusion

This study has attempted to explore the perception of children on the risk of injury and preventive measures. This is one of the first attempts to explore the perception of children on child injury. The study concludes that children perceive injury as a problem as they are aware about the mechanisms of injury. There is an urgent need to address child injury from the micro level to the macro level. Parental supervision together with implementation of safety legislations could prevent injury. Role of family, school and local government are pivotal in injury prevention. However, more research is needed on perception of children on risk of injury and injury prevention measures for developing child centric preventive approaches

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Challenges in equal learning opportunities and building awareness on equality and non-discrimination of LGBTIQ children in Nepal

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ABSTRACT

Equal learning opportunity of sexual and gender minority children is not concerned merely with enrollment in school but encompasses access to inclusive and quality learning environment that promote dignified learning. Sexual and gender minority children have limited access to such learning environment. Social and cultural norms, barriers in exercising rights within education, misconception regarding sexual orientation and gender identity, stigma, violence and discrimination, and lack of inclusive and quality learning environment are the barriers to equal learning opportunity for those children. A major gap in the curriculum and textbooks is the lack of in-depth content on sexual orientation, gender identity and expression, and sex characteristics. The teacher training module does not include contents about sexual and gender minorities. There is a need for revision of the curriculum and textbooks incorporating sexual and gender minority perspective that creates an enabling learning environment promoting non-discrimination and de-stigmatisation of sexual and gender minority children. Exploratory research design is used to identify barriers in equal learning opportunities as well as gaps and opportunities in the school curriculum and textbooks to enable de-stigmatization and non-discrimination towards sexual and gender minority children. A systematic desk review and thematic analysis of the relevant literature were done. Curriculum and textbooks of social studies, health and physical education and population education of Grade 7 – 10 of community schools were reviewed from the perspective of sexual orientation and gender identity and the rights of LGBTIQ children.

Keywords:

Inclusion, sexual and gender minorities, LGBTIQ children, anti-bullying, comprehensive sexuality education, curriculum and textbooks, social acceptance

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1. INTRODUCTION

Sexuality is a central component of human life (Macintyre, Vega & Sagbakken, 2015, p. 85). But, sexuality and sexual orientation is veiled within the hegemony of silence in Nepali society. In heteronormative society, sexual and gender minorities are considered subaltern. They are subjected to exclusion and discrimination just because they are diverse than heterosexual society and do not fall under traditional binary gender norms (Ghimire, Maharjan & Maharjan, 2019; Sharma, 2012). They are also negatively stereotyped as undesirable and abnormal resulting in their harassment, which starts from school (Burn, 2018). The negative understanding, poor knowledge, and judgemental attitude among people regarding sexual and gender minorities can arise from the background and belief of the family (Wahlen, Bize, Wang, Merglen, & Ambresin, 2020). Such stereotyping fosters and normalizes people to victimize sexual and gender minorities.

Among the sexual and gender minorities', children are more vulnerable than adults. Due to the power dynamics where children are in less powerful position and are less likely to fight against the abusers / perpetrators, they are often the target for sexual exploitation and verbal abuse (Sharma, 2012). Because of their non-normative behavior, gender non-conformity, sexual orientation, and gender expression, sexual and gender minority children are harassed, discriminated, and abused at home, communities, and schools. Harassment, discrimination, and violence against those children also persist in schools where prejudice comes from other students, teachers, and staffs/officials. Sexual and gender minority students report a higher prevalence of violence at school than their peers (UNESCO, 2016). Violence based on sexual orientation and gender identity/expression, also referred to as homophobic and transphobic violence is a form of school-related gender-based violence that affects students' education and well-being and restricts equal learning opportunity. Feeling of guilt, shame, and fear among LGBTIQ children lead to frustration, anger, helplessness, anxiety, stress, depression, suicidal ideation and attempt. All those negative psychological outcomes result into less-participation in school functions and extra-curricular activities, increased absenteeism and low concentration on academic learning, low academic achievement, social isolation, and school drop-out. Such circumstances do not allow a sexual and gender minority children to access equal learning opportunities as other children. Little is known about its prevalence in educational setting in developing world (Leach & Humphrey, 2007 p 52). Since discrimination against gender and sexual minorities is embedded in both formal structures and in people's minds, it is imperative to work on a two-pronged approach to tackle such discrimination. Heymann, Spragus & Roul (2020) assert, that changes in both legal rights and people's belief are required to reduce discrimination for promoting equal learning opportunity. It is essential to eliminate discrimination and violence towards sexual and gender minorities through enactment and implementation of legal policy measures. Legal frameworks shape up the institutional standpoint and provide a guidance to implement the rights of sexual and gender minority children.

The Constitution of Nepal 2015 recognizes the rights of sexual and gender minorities to Identity (Article 12), Equality (Article 18) and Social Justice (Article 42). It should be translated into legislations, policies and programmes that promote equal treatment for sexual and gender minorities. Educational system needs to provide adequate and proper knowledge regarding sexual orientation and gender identity and the rights of sexual and gender minorities through formal school education as well as increasing awareness among communities, parents, caregivers, and family members. It is also necessary to analyse the educational system from a rights-based approach and redefine the education system to include sexual and gender minorities' perspective promoting a non-discriminatory, inclusive, and equal society for all through formal and informal learning.

1.2 Research Questions

- What are the barriers that impose restrictions on sexual and gender minority children to get equal learning opportunities at schools?
- What are the gaps and opportunities in the school curriculum and textbooks, and in teachers' capacity in addressing the situation and issues concerning sexual and gender minority children?
- What are the opportunities for restructuring and revising the school curriculum and textbooks and strengthening teachers' capacities to promote non-discrimination and de-stigmatization of sexual and gender minority children?

1.3 Methodology

The study is based on systematic review and thematic analysis of the relevant literature on the rights of sexual and gender minority children. Exploratory research approach is used to identify barriers in equal learning opportunities and gaps and opportunities in the school curriculum and textbooks to enable de-stigmatization and non-discrimination towards sexual and gender minority children. Following steps were conducted during analysis of the available data;

- Desk Review of policies and periodic plans of the government and review of the literature & research reports,
- Review of baseline and reports of the project¹ that promotes rights of LGBTIQ children,
- Review of School curriculum and textbooks of Grade 7 – 10 of community schools

1.4 Equal Learning Opportunity

Equal learning opportunity in education is defined and interpreted in myriad ways (Lazenby, 2016). It may be understood from the perspective of inclusive and quality education shedding light in the learning opportunity of sexual and gender minority children. Dhungana (2020)

1 The project titled 'Promote protection and inclusion of sexual and gender minority children' is being implemented by Save the Children, Blue Diamond Society and Social Service Centre.

elaborated quality education relating with a high standard of curriculum, school facilities and necessary support for learner, learning process & quality learning outcomes as basics of quality education. Aryal (2020) asserted for providing equal opportunity as an ideal state in which everyone has the same chance to participate and succeed in any aspect of their work and life.

1.5 Understanding the sexual and gender minority community

The legal term refers to gender and sexual minorities but the term LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex, Queer and/or Questioning) is also commonly used. Nepal is largely a patriarchal society that does not easily accept people of diverse sexual orientation and gender identity or LGBTIQ for better understanding. Despite official recognition and the lack of open condemnation of homosexuality and gender non-binary in social mores, family pressure and social expectations still force most people to be indifferent (Rajbhandari, 2012). Acceptance by families is severely limited due to overwhelming social and cultural pressures and fear of loss of respect. Sexual and gender minorities suffer from an emotional turmoil even resulting in suicidal ideation as suggested in a study in Switzerland that the risk of suicide attempts are two to three times greater among sexual and gender minority adolescents than heterosexual adolescents (Wang, Hausermann, Wydler, Mohler-Kuo, & Weiss, 2012). Regarding LGBTIQ children in Nepal, most children attempt one or another type of activity to hurt themselves as a response to scolding, teasing and other social pressures (Sharma, 2012). They do not have the chance to express and share their feelings openly with others. This results in stress, anxiety, fear, and isolation among the minority groups. As a result of oppression from discrimination, they tend to have poorer mental health outcomes (Diplocide and Fallahi, 2020). They become the victims of social participation and self-exclusion from family gathering, school extra-curricular activities and social functioning.

1.6 Legal Framework and Reality

The people's movement in April 2006 triggered the marginalized groups including sexual and gender minorities to raise their voices and demand their rights in Nepal. Nepal is considered as one of the most progressive countries guaranteeing rights of sexual and gender minorities on legal grounds. In 2007, the Supreme Court of Nepal made a ruling to recognize the rights of sexual and gender minorities and asked the government to provide citizenships and passports as per the gender identified by the persons. Article 12 (Part 2) of the 2015 Constitution of Nepal offers citizenship as per the gender identified by the person. Article 18 of the Constitution provides the right to equality prohibiting any kind of discrimination, including gender-based discrimination. The Constitution has also the provision of affirmative action and proportional representation of minority and marginalized groups in the mainstream of politics and development. The government has

special programs to uplift the minority and marginalized communities through reservation in various bureaucratic and development positions and government services.

Despite the progressive constitutional provisions, sexual and gender minorities are still struggling to get citizenship and passports as per their gender. Sexual and gender minorities are deprived from such affirmative actions and representation in the socio-political affairs. Sexual and Gender minorities do not have representation in the parliament in federal or provincial level and neither in the local government. It is also important to note that the notion of gender equality is highly dominant towards upliftment of women and girls, and gender-based discrimination is considerably associated with women and girls and not with sexual and gender minorities. The policies and programmatic actions that address gender equality must include sexual and gender minorities for their upliftment.

1.7 The International Legal Framework on Children's Rights and Government Policies

The Government of Nepal (GoN) has signed the Universal Declaration of Human Rights (UDHR) and ratified most of the International human rights instruments including, International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). These treaties are legally binding and the rights in these instruments are guaranteed for every person without discrimination of any kind including for sexual and gender minorities. As this article focuses on the children's right to education and equal learning opportunity, a brief look at the CRC is warranted. The CRC includes provisions of both civil and political, as well as economic, social and cultural rights of every child regardless of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability birth or other status². The Committee on the Rights of the Child has identified sexual orientation and gender identity as a ground of discrimination³ and has condemned discrimination based on sexual orientation in its various concluding observations⁴. The Committee on the Rights of Child has identified non-discrimination as a general principle

2 CRC, Article 2; The Committee on the Rights of the Child has interpreted 'other status' extensively capturing other grounds of discrimination not mentioned in Article 2 of the CRC.

3 CRC General Comment no. 3 on HIV/AIDS and the rights of the child (2003); CRC General Comment no. 15 on the right of the child to the enjoyment of the highest attainable standard of health.

4 Besson, S. and Kleber, E (2019). Article 2. The Right to Non-Discrimination. In J. Tobin (Ed.), *The UN Convention on the Rights of the Child: A Commentary* (pp. 41-72). Oxford University Press.

for implementation of the overall UNCRC⁵. Despite developments in international human rights law, the Government of Nepal has not adequately paid attention to its obligations in realizing the promotion, protection, and fulfilment of the rights of LGBTIQ children. The legislations, policies and plans for children do not recognize LGBTIQ children as one of the minority and marginalized group and have not addressed their particular issues. For example, the former National Plan of Action for Children (2005 – 2015), National Child Policy 2012 have not specified LGBTIQ children as a target group and likewise, they are not included in the list of children with special protection needs in the Article 48 of Children's Act 2018. As a result, LGBTIQ children are always left behind without being able to enjoy their rights including education and protection.

The Government of Nepal has made its commitment to achieve free and compulsory basic education for all children. Ministry of Education, Science and Technology has been implementing the School Sector Development Plan (2016-2023) which has a clear provision for equity and inclusion in education. Furthermore, the School Sector Development Plan (SSDP) aims to promote participation and retention of students from Dalits, ethnic and religious minorities. Although, efforts are being made to include children from marginalized populations, there are still many challenges to address transformative change in classrooms contributing to access and quality in education for all. SSDP does not explicitly highlight the inclusion of sexual and gender minority children (Joshi, 2019, p. 7). The curriculum and textbooks have limited space for teaching and learning about the topics of sexual orientation and gender identity. Limited knowledge and understanding about sexual orientation and gender identity leads towards accepting the existing stereotype and discrimination associated towards sexual and gender minorities. It is evident that though Nepal seems to have made significant progress to promote the rights of sexual and gender minorities in the constitution aligning with the international human rights treaties; it is not yet reflected in the policies, programs, and provisions of the government. Research and evidence about the lives of LGBTIQ children are most important in understanding them and the issues they face including discrimination and lack of equality in learning opportunities. Research based knowledge and evidence are necessary for policymakers, planners, bureaucrats, academicians, and activists in developing policies and programs that ensure inclusion and fulfilment of LGBTIQ children's rights to survival, protection, participation, and development.

2. KEY ISSUES AND DISCUSSIONS

2.1. Social and cultural norms as a barrier of equal learning opportunity

Heteronormativity is considered as a fundamental principle in Nepali society. Cultural preference for either son or daughter tends to create greater stigma and discrimination

5 UNICEF, (November 2014). Eliminating discrimination against children and parents based on sexual orientation and/or gender identity. UNICEF Current Issues

towards sexual and gender minority community. Nepalese society is conservative towards sexual and gender roles and Hinduism was used to justify stigma towards them as unnatural (Wilson, Pant, Comfort & Ekstrerd, 2011). Although Hindu scriptures speak about homosexual and transgender Hindu gods, the cultural norms and social interpretations have devalued them. The report of UNDP and USAID (2014) states that religion does not contribute strongly to discrimination and harassment of LGBTIQ individual, except where it influences social mores and traditions. Due to the heteronormative beliefs, people do not talk openly about diverse sexual orientation and gender identity, even in their families. Parents and relatives believed marriage could be a solution for children's diverse sexual orientation and gender identity, and put pressure on these children to get married as a cure. In most instances, sexual and gender minorities leave their families and home because of humiliation and fear of marriage. Sharma (2012) observed that most of the LGBTIQ children who have left their home drop out from schools and look up for menial jobs or end up in prostitution to earn their living and become the victims of various forms of sexual harassment and physical abuse.

There is a misconception that homosexuality constitutes hormonal imbalance and being born as a transgender and intersex is a consequence of sins in one's previous life. Parents, families, and teachers think that non-heteronormative behavior of LGBTIQ children is due to hormonal imbalance and that can be corrected if intervened at early stage (Sharma, 2012). Due to this misconception, sexual and gender minority children and youth are subjected to intimidation, public shaming, bullying, and harassment in schools, families, and communities. People use derogatory terms to refer to transgender persons and intimidate if any person behaves differently than the conventional gender norms. The issue of sexual orientation and gender identity is heavily stigmatized and not considered as an area of concern or public discussion. Awareness raising is the key to mitigate misconception and promote social acceptance towards sexual and gender minorities.

2.2 Discrimination and violence in school

Students who were perceived to differ from conventional gender norms were vulnerable to abuse and violence in schools (UNESCO, 2016)⁶. Violence based on sexual orientation and gender identity/expression, also referred to as homophobic and transphobic violence is a form of school-related gender-based violence. It includes physical, sexual, and psychological violence and bullying and, like other forms of school-related violence, can occur within school premises, on the way to and from school and online. A national study conducted by UNDP in 2014 found that 16 percent of LGBTIQ individuals experience

6 UNESCO, (2016). Out in the Open: Education Sector Responses to Violence based on Sexual Orientation and Gender Identity/Expression. Retrieved on 8th October 2019 from <http://unesdoc.unesco.org/images/0024/002447/244756e.pdf>

verbal harassment in educational settings⁷. In 2012, Save the Children and Blue Diamond Society noted that almost every LGBTIQ children face verbal harassment in schools and families too⁸. Most of the interviewees of the study experienced various threats, bullying and neglect from students and teachers at schools and likewise from relatives in the families. It leads to underachievement, low class performance, absenteeism, and high-drop-out rate among LGBTIQ children.

2.3 Lack of Inclusive and Quality learning environment

Equal learning opportunity of children is affected by implicit and explicit discriminatory curriculum, textbooks, teaching methods and attitude of teachers and staffs. Sharma (2012) asserted that LGBTIQ children have several restrictions in schools and the attitude of teachers and school environment is not supportive of them either. Sexuality education is considered a taboo among parents, and teachers. With parents not allowing their children to receive sexuality education and teachers reluctant to teach any contents related to sexuality education, children have limited knowledge and skills to tackle issues related to sexual orientation and gender identity. School systems do not have a support mechanism where LGBTIQ students can vent out their distress. Also, they lose opportunity to be part of child clubs and other activities. Likewise, children receive gendered socialization norms through parental beliefs and teacher's classroom teaching and reproduce the same knowledge during peer interaction which increases the stigma towards sexual and gender minorities. So, teachers and families should have adequate and in-depth knowledge regarding gender-sensitive socialization process (Gansen, 2017).

2.4. Curriculum and Textbooks on sexual orientation and gender identity and rights of LGBTIQ children

The Ministry of Education, Science and Technology (MoEST) has already initiated the Comprehensive Sexuality Education framework which is a curriculum-based teaching and learning process based on the key concepts of UNESCO international technical guidance on sexuality education emphasizing on relationships, values, culture and sexuality, gender, human body and development, sexual behavior, sexual and reproductive health⁹. Comprehensive Sexuality Education (CSE) is expected to equip children and young people

7 UNDP, Williams Institute (2014). Surveying Nepal's Sexual and Gender Minorities: An inclusive approach. Bangkok, UNDP

8 Sharma, M. (2012). Building the Evidence Base for Protecting and Promoting the Rights of Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) children in Nepal. Save the Children International

9 UNESCO, (2018). International Technical Guidance on Sexuality Education: An evidence-informed approach. UNESCO. (Comprehensive sexuality education emphasizes on six components: Relationships, Values, Culture and Sexuality, Gender, Human Body and Development, Sexual behaviour, Sexual and Reproductive Health)

with knowledge, values and skills to realize their health, well-being and dignity, and develop respectful social and sexual relationships. Nepal is a second country in Asia after Mongolia to include CSE and the contents of SOGIE in school curriculum (UNDP & USAID, 2014). In reference to the CSE, the curriculum of Grade 6 - 8 of Social Studies includes 'third gender' under the sub-chapter of gender mainstreaming and likewise, the curriculum of Environment, Health and Population of grade 7, 8 and 9 includes information about sexual and reproductive health. However, in-depth content regarding sexual orientation and gender identity is still lacking in the textbooks. The textbooks have very limited information about sexual orientation and gender identity and the rights of sexual and gender minorities. MoEST reviewed the status of CSE in Nepal and admit that even though the inclusion of curriculum on CSE is encouraging in Grade 6 to 10, teachers are not equipped with the knowledge to teach, and students do not have supplementary child-friendly materials to enhance their knowledge about CSE¹⁰.

The teachers' training module does not specifically include contents of sexual and gender minorities. Most of the teachers lack capacity and confidence to deliver sessions about sexual orientation and gender identity in the classrooms. The baseline study¹¹ conducted by Save the Children in 2020 noted that the school authorities' i.e., School Management Committee, Parents-Teachers Association, Head teachers and teachers do not have adequate and in-depth understanding on the rights of sexual and gender minority children. Only eleven percent among 150 students had some level of understanding about sexual orientation and gender identity and only four percent knew the term LGBTIQ. This shows the gap among teachers and students regarding their understanding about sexual orientation and gender identity.

2.5.Review of Curriculum and Textbooks

The curriculum and textbooks of social studies, health and physical education and population education of Grade 7 – 10 of community schools were analysed from the lens of sexual orientation and gender identity and the rights of LGBTIQ children. The analysis was carried out by Save the Children and Blue Diamond Society with support from External Consultants and in consultation with the officials of Curriculum Development Centre (CDC) and Centre for Education and Human Resources Development (CEHRD).

10 UNFPA, (2016). Retrieved from https://nepal.unfpa.org/sites/default/files/pub-pdf/Factsheet%20sexuality%20education_0.pdf

11 Save the Children International (2020). Baseline Study Report on the protection and inclusion of children marginalized due to their sexual orientation and gender identity in Nepal.

Table 1 - Social Studies

Related Topics in Curriculum	Existing Contents in Textbooks of Community schools	Recommended contents
Grade 7 – Social problems • Social Inequality and Exploitation • Gender based Discrimination	<ul style="list-style-type: none"> • The word Third gender is mentioned in textbook of Grade 7 and Grade 9. In Grade 7 textbook, it asks the students to define gender equality about the equal rights and authority between male and female. This re-emphasizes on the gender binary form of male and female which neglects the issues of sexual and gender minorities. • In Grade 10, the textbook mentions the rights of other groups but no discussion about LGBTIQ rights. 	<ul style="list-style-type: none"> • It is necessary to elaborate about sexual and gender minorities, gender non-binary, transgender and intersex persons etc. Likewise, gender equality should include the non-binary approach as well. • In Grade 9 textbook, include contents about bullying on the basis of physical appearance, caste, disability, sexual orientation and gender identity. • In textbook of Grade 10 Social Studies, LGBTIQ rights can be discussed in the section of other rights.
Grade 8 – Inclusion • Discrimination and Forms of Exclusion (caste, class, gender, language, culture)		
Grade 9 – Our society • Our Identity • Bullying • Unity in Diversity		
Grade 10 – Civic Consciousness • Human Rights, Women Rights, Indigenous Rights		

Table 2 - Health and Physical Education

Topics in Curriculum	Existing Contents in Textbooks of community schools	Recommended contents
Grade 7 – Sexual and Reproductive Health • Introduction on Sexual orientation and Gender identity • Safe sexual behavior • Sexual abuse	<ul style="list-style-type: none"> • The textbooks highlight on the gender-binary. Sex and sexuality is defined on the male and female perspectives and likewise does not discuss about diverse sexual orientation and gender identity. • Gender Equality is discussed as women's empowerment in Grade 10 textbook. 	<ul style="list-style-type: none"> • Add the definition of sexual and gender minorities groups i.e., Lesbian, Gay, Bisexual, Transgender, Intersex, Queer (LGBTIQ). • Define the concept of sexual orientation, gender identity and expression, sex characteristics, gender non-binary, heterosexual, homosexual, asexual, agender etc. • Broaden the definition of gender equality to include sexual and gender minorities and how they are facing stigma, discrimination and exclusion and their rights to be included.
Grade 8 – Sexual and Reproductive Health • Adolescent friendly reproductive health services		
Grade 9 – Comprehensive Sexuality Education • Concept of Sexuality • Sexuality during adolescence		
Grade 10 – Comprehensive Sexuality Education • Components of CSE		

Table 3 - Population Education

Related topics in Curriculum	Existing Contents in Textbooks of community schools	Recommended contents
<p>Grade 9 – Adolescence, Sexual and reproductive health education</p> <ul style="list-style-type: none"> • Sex Education and Gender • Definition of Gender • Gender based Discrimination and the gender role 	<ul style="list-style-type: none"> • Textbook of Grade 9 specifies the Supreme Court order on the rights of sexual and gender minorities. • The word Sexual minority is incorporated in the sub-topic of gender based violence in the textbook of Grade 10. 	<ul style="list-style-type: none"> • It is important to elaborate on the decision of the Supreme Court on the right to get identity (citizenship and passport) on the basis of gender identified by the person, and directives to formulate policy provisions on same sex marriage. • The textbooks should elaborate on constitutional provisions on sexual and gender minorities and the rights of sexual and gender minorities(Article 12, 18, 42). • Elaborate the components of CSE including gender as a social construct, sexuality, sexual behavior, sexual orientation, gender identity and expression, sex characteristics
<p>Grade 9 – Comprehensive Sexuality Education</p> <ul style="list-style-type: none"> • Concept of CSE • Sexual behavior and peer pressure • Help seeking behaviour for sexual health problems 		
<p>Grade 10 – Gender</p> <ul style="list-style-type: none"> • Gender and Social Structure • Gender Equality and Equity 		
<p>Grade 10 – CSE</p> <ul style="list-style-type: none"> • Sexuality, society, and human rights • Sexual behavior and responses 		

The curriculum seems progressive in including contents about gender equality, sexual orientation, gender identity, sexual behaviour etc. It is evident, however, that the curriculum topics are not adequately reflected or elaborated in the textbooks. The textbooks should have provided broader definitions beyond the existing norms of gender-binary and heterosexuality and include in-depth contents about sexual orientation, gender identity, expression, and sex characteristics.

3. CONCLUSION AND RECOMMENDATIONS

This study explored barriers to equal learning opportunities of sexual and gender minority children. An analytical review of curriculum and textbooks of social studies, health and

physical education and population education of Grade 7 – 10 of community schools were done from the perspectives of sexual orientation and gender identity and the rights of LGBTIQ children. Equal learning opportunity is the right of every child including sexual and gender minority children. Transformative change in education system with inclusive curriculum and textbooks and sexual and gender minority friendly learning environment can help in dismantling negative stereotypes, discrimination, and violence towards LGBTIQ children. There is an urgent need to;

- ensure provisions of inclusion, protection, and education of sexual and gender minority (LGBTIQ) children in the National Child Rights Policy and the National Plan of Action for Children¹² and annual policy and programmes of the government.
- eliminate all forms of abuse, discrimination, and violence against LGBTIQ children by strengthening existing child protection system to protect them from bullying and harassment at schools, home and communities.
- include adequate information and contents about sexual orientation and gender identity and the rights of LGBTIQ children in the curriculum and textbooks of Grade 6 – 12. Develop and make the teaching materials available on sexual orientation and gender identity, and build capacity of teachers to teach about sexuality, sexual orientation and gender identity and sex characteristics.
- coordinate, consult and support Child Clubs at schools for child-led awareness raising and peer education on non-discrimination, anti-bullying, and comprehensive sexuality education including sexual orientation and gender identity.
- undertake awareness-raising, sensitization and capacity building of protection authorities including law enforcement agencies and service providers to effectively address cases of abuse, discrimination, and violence against LGBTIQ children.
- conduct research and studies on sexual and gender minority children's experiences and situations in educational settings and home environment that present barriers for full enjoyment of their right to education and protection.

¹² National Plan of Action for Children is under development for 2021 - 2030 that will constitute 10 years strategy/plan for protecting children's rights.

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Application of Convention on the Rights of the Child in Nepal: A Review of Legislative and Judicial Practice

Shiva Wagle*, Prabhat Chhetri**

Part - 1

Background

1.1. About this Paper

This paper attempts to provide a brief introduction and analysis of legislative and judicial practices observed in Nepal to implement the UN Convention on the Rights of the Child (hereinafter referred to as "CRC"). For the purpose of the paper, major laws and leading judgments of the Supreme Court pertinent to child rights have been discussed, however, the paper does not cover the institutional mechanism and practical application of those laws and judgments. This paper proceeds in five parts. Part 1 provides background information, Part 2 is related to Nepalese Practice on Domestication of International Treaties, Part 3 attempts to shed light on Legislative Efforts to Domesticate the CRC, Part 4 sheds light on the Judgement of the Supreme Court Pertinent to CRC, and Part 5 provides the finding, suggestion, and conclusion of this paper.

1.2. Introduction to the UN Convention on the Rights of the Child

United Nations Convention on the Rights of the Child is an international treaty that addresses the rights of children worldwide. It calls on States Parties to take all appropriate measures to ensure that children receive special rights, including the right to a name and nationality; access to healthcare, education, and parental care; and protection from exploitation, abuse, and neglect. CRC was entered into force on September 2, 1990, and 193 countries are currently party to the Convention, making it the most widely ratified human rights treaty.¹ There are four articles in the convention that are seen as special. So they're known as the "General Principles" and they help to interpret all the other articles and play a fundamental

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1 Luisa Blanchfield, *The United Nations Convention on the Rights of the Child: Background and Policy*, Issues 1 [Congressional Research Service, 2010]

role in realizing all the rights in the Convention for all children. They are²:

- Non-discrimination (article 2)
- Best interest of the child (article 3)
- Right to life survival and development (article 6)
- Right to be heard (article 12)

The Convention also contains several agreements to add further unique rights for children which are optional for countries – they are called “Optional Protocols”. They include:

1. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

This Optional Protocol requires governments to increase the minimum age that children can join the armed forces from 15 years and to ensure that members of their armed forces under the age of 18 do not take a direct part in armed conflict.

2. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography.

This provides detailed requirements for governments to end the sexual exploitation and abuse of children. It also protects children from being sold for non-sexual purposes, such as other forms of forced labor, illegal adoption, and organ donation.

3. The Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

This allows children to submit a complaint to the United Nations when their rights have been violated and their own country’s legal system was not able to offer a solution.

Nepal ratified CRC unconditionally on 14 September 1990. The convention has 54 articles. The convention provides the definition of the child and has several provisions such as provisions against discrimination against children, children's welfare, rights enforcement, parental counseling, and management for children's capacity development. The convention also has provisions about life and development, name and nationality, protection of identity, the status of the children after divorce of parents, family reunion, illegal transfer, and non-return of children. The treaty safeguards children's rights to expression, ideology, wisdom, and religion, as well as their freedom to associate. The convention also has provisions regarding the right to privacy, right to information, parents’ liabilities, protection against misconduct and neglect, protection of children without families. Similarly, the convention has specified the adoption process and highlighted issues relating to refugee children and

² See <https://www.unicef.org.uk / what-we-do / un-convention-child-rights / & ttps://www.humanium.org / en / convention />

disabled children, as well as issues relating to children's health and health facilities, nutrition, social security, living standards, education, and educational objectives. The convention also deals with the issues related to children of minorities and indigenous people, leisure, rest and cultural activities, child labor, drug addiction, sexual exploitation, trafficking, bargain, kidnap, other forms of exploitation, torture, loss of freedom, armed conflict, care during rehabilitation, juvenile jurisprudence, and others.

1.2. The Obligations of States Parties to the CRC

Article 4 is the general provision that outlines the obligations and duties of States Parties to the Convention. It reads:

"States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation."

Regarding the obligations of the CRC, a review of relevant literatures³ suggest the following:

- Article 4 of the Convention emphasizes that its implementation necessitates legislative as well as non-legislative measures.
- Outlining the obligations no direct reference is made to the judiciary or to judicial remedies. Furthermore, the *travaux préparatoires* do not reveal any discussion about judicial remedies.
- The second part of Article 4 -- specifically the phrase "to the maximum extent of their available resources"-- is one of the more obvious loopholes in the CRC.
- Another weakness of the "all available resources" language in Article 4 concerns the interpretation of the phrase "obligations of States." The "obligations of States" is a vague phrase in international law and is often interpreted as applying only to state action, particularly at the national level. Such an interpretation, however, ignores other important actors at the regional and community level. The task of implementation – of making the human rights of children a reality – needs to engage all sectors of society, including children.
- CRC does not provide a definition of measures of implementation that a State Party must take.
- Nonetheless, in its essence, the CRC is a legal document. While the CRC may contribute greatly to shaping the values of both policymakers and society in

3 See Declaration of the Rights of the Child, in Sharon Detrick, *The United Nations Convention on the Rights of the Child: A Guide to the "Travaux Prdparatoires"* 641-642 (1992), Philip Alston, *The Legal Framework of the Convention on the Rights of the Child*, 91/2 Bull. Hum. Rts. 1 (1992), and Jonathan Todres, *Emerging Limitations on the Rights of the Child: the U.N. Convention on the Rights of the Child and Its Early Case Law*, 30 Colum. Hum. Rts. L. Rev. 159-200 (1998). [Note: The above highlighted suggestions are based on the aforementioned literatures.]

general, the Convention's central objective was to establish a legal framework for the protection of children's rights.⁴

1.3. Relationship between national and international law

In the international plane, there are various approaches of receiving international law into domestic law such as an approach of adoption in which international treaties are made part of domestic law as a consequence of international ratification. There is the approach of “incorporation” in which a separate domestic enactment is made to give all or part of the treaty provisions domestic legal validity. In addition, there is an approach of “transformation” in which a treaty gets formal status within domestic law only when the existing domestic law is amended or new enactment is made to implement a treaty.⁵ Similarly, a method of “reference” has also been used by some countries in which a clause is included in domestic enactment as to the treaty or even on the priority of international treaties in matters covered by laws in question.⁶ It is a matter for policy consideration of a particular state to determine the method of application of international law into domestic law.⁷

Theoretically, the following are the major two theories to explain relationships between International Law and Municipality Law:

1.3.1. Monism:

Under the theory of monism, international law is immediately applicable within national legal systems, and thus the international law is superior to national law.⁸

1.3.2. Dualism

According to this school of law, municipal law can apply international law only when it has been incorporated into municipal law, and this incorporation can result from an act of Parliament or executive action or given effect by the courts.⁹

4 See Philip Alston, *The Legal Framework of the Convention on the Rights of the Child*, 91/2 Bull. Hum. Rts. 1 (1992)

5 *Maclaine Watson and Co. Ltd. v. International Tin Council*, 3 ALL ER (1989)

6 Martin Scheinin, *International Human Rights In National Law* 419-420 (2000).

7 John H. Jackson, *Status of Treaties in Domestic Legal Systems: A Policy Analysis*, 86 Am. J. Int'l L. 310 (1992)

8 Myres McDougal, *The Impact Of International Law Upon National Law: A Policy-Oriented Perspective*, 4 South Dakota Law Review, 25, 27-31(1959)

9 Peter Malanczuk, *Akehurst's Modern Introduction To International Law* 65 (7th ed, 1997)

Part - 2

Understanding the Nepalese Practice on Domestication of International Treaties

As an active member of the UN, Nepal has been playing a dynamic role in formulating international legal documents governing such legal principles and prescriptions as the sovereign equality of states, the non-use of the threat of force, territorial sovereignty, the peaceful settlement of disputes, non-intervention and non-interference in internal affairs of states, respect for human rights and fundamental freedoms, equality of rights, and the right of people to determine their own destiny, cooperation and friendly relations among states, and *pacta sunt servanda* under international law.

Constitution of Nepal (2015 A.D.) lays down the provision on ratification of, accession to, and acceptance or approval of treaties or agreements. However, the Constitution is silent regarding the status of international treaties and their applicability in the domestic sphere. Nepal Treaty Act, 2047 (1990), on the other hand, prescribes the procedure relating to signing, ratification, accession, acceptance, or approval of treaties or agreements to which Nepal or the Government of Nepal is a party, as well as in regard to their implementation.¹⁰

2.1. Treaty Act, 2047 (1990) as a major legal instrument on the domestication of international treaties

The principal provision regarding the status of international treaties has been enshrined in Section 9 of the Act. This section is a key section for the application of the international treaty in Nepal. It reads:

- In case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese law.¹¹
- Any treaty which has not been ratified, accede to, accepted or approved by the Parliament, though to which Nepal or Government of Nepal is a party, imposes any additional obligation or burden upon Nepal, or Government of Nepal, and in case legal arrangements need to be made for its enforcement, Government of Nepal shall initiate action as soon as possible to enact laws for its enforcement.¹²

¹⁰ Nepal Treaty Act, 2047 (1990), Preamble

¹¹ Nepal Treaty Act, 2047 (1990), § 9(1)

¹² Nepal Treaty Act, 2047 (1990)§ 9(1)

Section 9 (1) appears close to the practice of some countries such as France which gives superior status to the treaty than that of domestic law. However, Section 9 (2) appears close to the British legal approach, which requires an Act of Parliament for a treaty to be implemented, which has applicability on a condition.

2.2. Nepalese Obligations to International Law

Going through Nepalese legal provisions, we can observe that the Nepalese legal system tilts towards the monist. Following are the common methods in Nepal to comply with international obligations:

- i. Statutory incorporation of a complete text with reference to the international treaty.
- ii. Statutory incorporation of a complete text without reference to the international treaty.
- iii. Partial incorporation or adjustment of treaty provisions in a statute without reference to the treaty, and
- iv. Incorporation of treaty provisions in delegated legislation (regulations) without reference to the treaty¹³

Essentially, methods for transforming international treaty norms into national law have been poorly developed in Nepal. Effective legal and administrative implementation measures have not been taken to fulfill the obligation of international treaties to which Nepal is a party¹⁴

13 Pravakar Adhikari, *An Overview of Constitutional and Legal Provisions of Nepal Concerning Internalisation of International Law*, 21 Nepal Law Review 33-34 (2010).

14 *Id.*, at 34

Part 3

Legislative Efforts to Domesticate the CRC

CRC has been domesticated through various legislative enactments, which is a product of reviews of children-related legislation that were carried out in several instances and subsequent amendments to laws to address gaps in the domestication of CRC. Accordingly, a review of prevailing laws suggest that the CRC has been domesticated with the help of the following legal and policy instruments:

3.1. Constitution of Nepal (2015)

Nepalese Constitution is the fundamental law of Nepal, and any law inconsistent with this Constitution shall, to the extent of such inconsistency, shall be void.¹⁵ Constitution has recognized the following rights of the child as a fundamental right:¹⁶

- (1) Every child shall have the right to name and birth registration along with his or her identity.
- (2) Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State.
- (3) Every child shall have the right to elementary child development and child participation.
- (4) No child shall be employed to work in any factory, mine or engaged in similar other hazardous work.
- (5) No child shall be subjected to child marriage, transported illegally, abducted/kidnapped or taken in hostage.
- (6) No child shall be recruited or used in army, police or any armed group, or be subjected, in the name of cultural or religious traditions, to abuse, exclusion or physical, mental, sexual or other form of exploitation or improper use by any means or in any manner.
- (7) No child shall be subjected to physical, mental or any other form of torture in *home*, school or other place and situation whatsoever.
- (8) Every child shall have the right to juvenile friendly justice.
- (9) The child who is helpless, orphan, with disabilities, conflict victim, displaced or vulnerable shall have the right to special protection and facilities from the State.
- (10) Any act contrary to in clauses (4), (5), (6) and (7) shall be punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law

The above-listed rights are specific rights provided to the children. Apart from these rights, a child is entitled to the following fundamental rights, as these fundamental rights recognize

¹⁵ Constitution of Nepal (2015), art. 1(1)

¹⁶ Constitution of Nepal (2015), art. 39

the fundamental human dignity of all children and the urgency of ensuring their well-being and development:

- Right to live with dignity (Article 16)
- Right to freedom (Article 17)
- Right to equality (Article 18)
- Right to communication (Article 19)
- Right relating to justice (Article 20)
- Right of a victim of a crime (Article 21)
- Right against torture (Article 22)
- Right against preventive detention (Article 23)
- Right against untouchability and discrimination (Article 24)
- Right relating to property (Article 25)
- Right to religious freedom (Article 26)
- Right to information (Article 27)
- Right to privacy (Article 28)
- Right against exploitation (Article 29)
- Right to clean environment (Article 30)
- Right to education (Article 31)
- Right to language and culture (Article 32)
- Right to health (Article 35)
- Right to food (Article 36)
- Right to shelter (Article 37)
- Right of women (Article 38)
- Right of Dalits (Article 40)
- Right to social justice (Article 42)
- Right to social security (Article 43)
- Right of consumer (Article 44)
- Right against exile (Article 45)
- Right to constitutional remedies (Article 46)

It is pertinent to note that the constitution has an article dedicated to children's fundamental rights, apart from other fundamental rights, which allow children to exercise their rights legally. The constitution has been able to incorporate all the major principles of the CRC.

3.2. Children's Act 2075, (2018)

On 18th September 2018, the Children's Act 2075, (2018 A.D.) was introduced by repealing the Children's Act, 2048 (1992), which amended and consolidated the laws relating to children in order to maintain the best interests of the children, by respecting, protecting, promoting, and fulfilling the rights of the child. It substantially differs from the earlier Act, as it recognizes that children are entitled to the new fundamental rights incorporated by the new constitution - and the state has an obligation to uphold their rights. This obligation is

three-fold - the need to respect the rights, protect the rights and fulfill the rights of Nepal's children. Another new significant addition to the provision list includes that everything must be done to promote the best interest of the children.¹⁷ The Act has the following major chapters:

- Chapter - 2: Rights of the Child
- Chapter - 3: Responsibility towards Children
- Chapter - 4: Relating to Juvenile Justice
- Chapter - 5: Special Protection and Rehabilitation of Children
- Chapter- 6: Institutional Provisions Relating to Rights and Welfare of the Child
- Chapter 7: Protection and Enforcement of the Rights of, and Liabilities Towards, the Child
- Chapter 8: Offences against the Child
- Chapter 9: Punishment, Compensation and Case Trying Authority

This Act may be regarded as a statute that has fully incorporated or adjusted the CRC provisions without explicit reference to the CRC. One of the most notable provisions of the Act is that it defines "Children" as the person who has not completed the age of eighteen years,¹⁸ as previously "Children" were regarded as a minor not having completed the age of sixteen years,¹⁹ which complies with the definition of the child provided by the CRC.²⁰

3.3. Juvenile Justice Procedural Rules, 2076 (2019)

The Supreme Court of Nepal has framed the Juvenile Justice Procedural Rules, 2076 (2019 A.D.) by exercising the powers conferred by Section 85 of Act Relating to Children, 2075 (2018 A.D.) for effective adjudication of cases filed against minors.

3.4. National Child Policy, 2069 (2012 A.D.)

The policy aims to protect children through outlining the mechanisms for awareness-raising, prevention, reporting, and responding to child protection issues. The Policy has attempted to address almost all the provisions of CRC. The notable feature of the Policy is that it has recognized CRC, as the background of the Policy, in its relevant part, states that: "By ratifying the United Nations Convention on the Rights of the Child, 1989, on September 14, 1990, Nepal has demonstrated its international commitment to the issues of child development, protection of child rights and child participation."

17 <https://campaigns.savethechildren.net/blogs/dilli-guragai/nepals-childrens-act-2075-what-it-means-children-nepal>

18 See Act Relating to Children, 2075, Sec. 2(j)

19 See Children's Act, 2048, Sec. 2(a)

20 See Convention on the Rights of the Child, Art. 1

3.5. Other laws

The following statutes have incorporated various provisions which are directly or indirectly related to children in conflict of law:

- Muluki Criminal Code, 2074 (2017 A.D.) - Specifically, this Code has criminalized several offenses against the child.
- Muluki Civil Code, 2074 (2017 A.D.) - Specifically, this Code has provided several rights to the child in civil matters.
- Criminal Offences (Sentencing and Execution) Act, 2074 (2017 A.D.) - Specifically, this Act sets out the matters to be taken into account in sentencing a child.
- Local Government Operation Act, 2074 (2017 A.D.) - Specifically, this Act provides several obligations to the Local Government in regard to the protection and promotion of child right.

Part 4

Analysis of Nepalese Case Laws Pertinent to CRC

The judiciary plays a fundamental role in the implementation process, interpreting and applying international treaties such as the CRC. With respect to the CRC, the role of the judiciary is essential, not only for juvenile justice cases but also in shaping the law on all issues that affect children.²¹ On that note, below are some of the representative cases where the Supreme Court attempted to implement, interpret, and apply the CRC:

4.1 Tilotam Poudel v Ministry of Home Affairs et al.²²

In this case, the Government of Nepal had denied the registration of an organization that was seeking registration as a Non-Government Organization (NGO), which was established by children, including the plaintiff in the case. The Government reasoned that children were incapable to perform functions in the eyes of law and also couldn't bear the liabilities arising out of their position in an organization, if registered, and therefore such organization can't be registered as per law. The plaintiff filed a writ petition against the government's decision, claiming it as their right to register such organization. The Supreme Court of Nepal invalidated the decision of the government and issued a writ of mandamus for the registration of organization upholding the rights of children to form an organization. This decision is a landmark decision as it has recognized and applied the concept of Rights of the Child to Freedom of Association. The Court opined that merely being a child will not result in deprivation of freedom to form associations which is a fundamental right guaranteed by the Constitution, unless law expressly prohibits it.

The Court has also provided a superior status to the Convention on the Rights of the Child. The Court gave the verdict relying on Article 15 of the Convention on the Rights of the Child, which has guaranteed freedom of association. It must be noted that, regarding the application of international law, Nepalese law has no uniform practice. However, in this case, the Court has applied the Convention directly and provided/affirmed the supremacy of the Convention, which well reflects the status and significance of the convention in the Nepalese legal system.²³

21 Jonathan Todres, *Emerging Limitations on the Rights of the Child: the U.N. Convention on the Rights of the Child and Its Early Case Law*, 30 Colum. Hum. Rts. L. Rev. 160 (1998)

22 NKP 2058, Issue 7, Decision No. 7020

23 Prabhat Chhetri, *Rights of the Child to Freedom of Association in the Light of Leading Nepalese Case Tilotam Poudel v. Ministry of Home Affairs et al.*, 1 Journal on Rights of the Child 142, 143 (2016)

4.2. Tika Ram Pokhrel on behalf of Rameshor Chaudhary vs. Kathmandu District Court et al.²⁴

In this case, the Supreme Court of Nepal observed that the Convention on the Rights of the Child, 1989 was introduced with an aim to provide the highest priority for the welfare of all children. Article 3(1) of the Convention makes it mandatory for member states to give priority to the best interests of children. The provisions of this international convention must be complied with by the state parties. Article 37(b) of the Convention provides detention of children to be a measure of last resort. No. 118 (a) and (b) of Muluki Ain, 2020 (1963 A.D.), Chapter of Court Proceeding should not be viewed as an absolute provision. It should be regarded in the light of the Interim Constitution of Nepal, 2063 (2007 A.D.), the Children's Act, 2048 (1992 A.D.), and the Convention on the Rights of the Child, 1989. The provision of detention for the failure to furnish the additional bail or security is contrary to Article 40(1) of the CRC. Eventually, a writ was issued by relying on the established precedent of the Supreme Court.

4.3. Raju Prasad Chapagain et al. vs. Office of the Prime Minister and Council of Ministers et al.²⁵

In this case, the Supreme Court of Nepal observed that the No. 6(3) of Muluki Ain, 2020 (1963 A.D.), Chapter on Homicide, has a provision whereby in cases where a person engaged in taking care of or educating another person beats that another person or does any other act for the benefit of the deceased and an accidental homicide occurs as a result of such act, the person shall be liable to a fine of up to Fifty Rupees. The Supreme Court observed that the provision was contrary to the rights to live with dignity provided by Article 12(1) of the Constitution, the right to equality provided by Article 13, and the right against torture and exploitation provided by Article 22(3) under the right of children, along with Article 19 (1), 28(2) and 37(a) of Child Right Convention. The provision is unequal, unjust, and inhumane. The said provision has been declared null and void, according to Article 107 (1) of the Interim Constitution of Nepal, 2063 (2007 A.D.).

4.4. Sabin Shrestha vs. Office of the Prime Minister and Council of Ministers et al.²⁶

In this case, the Supreme Court of Nepal observed that the Rules which allowed the Royal Nepal Army and Nepal Police to recruit young boys, falling in the age group of 13-18, was deemed null and void, as the Court found it to be contradictory to the constitution, CRC and Optional Protocol to the Convention on the Rights of the Child on the involvement of children in Armed Conflict, along with other human rights treaties.

24 NKP 2070, Issue 11, Decision No. 11

25 NKP 2065, Issue 10, Decision No. 8019

26 NKP 2062, Issue 8, Decision No. 7576

4.5. Kalyan KC vs. District Administration Office, Kathmandu et al.²⁷

In this case, the Supreme Court of Nepal observed according to Section 9 of the Treaty Act, 2047 (1990 A.D.), the treaty, which has been ratified by Nepal, shall be enforceable as good as Nepalese laws. When the provisions of prevailing laws are inconsistent with the Convention, the inconsistent provision of the law shall be void for the purpose of that Convention. Section 5 of Some Public (Crime Control) Act, 2027 (1970 A.D.), deal with the case, where a minor who is less than 16 years of age is involved. Therefore, the case where only a minor under the age of 16 is a defendant and such was heard by the Chief District Office, is contrary to Article 40(2)(ii)(iii) of the CRC and Section 55 of the Children Act, 2048 (1992 A.D.). In regard to the right of the Chief District Officer to hear the case under Section 5 of Some Public (Crime Control) Act, 2027 (1970 A.D.), the right to hear the case of only a minor under the age of 16 has become declared invalid with prospective overruling.

4.6. Dal Bahadur Dhimi et al. vs. Office of the Prime Minister and Council of Ministers²⁸

The Supreme Court analyzed the following provisions of various human rights instruments, including the following provisions of CRC:

1. States Parties recognize that every child has the inherent right to life. (Article 6)
2. The State shall take all legislative, administrative, social and educational measures for the protection of the child from all forms of physical or mental violence, injury, abuse, neglect, maltreatment or exploitation. (Article 19)
3. States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse, particularly by taking appropriate national, bilateral, and multilateral measures. (Article 34)
4. States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment that fosters the health, self-respect, and dignity of the child. (Article 39)

The court noted Section 9(1) of Treaty Act, 2047 (1990 A.D.), which states that in case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws, and also noted various constitutional provisions.

Eventually, in this case, the court observed that there is no separate legal provision for the child victims of rape. For this purpose, a directive order was issued in the name of the Government of Nepal to take legal and protective measures considering the child victims.

27 NKP 2066, Issue 10, Decision No. 8242

28 NKP 2066, Issue 10, Decision No. 8242

Part 5

Findings, Suggestion, and Conclusion

5.1. Findings:

- Convention on the Rights of the Child does not provide a definition of measures of implementation that a State Party must take. However, Article 4 of the CRC provides an obligation to the state to implementation obligations by taking “all appropriate legislative, administrative and other measures.”
- To understand the issue of implementation of CRC in Nepal, we should note that the divergent state practices pertaining to the incorporation of international law into municipal law have been explained by major two schools – monism and dualism. Section 9 of the Nepalese Treaty Act, 2047 (1990 A.D.) is a key provision that reflects the status of international law in Nepal
- Nepal has adhered to the principles and provisions of the UN Convention on the Rights of the Child 1989 while enacting its domestic laws. In order to implement the CRC, Nepal has incorporated the relevant provisions in its various legal instruments such as the Constitution of Nepal (2015 A.D.), Muluki Criminal Code, 2074 (2017 A.D.), Muluki Criminal Procedure Code, 2074 (2017 A.D.), Muluki Criminal Procedure Rule, 2075 (2018 A.D.), Muluki Civil Code, 2074 (2017 A.D.), Criminal Offences (Sentencing and Execution) Act, 2074 (2017 A.D.), Local Government Operation Act, 2074 (2017 A.D.) Juvenile Justice Procedural Rules, 2076 (2019 A.D.), etc. These laws partially incorporate or adjust the treaty provisions without providing explicit reference to the treaty. National Child Policy 2069 has provided reference to the treaty and incorporates almost all the provisions of CRC. Act Relating to Children, 2075 may be regarded as a statute that has fully incorporated or adjusted the CRC provisions without explicit reference to the CRC. Specifically, the Constitution of Nepal (2015 A.D.), National Child Policy, 2069 (2012 A.D.), and Children's Act 2075 (2018 A.D.) have well-accepted the Four Guiding Principles of CRC.
- The Nepalese judiciary has been citing CRC in several instances, as cases involving the CRC have been brought before the court in several instances. Nepalese Supreme Court has been considering CRC in reaching its decisions. Relying on Section 9 of Treaty Act, 2047 (1990 A.D.), the Nepalese apex court has indicated that CRC is superior to the national laws, however, it has always relied on constitutional provisions or earlier established precedents (together with CRC) in the course of judicial pronouncement. Issues of CRC have been raised in all tiers of courts,

however, it has been mostly embraced in the apex court decisions. While reviewing the decisions, it has been observed that in only one case the child (himself) was involved in bringing court proceedings, and in the majority of the cases, this was done by the parent or public-spirited legal practitioners. The Supreme Court has played an important role to revise, interpret, uphold or strike down the laws, and also to affirm or challenge the action of government authority, in the light of CRC. The decisions are indeed consistent with CRC provisions and are aimed at enforcing the provisions of the CRC.

5.2. Suggestion

CRC has contributed greatly in shaping the values of both policymakers and society in general in Nepal, and the Convention's central objective - i.e. to establish a legal framework for the protection and treatment of children's rights - has been achieved in Nepal. Needless to say, while we observe the satisfactory existence of these legal instruments and judicial remedies for the implementation of CRC, this calls for an extensive study regarding the implementation of these laws.

5.3. Conclusion

In nutshell, although Section 9(1) of the Treaty Act, 2047 (1990 A.D.) is titled towards the monism and the CRC could be implemented directly as good as Nepalese laws, we can observe that in order to implement CRC, Nepal has enacted several laws and policies, and also ensured it via the constitution itself. Regarding the judicial practice, Supreme Court has played an important role to revise, interpret, uphold or strike down the laws, and also to affirm or challenge the action of a government authority, which has ultimately helped to implement the CRC. It has also taken CRC as an external aid for the construction of national legislation. Although the apex court has not explicitly declared CRC superior to the national legislation, its decisions indicate that CRC has created an important obligation in the Nepalese Legal System.

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Status of Child, Early and Forced Marriage and Impacts of Void Marriage upon Girls

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ABSTRACT

Child, Early and Forced Marriage (CEFM) is widely recognized within international and national agreements as a human rights violation and a harmful practice that disproportionately affects women and girls, preventing them from living their lives free from all forms of violence. Nepal is committed to end the practice of CEFM by adopting constitutional, legal, policy and program measures. This study aims to find out the prevalence and triggering factors of CEFM in Nepal and to know the impact of void marriage upon the girl and to design effective and efficient program to reduce CEFM and impact of void marriage upon the young couples especially on girls. Both analytical and descriptive research design were used to get the stated objectives. Quantitative data were collected from survey with 604 local levels and qualitative data were collected from 18 FGDs, 38 KII and 12 Case Studies of void marriages. Quantitative data are tabulated and presented whereas themes from qualitative data are identified, coded and categorized from content analysis. The incidence of CEFM is still prevail in Nepal but in decreased, diversified and under reported form. The incidence of CEFM is diversified in terms of rural and urban setting, education level and wealth index. Remote rural communities, dalit community, madheshi community, muslim community and janajati community are high risk communities for CEFM. Parents will and self-initiation of marrying couples without considering any shortcomings are two contributing factors of CEFM. Both parents and young couples are adopting strategies- changing the place of residence, cross boarder marriage and making it secret through avoiding party and ceremonies to hide the incidence of CEFM. There are a number of risk factors associated with CEFM ranging from personal to socio-economic and technological level. The perceived adverse impacts of CEFM are impact on physical and mental health, social impact and impact on legal rights. Appropriate policy measures- curriculum reformation, amendment of existing legal provisions on CEFM; child rights system strengthening, effective implementation- capacitate law enforcement agencies, monitoring, more practice of punitive actions against CEFM; community specific program design and execution, effective coordination among three tiers of government, mass awareness are the best way to reduce the CEFM in Nepal and impact of void marriage upon girls.

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Introduction

Marriage is a legally and socially sanctioned union usually between a man and woman that is regulated by laws, rules, customs, beliefs and attitudes that prescribe the rights and duties of the partners and accords the status of their offspring. It is primary social institution based on free and full consent of entering partners. International human rights treaties guarantee the right of all individuals to enter into marriage with the free and full consent of both parties. Child, Early and Forced Marriage (CEFM) lacks free informed and full consent of both parties and lacks legal background.

“Child marriage” is a marriage in which at least one of the parties is a child. According to the Convention on the Rights of the Child, 1989 a child is “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. So, child marriage is any formal or informal union or marriage between two people where one or both of the spouses are under the age of 18.

“Early marriage” is often used interchangeably with “child marriage” and refers to marriages involving a person aged below 18 in countries where the age of majority is attained earlier or upon marriage. Early marriage can also refer to marriages where both spouses are 18 or older but other factors make them unready to consent to marriage, such as their level of physical, emotional, sexual and psychosocial development, or a lack of information regarding the person’s life options.

A forced marriage is any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure.

Child marriage is a human rights violation, restricting children’s choices, changing their course in life, and putting them at significant risk of abuse and violence.¹ It is considered a human rights violation because it deprives those involved, of education and health services, the chance to learn skills and develop their personalities and leaves them vulnerable indeed.² Child marriage is closely linked to the practice of dowry, which increases with girls’ age and education. It has been associated with lower educational attainment, economic opportunities, and health outcomes among young girls.³ When girls marry early, they often enter into servitudelike relationship with their husband and in-laws, which in some severe

1 UNICEF and UNFPA. (2017). Ending Child Marriage in Nepal. Kathmandu: Author

2 Plan Nepal and et.al,. (2012). Child Marriage in Nepal Research Report. Kathmandu: Author.

3 UNICEF and UNFPA. (2017). Ending Child Marriage in Nepal. Kathmandu: Author

cases; can result in bonded labor, enslavement, or commercial sexual exploitation.⁴

CEFM is widely recognized within international agreements⁵ as a human rights violation, a harmful and prohibitory practice that disproportionately affects women and girls, preventing them from living their lives free from all forms of violence. It threatens the lives and futures of girls and women around the world, robbing them of their agency to make decisions about their lives, disrupting their education, making them more vulnerable to violence, discrimination and abuse, and preventing their full participation in economic, political and social spheres.

Identifying CEFM is one of the barriers for the protection and promotion of the rights of the child, Nepal is committed to end the practice of CEFM by adopting constitutional, legal, policy and program measures. The Constitution of Nepal has banned CEFM. The Penal (Code) Act, 2017 prohibits of concluding child marriage and provision of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees. The Act Relating to Children, 2018 mentions that any act to fix child marriage, or marry, or cause to marry with children under the age of 18 is regarded as offensive work and penalizes the a fine of up to seventy-five thousand rupees and imprisonment for up to three years. It has adopted National Strategy to End Child Marriage by 2030 as stated in SDGs. National Policy on Children 2069 (2012 AD) has identified child marriage as a barrier for the practical realization of children's rights. It has provided for, in collaboration with government and development partners, the mobilization of organizations at the community level, proactive complaints registration and conducting of various awareness-raising programmes. Robust programs are in implementation. It has focused on the concerted collaboration and coordination among development partners, I\NGOs, CSOs, private sectors and media to end early and child marriage.

Nepal has legal obligations to end CEFM by 2030 but the incidences of CEFM are still observed significantly. So, this study aims to explore the prevalence of CEFM in Nepal in terms of incidence and its reporting, triggering factors and adverse impacts which is

4 UN Harmful Practices Working Group Nepal. (2020). Literature Review on Harmful Practices in Nepal. Kathmandu: Author.

5 Universal Declaration of Human Rights, 1948 International Convention on Civil and Political Rights, 1966 International Convention on Economic, Social and Cultural Rights, 1966 CEDAW Convention, 1979 The Convention on the Rights of Child, 1989 Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, 1964 The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices, 1956 Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices

essential to design evidence-based effective and efficient program in all level of governance. This study is commissioned by National Child Rights Council in order to establish it as a national centre for child rights resources.

There is extensive literature available on child marriage – from the harmful health effects associated with CEFM, to education and its links. One of the unstudied areas of CEFM is that how void marriage impacted upon the young couples especially girls. Elopements, or self-initiated marriages, are emerging in the child marriage literature in Nepal. More concrete evidence regarding the practice is needed in terms of prevalence, the mechanisms in which it is occurring, a better understanding of why it is occurring from girls’ perspectives and appropriate interventions to address the practice. The current study is relevant to explore the impact of void marriage upon girls and a possible way to mitigate it.

Methods

Study Settings

This study was conducted in all Provinces of Nepal under the Federal Structure of Governance of Nepal. Participants for FGD, KII and Survey from each province were included in the study. A total of 12 cases of void marriages were collected from Province 1, Bagmati and Sudurpaschim Province.

Study Design

As this study was intended to find the prevalence, contributing factors of CEFM and impact of void marriage upon the girls, both analytical as well as descriptive research designs were used. Both qualitative and quantitative data were collected and analyzed. Quantitative data were collected through Survey and qualitative data were collected through Focus Group Discussion, Key Informant Interview, and case analysis to meet the stated objectives.

Sampling Design

Sample size is an indication that the research study constitutes an important marker of the quality of qualitative research (Vasileiou, Barnett, Thorpe, & Young, 2018). As this study was intended to collect information from targeted respondents comprising of locally elected representatives, law enforcement agencies and NGO practitioners, the study adopted purposive sampling for analyzing the triggering factors of CEFM and its impact. The cases of void marriage were collected from concern police office and child helpline 1098 using snowball sampling.

Data Collection Instruments and Process

Research protocol was developed and endorsed by Research Sub Committee to follow the process; relevant probing was considered based on the discussion. The protocol was pretested among the colleagues for testing its relevancy. Following instruments were used to collect the data:

i) Focused Group Discussion (FGD)

A total of 18 FGDs with front line officials at provincial and local level, NGO practitioners, activists and child club graduates and child club members were conducted to obtain qualitative data on the topic. A total of 135 respondents (male 44, female 30, boys 21 and girls 40) were included in FGDs.

ii) Key Informant Interview (KII)

A total of 38 KIIs (21 male and 17 female) were conducted with policy makers and officials from law enforcement agencies at the province and local level to obtain qualitative data on the topic.

iii) Case Study/Analysis

In-depth descriptive information about the 12 cases of void marriage registered in police office of Province 1, Bagmati and Sudurpaschim province were collected, organized, interpreted, and presented in a narrative format.

iv) Survey with Local Levels

A total of 604 officials from 604 local levels were surveyed to identify the prevalence, triggering factors, impacts of child marriage upon the young couples.

Data Analysis

Thematic Content Analysis method was used for analyzing the data. Thematic Content Analysis (TCA) is a descriptive presentation of qualitative data. Thematic analysis involves identifying descriptive themes from the original data of other studies and developing overarching analytic themes that develop new concepts or explanations that apply across them (Joffe, 2012) Themes were developed based on the FGD data. Quantitative data was presented through graphs and tables as necessary.

Ethical Considerations

Ethical consideration is one of the research parts that guide how the research should be carried out. Throughout the research process, following ethics were highly considered—all possible means were used to inform the participants about the objectives of the research, the advantages from it, and any other inconveniences. Verbal consent was taken before the administration of any tool. In interviews and case analysis, the respondent's anonymity was preserved and they were assured of the confidentiality of the data. The study team made sure that there was no re-traumatizing of respondents by the use of language and behavior of researchers /data enumerators. All participants were informed about their withdrawal in participation in interview and discussion at any point of time when they like to stop.

Results

A total of 173 respondents (65 male, 47 female, 21 boys and 40 girls) were involved in 18 FGDs and 38 KIIs and 604 officials in survey. The results are presented according to major themes identified in the study.

Status of CEFM Incidence

The status of CEFM incidence is explained in terms of the cases of CEFM observed, trend of prevalence and its reporting to concern agencies. The incidence of CEFM is still significantly prevails in Nepal but in decreasing, under reported and diversified form. It is supported by the findings from survey with 604 local levels, 18 FGDs and 38 KIIs. The survey with 604 local levels reveals that a total of 4656 incidence of CEFM was observed in 268 local levels till April 2021. The majority of the respondents of FGDs and KIIs (89%) reported that the incidence of CEFM is still significant in Nepal. The number of incidences observed 268 local levels in FY 2020/21 is lesser by 1486 than of FY 2019/20 that is 6142. It signifies that the trend of CEFM is in decreasing. It supports the findings of NMICS (2019) which shows that the percent of married people of the age group 20 to 24 years are married under 15 and 18 years are decreased from 24.5 at 2014 to 12.8 at 2019 and from 37 at 2014 to 22.4 at 2019 respectively. Another aspect of CEFM status is its reporting to concern agencies. Survey with local levels shows that out of 4656 cases of CEFM incidence observed in FY 2020/21, only 382 cases are reported to concern agencies-police, local judicial committee, child rights committee and Child Helpline 1098. The details of status of CEFM Incidence is presented in Table no. 1.

Table 1: Status of CEFM Incidence, 2021

SN	Province	Number of LLs	Surveyed LLs	CEFM Reported LLs	Cases of CEFM 2020/21	Cases of CEFM 2019/20	Difference in number	Reported cases in 2020/21
1	1	137	137	23	78	108	30	59
2	2	136	19	19	359	393	34	18
3	Bagmati	119	117	60	761	1032	271	44
4	Gandaki	85	76	23	321	299	22	22
5	Lumbini	109	88	35	738	885	147	72
6	Karnali	79	79	70	1772	2573	801	132
7	Sudurpaschim	88	88	38	627	852	225	35
	Total	753	604	268	4656	6142	1486	382

Source: Survey, 2021 NCRC

The table no 1 explains about the status of CEFM in Nepal on the basis of survey with 604 local levels. It shows that the incidence of CEFM is still significant in Nepal but in decreasing and under reported form. Out of 604 surveyed local levels, 268 (44.3%) local

levels reported that they have observed the incidence of CEFM in their local levels. It is found that Karnali Province is marked with highest number of CEFM incidence (1772) and number of local levels observed CEFM incidence (70/79) followed by Bagmati Province (761), Lumbini (738) Province and Sudurpaschim (627) Province respectively. Province 1 is marked with lowest number of CEFM incidence (78) and number of local levels (23/137) observed CEFM incidence. Province no 2 is marked with all the local levels surveyed are observed the CEFM incidence.

The findings of survey with 604 local levels challenged the general perception that CEFM is in increasing trend. More than one third of the respondent of FGDs and KIIs also believed that CEFM is in decreasing trend. The survey reveals that the total number of CEFM incidence observed in 310 local levels was 6142 in FY 2019/2020 but the incidence is limited to 4656 in FY 2020/21. Even the incidence observed local levels are also decreased to 268 in FY 2020/21. The FY 2020/21 is marked with the decreasing of 24% cases of CEFM in comparison to FY 2019/20. It is found that all the provinces are marked with decreasing trend except Gandaki province. Karnali province has significant difference in the number of incidence (31%) followed by Province 1 (28%), Bagmati and Sudurpaschim Province (26%), Lumbini Province (17%) and Province 1 (9%) respectively. However, Gandaki province is negatively marked with increasing trend (7%). This supports the finding of NMICS (2019) which shows that percentage of marrying off before the age of 18 and 15 are in decreasing trend.

One of the major issues of CEFM is it's reporting to concern agencies for legal actions. There is slightly increasing trend in reporting of CEFM however, the incidences of CEFM are under reported. This is supported by the findings of survey with 604 local levels and perception of respondents from FGD and KIIs. Out of total observed number of CEFM incidences (4656), only 382 (8%) incidences are reported in FY 2020/21.

There is diversity in CEFM incidence in terms of ecological region, caste, economic status, education level and socio-cultural context. It is supported by the perception of the respondents of FGDs and KIIs. Respondents of FGD and KII mentioned that the incidence of CEFM are high in dalit community, madheshi community, janajati community and remote areas due to limited access to education, awareness and poor economic background. This perception supports the findings of the NMICS (2019) which reveals that the percentage of women and men age 15-19 years currently married or in union are varied in terms of rural and urban setting, education level and wealth index.

High Risk Communities for CEFM

NMICS (2019) finds that people living in remote rural areas, uneducated and economically poor communities are high risk for CEFM. This is supported by the findings of this research.

Survey with 604 local levels finds that 268 local levels observed a total of 4656 incidence of CEFM in FY 2020/21. Out of 268 local levels 79 (29%) are municipalities and 189 (71%) are rural municipalities. This signifies that larger communities who observed the incidence of CEFM are rural. Nepal Human Development Report 2020 unveiled by the National Planning Commission shows that the national score of HDI stood at 0.587. Its score in urban areas (0.647) surpasses that of rural areas (0.561) with a large urban-rural gap. Higher per capita income, and better access to education and health services in urban areas explain such striking disparities. Survey with 604 local levels reveals that Karnali province is marked with highest number of CEFM incidence (1772) in FY 2020/21. The score of HDI in Karnali is the lowest (0.538) one which denotes low per capita income, less access to education and health services. Similarly, Nepal Multidimensional Poverty Index (MPI Report 2021) shows that multidimensional poverty rate in Nepal is 17.4 (28% at rural and 12.3% at urban). Karnali province is marked with the highest MPI rate that is 39.5 percentage. It signifies that the incidences of CEFM are high in economically poor and remote rural areas.

Major Risk Factors of CEFM

The study finds that incidence of CEFM is resulted from a number of risk factors. They are socio-cultural, legal, technological in nature. Sometimes they exist in isolated form and sometimes in integrated form to cause CEFM.

A) Social-Economic Risk Factors

More than half of the respondents of FGD and KII (specially child respondents) revealed that the social perception against adolescence love is the biggest reason to increase CEFM. As reported by the respondents, both children and parents have criminalized adolescence love and felt they had committed a great sin so they should get married after falling in love, ultimately, they run away and get married.

More than one fourth of the respondents revealed that girl's mobility is still taken as the matter of safety, security and dishonor to family in Nepal. Parents are always worried about the girl's mobility and exposure that may destroy their honor and respect in the society. They have a fear of unintended pregnancy as the matter of shame for bringing dishonor on their family. For preserving girl's reputation and family honor parents are forcing children to get married on their choice and even at early age. This kind of social perception make girls themselves do not feel safe in the society and they readily accept that they are getting married.

Deeply rooted social practices and traditions ignores the negative consequences of CEFM and it helps to accept it. This is supported by the perception of more than half respondents of FGD and KII. They reported that deeply rooted social practices like *gaunagarerarakhne* in Terai region, earn credit for *punya* after *kanyadan* in early age, customary culture to sit and eat when one

of the family members has engaged in earning activities, brainwashing of children as they are fit to marry and elopement as a matter of pride are some of the risk factors associated with CEFM. These factors are community specific which helps to ignore the forthcoming consequences of CEFM.

More than one third of the respondents of FGD and KII reported that children and adolescents of the family frequently having disputes, quarrelsome and violence against mother and daughter forced to choose marriage as the best option of living in order to escape from violent environment. In addition, son preference culture causes the practice of CEFM.

The survey with 604 local levels projected that 8.7 percentage of boys studying grade 8 to 11 are dropped out from the school and 13% of them are projected for getting married. Similarly, 12 percentage of girls studying grade 8 to 11 are dropped out and 15 % of them are projected for getting married. Respondent of FGD and KII reported that children who drop out from school are at risk of child marriage.

Majority of the respondents reported that child marriage is a strategy for economic survival as families marry off their daughters at an early age to reduce their household expenses. In the poor families they are forced to do the labor work from morning to night just to have some food for them and for their children. In this situation, they are unable to share their time with their children. It lacks quality parenting. Instead, children think that marrying someone will solve the problem and so they did. Respondent stated that in economically poor family, adolescent girls fall into various temptations. They want good food, good clothes and comfortable life. They think that after marriage they will get those things and run away from home. Girls get trapped in the sweet fake dream shows by their boyfriend and others as well. Since CEFM is taken as a solution to reduce household expenses for parents and to fulfill the temptation of adolescents, it is required to design program and interventions aiming to contribute economic empowerment of the pro poor families.

Housing pattern and facilities, especially in Terai region, is identified as one of the risk factors associated with CEFM. As reported by the respondents, when family of poor economic condition have to live in a hut with single room along with children, the adult activities cannot be confidential and children follow the way as their parents did. Similarly, parents think child separation as a strategy to continue adult activities, they forced to marry their girls earlier.

Practice of dowry and tilak are also identified as risk factors associated with CEFM. More than half of the respondent reported that burden of dowry and tilak causes the incidence of CEFM. As older the girls will be more the dowry is required. Whether they send their daughters to school or not they required dowry so they don't want to invest on daughter's education

at all. If the bride is younger, they need to cover lower dowry price so they did. One of the respondents (child club graduates) stated that teenager boys require a bike as an impact of modernization. So, they get married to fulfill their materialistic desire. So, it is required to design specific program to change deep rooted cultural practice and social norms to reduce CEFM in Nepal.

B) Technological Risk Factors

Current time is marked with rapid technological development which encompasses the living of children as well. Children's unsafe engagement in social and new media is also identified as risk factors associated with CEFM. More than two third respondents of the FGD and KII stated that unsafe use of social media and new media led to increase the incidence of CEFM. Social media refers to the use of technologies such as texting and social networking to stalk, talk, bully and even intimidate a partner. Now a day's children spend a lot of time in social media and it has even increased when the schools and colleges were closed during lockdown. Respondents revealed that children of poor family have also access on mobile phone, they don't think of food but they want smart phone and keep data for the internet facilities. They further said owing to the influence of social media, several children, still in their teens, develop friendships, which turns into love, mostly before attaining the legal age for marriage. The parents, who learn about this, arrange a marriage in a hurry with another boy and girl, without the consent of the child. It is essential to take policy and program measures to make child sensitive social media and new media.

Typically, marriages in Nepal are arranged by the respective families and communities, which include parents and local leaders, where typically neither the bride nor grooms have significant choice in the final decision. Before arranging a marriage, families consider a range of factors such as caste, religion, ethnicity and economic status, as well as the ties between the families. Beyond families and communities arranging marriages for children, growing evidence points to another type of child marriage, which is self-initiated marriage, or elopement.⁶

C) Legal Risk Factors

The Penal Code Act, 2017 and the Act Relating to Children, 2018 penalizes the practice of CEFM. Further, the Act Relating to Children, 2018 mentions about the reporting mechanism against CEFM. However, the incidences of CEFM are under reported and punitive actions against reported CEFM are less practiced in Nepal. This is supported by the survey with 604 local levels and the respondents of FGD and KII. The survey reveals that out of 4656 incidences of CEFM, only 382 (8%) are reported for legal actions. More than half respondent of the

⁶ UN Harmful Practices Working Group Nepal. (2020). Literature Review on Harmful Practices in Nepal. Kathmandu: Author.

FGD and KII reported that there are less practices of punitive action against CEFM and law enforcement agencies ignore the incidence for further legal actions. When there is less practice of punitive action against CEFM, it rises the tendency of general people to ignore the law and consequences of CEFM which ultimately increases the incidence of CEFM.

Perceived Adverse Impact of CEFM and Void Marriage upon Girls

There are various adverse impacts of CEFM on young couples. As reported by the respondents of FGD and KII, case analysis of void marriage and indicated by the survey with 604 local levels, CEFM has three different adverse impact on young couples varied in boys and girls- they are impact on physical and mental health, social impact and impact on legal rights.

Adverse effect on physical and mental health

CEFM has a number of adverse effects on physical and mental health of married young couples. This is supported by the perception of respondent of FGD and KII, analysis of void marriage cases and survey with 604 local levels. One of the major impacts of CEFM on physical health is complexities in early pregnancy, early motherhood and high risk of pregnancy related death. In addition, pregnancy related deaths are known to be a leading cause of mortality for both married and unmarried girls between the ages of 15 and 19.⁷ Out of 604 respondents of survey, 256 respondents and more than half respondents of the FGD and KII reported that CEFM causes complexities in early pregnancy and delivery which is one of the major factors for maternal and neonatal mortality. NMICS (2019) shows that percentage of women age 20-24 years who have had a live birth before age 15 and 18 is 1.9 and 16.9 respectively. Percentage of married women age 15-19 years who have had a live birth is 8.8 (2.6 for men) and the percentage of married women age 15-19 who had a live birth before the age 15 is 0.4 (0.3 for men). The rate is varied as per the education and wealth level. Higher the education and wealth level lower the birth rate is observed (Percentage of married women age 15-19 years who have had a live birth is 25.2 for none educated and 2.2 for higher educated, 11.3 for poorest and 3.3 at richest). This shows that the risk of early pregnancy and pregnancy related death are still prevail in Nepal. This risk is more significant in uneducated and poorest community.

High risk of more child birth and uterus prolapsed is another adverse impact of CEFM as perceived by the respondents. Complexities in early pregnancy and delivery causes the high rate of maternal and neonatal mortality rate. As the neonatal mortality rate increases, the possibility of multiple pregnancy in early age also increases. More pregnancy in early age causes uterus prolapsed. Similarly, unsafe abortion in early ages also causes uterus

7 National Planning Commission. (2020). Nepal Multiple Indicator Cluster Survey Finding Report. Kathmandu: Author.

prolapsed. This is perceived by the more than half respondent of the FGD and KII and 144 respondents of survey with local levels.

Weight at birth is a good indicator not only of a mother's health and nutritional status but also the newborn's chances for survival, growth, long-term health and psychosocial development. Early and child marriage causes low weight of new born baby (less than 2500gm). Low birth weight is resulted from multiple maternal factors like maternal age, education, weight, height, weight gain during pregnancy, ANC visits, parity, ante partum hemorrhage, previous abortion/low birth weight, birth spacing, tobacco/alcohol intake and hemoglobin. Abnormal baby born and low birth weight of new born baby is also one of the adverse impacts of CEFM perceived by one fifth of the respondents of FGD and KII.

Mental stress and high risk of suicidal tendency is also one of the adverse impacts of CEFM. It is perceived by more than three fourth of the respondents of FGD and KII and 104 respondents of survey with local levels. They reported that the burden of marital responsibilities, most notably partner's sexual demands and childbearing and child-rearing, led to significant emotional distress and depression along with many suicidal cases in the community. Mental stress in parents is also so common and high because of child marriage. Respondent further stated that due to early marriages, young girls don't have the ability to deal with responsibilities, early pregnancy and pregnancy-related mortality and morbidity, causing major psychological health issues like individuality interruption, loses of confidence, emotional distress and depression in adolescent girls, resulting in losing relationship confidence and ability to maintain a healthy relationship.

The analysis of 12 cases of void marriage, it is found that void marriage causes mental/psychological problem upon girls. These impacts are mental stress/mentally disturbance-a fear of her father and mother that how would they treat her after she is back home, thinking about the pitiable situation of boyfriend in the correction homes by charging a number of crimes; poor relationship with family members, detachment from society, stigmatization, problem in social adjustment. As reported by the survivor, there is high risk of suicidal tendency whose marriages are void.

Adverse effect of CEFM on social lives of individual

One of the major adverse effect of CEFM on social lives of individual is the risk of early separation and polygyny which is perceived by almost all respondents of the FGD and KII and 141 respondents of survey with local levels. NMICS (2019) shows that early and child marriage causes polygynous marriage. It shows that polygynous union is higher in men than to women and spousal age difference is significant. Percentage in polygynous marriage/union of married women between 15-49 is 2.8 and between the age of 15-19 is 1.3. In the case of married men, it is 2.0 percentage for the age of 15-49 and for the age of 15-19 is

3.5 percentage respectively. Percentage of currently married women age 15-19 years whose husband or partner is more than 10 years older is 9.6.

Early and child marriage are also linked to disturbed marital relation. It creates disputes and quarrelsome in family. It is supported by the fourth fifth of the respondents of FGD and KII and 225 respondents of survey with local levels. Due to immature behavior of young couples and not being able to bear responsibilities of husband and wife, daughter in law, limited access to interaction with peer groups, immediate family members, not being able to cover the cost of basic needs creates disputes and quarrelsome in family. Deeply rooted gender norms also supporting violence against women. It is supported by the findings of NMICS (2019) which mentions that 21.9 percentage of married women age 15-19 believe a husband is justified in beating his wife in various circumstances and 24.9 percentage of married men age 15-19 believe a husband is justified in beating his wife in any circumstances.

Another adverse effect of CEFM on social lives of individual is dropping out from the school and deprived of education. It is supported by the perception of almost all respondents of FGD and KII, 305 respondents of survey with local levels. Survey with local levels reveals that 21 percentage of early married boys and 24 percentage of early married girls dropped their school. Analysis of 12 cases of void marriage reveals that void marriage significantly impacted upon girls for dropping out from the school.

CEFM has adverse effects on education, skill and employment. Those young couples who are deprived from the education lack the opportunities to develop skill and compelled to engage in unskilled labor work. This is supported by the perception of more than half of the respondents of FGD and KII. They stated lack of education is the main reason for deprivation of opportunities, lack of opportunities hinders their overall development and lack of overall development lowers the self-confidence. Especially girls are more prone to domestic violence. Because girls have less access to education and low social and economic status, they are often economically dependent on men and his family and are prone to violence.

As reported by the respondents of FGD and KII and child survivors, void marriages create a big problem for parents which ultimately reach to divorce. They revealed that they are forced to marry with a boy with a physical and mental difficulties, higher age difference if not they should leave the home. They further projected that child survivors of void marriage can engage in prostitution.

Adverse effect of CEFM on enjoyment of legal rights

CEFM hinders citizenry rights. It creates problems in marriage and birth registration which is the prime reason to deprive from state facilities. This is supported by the perception of more than fourth fifth of the respondents of FGD and KII. They reported that CEFM hinders the rights to identity and birth registration. The Constitution of Nepal has guaranteed the right of child to his/her identity with the family name and birth registration. The Act Relating to Children, 2018 mentions that every child shall have the right to have name with own identification and birth registration. Birth, Death and Other Personal Events

(Registration) Act, 2033 recognize birth as the personal event that must be registered. Despite these provisions, CEFM hinders the rights to identity and birth registration. Respondents reported that both the mother and baby are being deprived of the facilities given by the state because they lacked the legal evidences like marriage certificate and birth certificate.

Marriage laws are not appropriately enforced which is likely due to the overarching belief that marriage is viewed as a family matter, rather than a matter of the state.⁸ There is also a lack of consistent registration of marriages which makes the issue harder to tackle. ⁹ Finally, the widespread lack of birth registration makes age verification impossible. This issue underscores the importance of developing the capacity of local, provincial and national governments to collect and store vital statistics records for births and marriages.

More than three fourth respondents of the FGD and KII reported that prevailing laws against CM are not in enforcement. They revealed that the practice of punitive action against CEFM are very few. Because of the case of CEFM are under reported and it is even ignored by the law enforcement agencies. If the cases are reported, it converts into rape, trafficking, kidnapping cases and boys are charged for false allegations. Out of total respondents of FGD and KII, more than three fourth of them reported that the unmatched caste and social status is the major context of law enforcement for the punitive actions whereas more than one third of the respondents revealed that conversion of CEFM cases and police investigation report are another context of law enforcement for the punitive action. The cases of child marriage are converted to rape, kidnapping and trafficking cases because the legal treatment for child marriage cases is light whereas punishment for rape has severe. Respondent further revealed that complaints of child marriage are made only if caste, religion and social status do not match between married couples. Sometimes the

8 K. Sekine and M. E. Hodgkin, "Effect of child marriage on girls' school dropout in Nepal: Analysis of data from the Multiple Indicator Cluster Survey 2014," pp. 1–13, 2017.

9 A. Bajracharya and S. Amin, "Poverty, Marriage Timing, and Transitions to Adulthood in Nepal," Stud. Fam. Plann., vol. 43, no. 2, pp. 79–92, 2012.

political tension in between two families and their ego acts as another context for punitive action. The context of law enforcement is more depends on the investigation report of police and on the basis of the report of the investigation, cases are handover to the court. The analysis of 12 cases of void marriage reveals that all the boys are charged with false allegations and kept under Child Correction Homes.

More than half of the respondents reported that political influences and protection are major hinderance for punitive actions against CEFM. Another hinderance for punitive actions are ignorance of law enforcement agencies and abuse of authority. More than half of the respondents reported that law enforcement officials are not taking prompt responses and actions against CEFM. The ignorance from law enforcement agencies further increases the tendency of CEFM in the society. Similarly, the absence of legal provisions to hold law enforcement officials accountable for denying the registration of First Information Reports or for not taking action weakens accountability for the failure to fulfill their official duties.

Another adverse impact of CEFM on legal rights is the practice of settling case in mediation. It is supported by the more than one fifth of respondents who reported that the practice of trying to settle as many incidents as possible has challenged the effective implementation of law. Law has not yet become punishable that poses a major threat to end child marriage now in Nepal.

Conclusion

Child, Early and Forced Marriage (CEFM) are recognized as human rights violation, harmful and prohibitory practices in international and national legal and policy instruments. With recognizing the practice of CEFM is a great barrier to the protection and promotion of the rights of the child, Nepal is committed to end CEFM by adopting constitutional, legal, policy and program measures. As the study finds, the incidence of CEFM is still prevail in Nepal but it is in decreasing, under reported and diversified form. Due to high discussion on the CEFM, the incidences are decreasing each year however the incidences are under reported. Due to ignorance from law enforcement agencies, less practice of punitive actions, social acceptance of CEFM and avoiding the risk of social conflict, the incidences of CEFM are under reported. The number of incidences managed by Child Helpline 1098 are in increasing trend. The incidences of CEFM are diversified in terms of ecological region, religion, economic status and ethnic community. Parents will and self-initiation of marrying couples are identified as key contributing factors for CEFM in Nepal. Both parents and marrying couples are adopting hiding strategies to skip from the hands of law. The adopted strategies are marriage by relocation, avoiding party and ceremonies, organizing rituals at night. CEFM is resulted from a number of risk factors which are in personal, socio-economic, cultural and legal in nature. Sometimes, these factors exist in isolated form and sometimes in integrated way.

This research finds some critical concerns about CEFM in Nepal. The practice of CEFM is associated with denial of marriage freedom. Such freedoms are reflected in the rights to choose and not to choose the life partner, rights to choose marriage process and rights to choose the time for marriage conclusion. Similarly, when the sovereignty of sexual and reproductive health rights are weakened, the incidence of CEFM are increased. When women and girls marry at young age, their sovereignty to sexual and reproductive rights become weak and fell under triple jeopardy. Likewise, lack of economic freedom and freedom of opportunities causes the incidence of CEFM which ultimately limits the opportunities and freedoms for youngly married couples. At last, the practice of CEFM is linked to the absence of democratic norms and values in Nepalese family. The current research finds that girl's mobility is still taken as the matter of safety, security and dishonor to family in Nepal. This is why because of absence of mutual trust, cooperation, respect, and communication. Parents are always worried about the girl's mobility and exposure that may destroy their honor and respect in the society. They are always in unseen fear of losing honor, respect despite focusing on inter-generational communication, democratic parenting and mutual understanding. This study has recommended for designing effective and efficient program to entertain the freedom of marriage in the dimension of choosing life partner, process of marriage and time to conclude marriage. Similarly, the study has recommended for ensuring sovereignty of sexual and reproductive health rights of young couples. It has further recommended for expansion of economic freedom and freedom of opportunities for young couples. Finally, the study recommended for developing democratic norms and values in the family to reduce the incidence of CEFM and its adverse effect on young couples.

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Mr. Dilli Giri was appointed as a Chairperson of Central Child Welfare Board Nepal on 21st February 2013 by Government of Nepal. He has an academic background in Political Science. He was a former Vice-President of Child NGO Federation of Nepal, Senior Vice-President of Democratic NGO Federation of Nepal, Board Director of Nepal Advertising Association of Nepal and Himalayas Spring Water Pvt. Ltd. Likewise he served as a Chairperson of Society for Integrated Allied Nepal, Upahar Agriculture Co-operative and Advisory Committee in MB Dugad Group. He is active as a social activist, child rights activist and political cadre.



Dilli Giri

Ex-Chairperson of then
Central Child Welfare Board-CCWB Nepal
21st February 2013 to 20th February 2017

At that time, When I was appointed as the Chairperson of the then CCWB; child marriage, child trafficking, child missing, child labor, malnutrition, corporal punishment, street children, child abuse, protection management of orphan children and management of child care homes were the pertinent issues and concerns of child rights in Nepal. As I experienced, there was an inadequate awareness and sensitivity on child rights at the grass root level to higher level of concerned government institutions and officials. The coordination among key agencies and concern stakeholders of child rights was not effective. The budget allocated for the then CCWB was minimal to perform its legal mandate.

As the key agency of the Government of Nepal for the protection and promotion of the rights of the child, CCWB was sensitive enough to address the pertinent issues of child rights. It was concentrated on policy and program interventions, budget allocation including effective coordination, collaboration in central, district and local level. Child Rights Protection and Promotion Project/Program was expanded effectively in 75 districts in collaboration with UNICEF, Plan International, Save the Children and World Vision Nepal. As continued advocacy with line ministries, the ceiling of budget allocated for CCWB was remarkably increased. Child Care Homes were monitored on regular basis and provided with feedback as per the approved standards. CCWB led national campaigns on anti-child marriage, anti-child trafficking, anti-child labor, anti-corporal punishment, anti-street children, anti-child sexual abuse for the protection and promotion of the rights of the child. Likewise, family empowerment campaign was targeted for pro poor communities and communities of Karnali zone. In the capacity of Chairperson, I completely concentrated on institutional

development and strengthening. Mainly, CCWB, DCWB, NCCR-104 and Child Helpline 1098 were strengthened in terms of financial and human resources. I contributed for acknowledging the members/official of CCWB and DCWBs, social workers, journalists, district toppers of SLC examinations living in CCHs.

During my tenure, due to policy and program interventions from CCWB, the awareness on child rights protection and promotion was increased from grass root level to higher level of government. Policy and decision maker, implementers were found more sensitized for addressing the issues of child marriage, child labor, child trafficking, street children and orphan children. CCWB succeeded to allocate the additional financial resource of governmental and foreign grants for the child rights protection. The regular budget from the government of Nepal for CCWB was increased from 5.7 million to over 60 million during those 4-years. The Child Care Homes were managed as per Standards and prevailing laws.

Anti-child marriage campaign was conducted in 38 districts & 176 local bodies where more than ten thousand participants were benefited including children with physical and mental disability. Likewise, anti-child marriage awareness campaign was conducted in 23 cross border districts where 728 governmental and non-governmental concerned stakeholders participated in the event. Some children who had engaged on child labor and exploited were rescued, provided compensation, rehabilitated and reintegrated in their family. To stop child sexual abuse; awareness campaign was conducted in 22 districts that covered 35 locations which directly benefitted 1388 participants in total. To raise massive family awareness on child rights protection and promotion, a campaign was conducted in 9 remote districts of Karnali zone including Bajhang, Bajura, Achham and Jajarkot's where 2873 participants from 106 local bodies were benefited. To stop the corporal punishment, abuse and violence against children, we declared the National Children's Day 2070's slogan as "Let's listen to the children: Let's end child abuse" which was celebrated on nationwide for two years.

The training, workshops and orientation programs was carried out for the capacity building of the concerned Institution and officials. Officials of DCWBs and local bodies from more than ten districts were oriented and trained on elimination of child labor. More than one thousand concerned officials and staffs and more than two thousand stakeholders were capacitated and oriented on child rights protection and promotion. More than five hundred Child Care Homes were facilitated to manage as per the standards and laws.

Recognizing the contribution made by the members and officials of DCWB for the protection and promotion of the rights of the child over 20 years, more than one and half dozen officials were rewarded on the occasion of National Children's Day by Rt. Hon'ble President of Nepal. More than 450 SLC topper children were rewarded.

One of the striking achievements of my tenure was to initiate Street Children Free Kathmandu Valley campaign. The street child rescue, rehabilitation, reunification and support program was started since May 2016 as a national campaign. More than five hundred seventy street children were rescued and protected during my tenure. The Child Tracing Number 104 and the Child Helpline Number 1098 Nepal operated more smoothly and effectively. As a result, more than fifteen thousand children at risk were traced, found, rescued and protected. The National Coordination Centre for Children at Risk's services were running effectively throughout the nation and the services of 104 expanded to 56 districts out of Kathmandu Valley.

The concerned stakeholders and officials felt and realized that the fulfillment of child rights is essential. The mutual relationship of CCWB with different Ministries, Departments, and DCWBs remained functional. The CCWB's Office own new building was constructed and the vehicles were managed as per the need of CCWB.

At the end of my tenure, I felt some policy and programmatic gaps in CCWB. No sufficient human and financial resource was ensured as per the legal mandate of CCWB. Still, lots of people were unknown about the function of CCWB. The roles and power jurisdictions of CCWB were not clearly prescribed in the prevailing laws as mentioned in the Convention of the Rights of Child, 1989. No sufficient Child Corrections Homes established for providing correctional facilities to children in contact with law. Child Care Homes operated by the Government of Nepal was found not meeting the minimum standards as compare to the CCH operated by other than government. Another gap I experienced was the conflict between politically appointed authority and bureaucratic authority due to the unclear demarcation of the roles and duties for them. There was no strong legal provision for the functioning of the Chairperson, Members or Executive Director of CCWB. The work of NGOs or Civil Society Organizations for the protection and promotion of the rights of the child was not found so effective and well managed. We always faced challenges to operate and manage child rights and child protection information management system. Institutional care could not be minimized in significant way.

On the basis of my experience as a Chairperson of CCWB, NCRC must act as a specialized and apex agency for the protection and promotion of the rights of the child. Whatever the works done by NCRC for strengthening child rights and child protection system is really encouraging and adorable. NCRC must have strong legal and policy ground to perform its duties for better results. The monitoring, supervision and controlling of Child Care Homes, Child Correction Homes, Temporary Protection Service Centers and Rehabilitation Centers must come under the jurisdiction of NCRC. Legally, NCRC should be inter-ministerial mechanism with defined roles and duties at federal level and should function as policy advisory body to all three tiers of governments and its institutions. The NCRC should

be capacitated with sufficient human and financial resources so that it can have technical skill, power, knowledge for the child rights protection and promotion. The NCRC should conduct and operate the piloting child rights support program and project as per the national, provincial and local need by themselves. Child Tracing No. 104 and Child Helpline No. 1098 Nepal should be expanded and operated effectively and efficiently as per national standard operation procedures. More importantly, the NCRC must possess its own building in Hariharbhawan, Lalitpur for better working environment.



Ms. Babina Shrestha was appointed as a Chairperson of Central Child Welfare Board Nepal on 22nd May 2017 by Government of Nepal. She pursued her Master's degree in Food and Nutrition from Tribhuvan University Nepal (PK Campus). She was a Program Coordinator at Children's Welfare in Retired Club of Nepal from Nakhipot, Lalitpur. She is currently working as a Child Nutritionist in Helping Hand Community Hospital.



Ms. Babina Shrestha
Ex-Chairperson of then
Central Child Welfare Board-CCWB Nepal
22th May 2017 to 27th June 2019

When I assumed the then CCWB as a Chairperson, I felt some pertinent issues in the arenas of child rights such as child marriage, missing child, child labor, malnutrition, street children, child abuse and child sexual abuse, poor management of child care homes. The amendment of the Act Relating to Children, 2048 was lacking since long time. New act related to children as per the thrust of federalism was not formulated. The programs of DCWB were limited to few districts. Child Rights Officer were terminated in most of the districts.

Yet, in the capacity of apex body of Government of Nepal for the protection and promotion of the rights of the children, the CCWB was able to initiate and conclude important and long-lasting activities. Child Rights Protection and Promotion Project Program were effectively carried out throughout the nation. The coordination and collaboration with GOs and I/NGOs, CSOs was well maintained for generating tangible results. Child Care Homes were monitored regularly and provided feedback based on laws and standards. The services provided through NCCR-104 were further expanded all over the country. Likewise, services provided through Child Helpline, 1098 for the children who need special protection from the state were continued from twelve stations. Acknowledgement and rewarding the DCWB's members who had served over 20 years for the child rights protection and promotion along with social workers, journalists, SLC toppers were continued.

With the tireless efforts from the then CCWB, the awareness on child rights protection and promotion was increased. The concerned Ministries, Departments, Institution and officials were more acknowledged for child rights protection and promotion. The Child Care Homes were found operated and managed as per the Standards and prevailing laws. The street

children rescue, rehabilitation, reunification and support program were continued so that more than three hundred eighteen street children were rescued and protected accordingly. Family awareness on child rights protection and promotion campaign was massively went as per local and national need.

The training, workshops and orientation programs were continued for the capacity building of the concerned Institutions and officials for the protection and promotion of the rights of the child. Members and staffs of CCWB, Chairperson of DCWBs/CDOs, LDOs, Child Welfare Authorities, Child Rights Officers, Officers of Nepal Police, Executive chiefs and staffs of Child Care Homes and Child Correction Homes, Journalists, representatives of provincial and local government were provided with training, orientation and workshop on the different dimension of child rights. The Concerned Ministries, Departments, Offices, districts level institution were participated, oriented, trained and motivated for the child rights protection and promotion. As a national child protection mechanism, the Child Tracing Number 104 and the Child Helpline Number 1098 operated smoothly and effectively. As a result, more than eleven thousand children at risk were traced, found, rescued and protected. The services from National Centre for Children at Risk were effectively provided throughout the nation and the services of further expanded at 18 districts out of Kathmandu Valley. More than four hundred Child Care Homes were facilitated to manage as per the Standards and Laws. The mutual relationship with different Ministries, Department, Juvenile Justice Coordination Committee, Nepal Police, the Planning Commission, DCWBs, CSOs remained functional to yield tangible results. More than two dozen officials/members of DCWBs who contributed a lot for the protection and promotion of child rights for 20 years were rewarded on the occasion of National Children's Day by Rt. Hon'ble President of Nepal. More than 225 SLC topper children were rewarded. Around 10 journalists were also rewarded for their contribution on child rights protection and promotion publication.

During my tenure at CCWB, I felt gaps at both policy and program levels. Though CCWB was mandated for the protection and promotion of the rights of the child, the human resources and financial resources were minimal to perform the duties and responsibilities. Child Care Homes operated by the Government of Nepal was found not meeting the minimum standards as compare to the CCH operated by other than government. Another gap I experienced was the conflict between politically appointed authority and bureaucratic authority due to the unclear demarcation of the roles and duties for them. There was no strong legal provision for the functioning of the Chairperson, Members or Executive Director of CCWB. We faced challenges to operate and manage child rights and child protection information management system. Institutional care could not be minimized in significant way.

CCWB's efforts to prioritize child rights issues in the constitution, laws, policies, plans and programs yielded very positive results. Whatever NCRC is performing in policy and programmatic interventions for strengthening national child rights and child protection system is highly appreciating. It is quite visible too. However, NCRC should play an active role to maintain effective coordination and collaboration as per the thrust of the federal structure of Nepal. According to the legal prospective, NCRC as an institution seems weaker than the then CCWB even though it has been working effectively for child rights protection and promotion in a federal based system.

On the basis of my experience in the capacity of Chairperson, it is essential to have strong legal and policy ground for NCRC to perform the roles and responsibilities in effective and efficient way. It has to establish as a national center for child rights resources. It has to lead policy drafting, policy advisory and policy defense work in all level of governance. The NCRC should be capacitated with sufficient human and financial resources so that it can have technical skill, power, knowledge for the child rights protection and promotion. As a national child protection mechanism, Child Tracing No. 104 and Child Helpline No. 1098 Nepal should be expanded and operated effectively and efficiently as per national standard operation procedures. The monitoring, supervision and controlling of Child Care Homes, Child Correction Homes, Temporary Protection Service Centers and Rehabilitation Centers must come under the jurisdiction of NCRC. It has to work for the protection and promotion of the rights of the child with disability and children from LGBTIQ community. More importantly, the NCRC must possess its own building in Hariharbhawan, Lalitpur for better working environment.



Mr. Dharmaraj Shrestha was appointed as an Executive Director of the then Central Child Welfare Board Nepal. He had over 27 years of experience with INGOs/NGOs and Government Organizations directly related to development, both at the grassroots and national and policy levels. He had a successful track record in the areas of promotion and protection of child rights, participatory planning, monitoring and evaluation, management and facilitation of training and workshop, mid-term and final evaluation of development projects, conflict management, advocacy, networking, rural community development, organization development, PRA and rights-based approaches, planning and delivering programme within remote local communities and through local NGOs.



Mr. Dharmaraj Shrestha
Former executive director of then
Central Child Welfare Board-CCWB Nepal

Central Child Welfare Board (CCWB) was formed under the Children's Act of 2048 on Mangsir 4, 2049 B.S. as a higher authority for the wellbeing of the children. I got an opportunity to perform the role in the capacity of second Executive Director of the then CCWB as per the decision made by the cabinet on effective from 2nd September 2007 to 31 August 2012.

At the time when I have joined as an ED of the then CCWB, there were the pertinent issues and concerns of child rights in Nepal. There was lack of the statistics related to-the Dalit children, the Tribal children, the Terai children, children of Karnali and other underprivileged region, vulnerable children, the children of other oppressed castes, specific to age group (active population, legally charged for offense), children benefiting and not benefiting from Governmental, non-governmental, private and other organizations. Likewise, frequent change of government and ministers and the consequent dissolution and reshuffling of the executive of the Central Child Welfare Board was another issue. Different Ministers with weak political commitment, high vested interest had different plan, priorities led to Children's issue were put in least priority. Inadequate financial provisions, limited budget, human resources and high expectations of children, parents and stakeholders were also identified as pertinent issues. Similarly, the time was characterized by inadequacy

of national child protection, participation and needful policies, plan, guidelines, manuals, systems and weak Children's Act & Regulation.

After I assumed CCWB in the capacity of ED, I focused on system strengthening, human resource development, institution building theme. Major initiations were SWOT analysis of CCWB, fact findings, data & information collection, assessment of situation of CCWB & DCWB, survey of child care homes, street children, Child Correction Homes, alternative care. Similarly, CCWB enhanced the coordination, communication and collaboration with the Line Ministries, Supreme Court, JJCC, Ministry of Finance, Ministry of Home Affairs, Ministry of Local Development, Police Headquarter, Women & Children Cell, CDOs, LDOs, District Police Officers, Juvenile Courts, Peace & rehabilitation, National Planning Commission, SWC, AIN, INGOs, UNICEF. Likewise, CCWB led to develop, publish & distribute Strategies for five years and published 3 years interim plan of action, child right related policy guideline, Minimum Standards of Child Care Homes, books, training materials & manual, magazines, calendars and diaries both in English and Nepali languages for fulfillment of knowledge gap. CCWB conducted Midterm review of National Plan of Action (NPA) and revised the NPA for children, drafted New Children's Right Act. More encouragingly, DCWBs were established in all the 75 districts and conducted CCWB /DCWB strengthening, child-protection, children affected by armed conflict and child-friendly VDC programme. It had conducted assessment of human resource need & recruited necessary staff for CCWB office & DCWB.

CCWB conducted Training Need Assessment & organized continuous Training to officials of CCWB, DCWB, Women Development Officers, Child Right Officer, frontline Workers, Social Mobilizers, Police Officers, Psycho-social Counselors, Lawyers. It contributed well for establishment of Children's Trust Fund. For better performance, the sub-committees were reformed, teams for making plans, monitoring their implementation and writing reports were formed, rescue center were regularly visited and child care homes were monitored on regular basis. It had focused on putting pressure on regional, national and international organizations working in the field of children to move forward in a coordinated manner. It led to formulate necessary policies and rules to construct a child correction center at the five Development Regions including center of Kathmandu and Terai. More encouragingly, declared Nepal as a free of street children and make the necessary arrangement to ensure their safe return to their homes or safe placement in child care homes.

Due to effective and efficient mobilization of financial and human resources of CCWB and maintained coordination and collaboration with DPs, my tenure remained successful for entertaining key results in the arenas of child rights protection and promotion. During my tenure, the National Plan of Action (NPA) for children was developed and successfully carried out the Mid Term Evaluation and Revised the NPA accordingly. Expanded the

Child Rights Programme and strengthened the capacity of District Child Welfare Board (DCWB) in all 75 Districts. There was presence of active, dynamic, trained and creative Child Right Officers in 75 districts. The five years interim plan for children was developed and implemented. Contributed actively to develop new Child Right Act which was endorsed by Cabinet. CCWB developed and facilitated to endorse National Children's policy, Child Protection Policy, Office Management Guidelines, and Comprehensive Minimum Standard for institutionalizing Child Care Homes from Cabinet. It produced and published the National Status of children in Nepal, National Report on Alternative Care, Study report on Street children, Child Care Homes, Policy, Guidelines for Child Friendly VDCs and Municipality, Fearless Teaching and Learning Without Fear, Child Protection and Participation, Juvenile Justice and Correction Homes, Child Rights teaching materials, 3 Modules for Child Protection Mechanism, Course Curriculums for Law Campus and TU on Child Protection, Juvenile Justice System, Glossary, National Plan of Action, International and National Convention, Law, Optional Protocols etc. Likewise, a five years Strategic Plan and annual plan on Street children was developed and implemented. It regularized the child care homes in 37 districts, established 44 Juvenile Justice Benches and Child friendly VDCs in Nepal. My tenure was successful in starting and continuation of collaboration with all line Ministries and Line Agencies and Partnership with UNICEF, Save the Children, Plan International, World Vision, TDH, World Education, Ministry of Peace and equipped the CCWB and DCWB with physical, human and financial resources. It established the Emergency Rescue and Rehabilitation Fund for Children. Three Child Correction Homes in Nepal were established and two buildings for the same were completed and inaugurated in Nepalgunj and Biratnagar. During my tenure, thousands of child labours were rescued, rehabilitated and reintegrated from factories, Child Care Homes, personal homes and schools. By these interventions, CCWB was recognized and identified as a focal agency by all the stakeholders for the protection and promotion of the child rights. It contributed well for the development and circulation of the CRC monitoring indicators and reporting process of CRC to all the DCWBs which aimed to help prepare the country Status paper on children.

Besides the striking achievement of CCWB, there were some gaps such as inefficient operation of Ministry of Women, Children and Social Welfare with limited budget, limited human resources, non-human resources, time and attention to address the children's issue, plan & priority as well as the frequent changes of leaders and officials created the hindrances to run the institution smoothly. In addition to this some of the plan and activities which was already in pipeline could not be achieved during my tenure such as New Child Right Act forwarded to Parliament through Cabinet remained in queue for long time, New National Plan of Action (NPA) for children could not be finalized, A Child Correction home could not be established in Far West Region, Juvenile Justice Court could not be expanded in all 75 districts and could not afford sufficient budget & staffs to districts as expected.

Though NCRC is doing well to the best of its ability such as monitoring, rescue & rehabilitation of street children & children at risk, mobilizing child rights related organizations, Child Clubs & human resources and managing Campaign for street children free city; there are few recommendations to NCRC.

- Better to complete the National Plan of Action (NPA) for children and implement immediately.
- Capacity building of local structure & Provinces in identifying the child right issue, updating data base, planning, monitoring, evaluation, communication, coordination, collaboration, budget allocation, human resource management.
- Revision of Rule, Regulation, Guideline Child Right Act, Policy& Plan based on ground reality & changed context.
- Effective implementation, monitoring & evaluation of new regulation, policy, plan.
- Increase the Financial & human resources for NCRC.
- Equip the human resources with new knowledge, skill, attitude, capacity to be able to address the new challenges, constraints & so on.



Mr. Tarak Dhital is a prominent social activist and child rights defender in Nepal. He is a trained lawyer and child rights, human rights advocate with more than 3 decades of experience. Mr. Dhital completed his tenure of 5 years (June 24, 2013 to June 23, 2018) as an Executive Director in Central Child Welfare Board (CCWB: a statutory body created by the Children's Act 1990) as of the decision of Council of Ministers, Government of Nepal. He used to work as General Secretary and Spokesperson of Child Workers in Nepal Concerned Center (CWIN-Nepal), a pioneer child rights organization established in 1987, for more than two decades. His main areas of work are child rights advocacy, policy analysis, research, training and capacity building, child rights-based planning, monitoring and evaluation. He is a renowned trainer, facilitator and resource person for inter-agency policy advocacy and human rights, child rights issues at national level.



Mr. Tarak Dhital
Former executive director of then
Central Child Welfare Board-CCWB Nepal

Central Child Welfare Board (CCWB) was formed under the Children's Act of 2048 on Mangsir 4, 2049 B.S. as a higher authority for the wellbeing of the children.

A decade after the establishment of CCWB, the Government of Nepal appointed the first Executive Director of this organisation in 2059 B.S. By the discretion of the Council of Ministers, I, Tarak Dhital, was appointed as the executive director of this institution on Asar 10, 2070 B.S. for the standard tenure of five years. My appointment was not made through any particular political party. Recognizing my long involvement in the child rights movement, I was nominated by the then government, which was formed non-politically under the chairmanship of the chief justice. Having advocated for child rights during the formulation of the Children's Act of 2048, worked for the establishment of District Child Welfare Boards, published and delivered handbooks to ensure proper functioning of the aforementioned local bodies and been active in child rights sector for around thirty years, being given this responsibility at the highest level was characteristically exciting and in hindsight, extremely challenging.

When I assumed office, an official response was required for the protection and care of victims of long-standing problems such as child labour, child marriage, child abuse, harassment,

pedophilia, rape, trafficking, bullying and improper care of disabled (physically/mentally), orphaned, poverty/disaster stricken children, etc. The devastating earthquake of 2072 B.S. only made the need for a response more evident and established how important CCWB's role was in protection of children and provision of child related services during emergencies. The diligence of and the effort put in by the entire team allowed the organisation to address and find solutions to various issues, whether they be pre-existing, due to emergencies or new, emerging ones.

Apart from issues related to children, development of the organization itself proved to be quite challenging, mainly due to the severe lack of resources but also lack of clarity in certain policies. Yet, the institution was able to initiate and conclude important and long lasting activities. Towards the end of my tenure, the introduction of federalism significantly changed the structure of the organization, dissolving all district offices. This meant that focus had to be shifted to adapt to the new federal structure while still ensuring priority on children, even without centers at the district level. For this CCWB developed numbers of documents and organised interaction events frequently.

Despite being given minimal priority by the government for institutional development, CCWB made the most of what was given and utilized all resources to the max. This included conducting an O&M survey to try and get approval for the required number of staff. Even though this request was not approved by the government, working closely with its development partners, the institution was able to manage the absolutely necessary human resources and operate properly. To ensure financial transparency, a new system of internal auditing was also introduced. In terms of infrastructure, progress was made through the building of a new office building and acquisition of various modes of transport alongside other important assets. Substantial improvements were also made in communications and information technology with significant achievements being establishment of a child rights portal as well as various audio-visuals and publications to effectively communicate with the public.

In the five years, CCWB worked alongside its wings at the district level to immediately respond to child rights and child protection issues that came up. The activities included rescue, rehabilitation, reintegration as well as provision of financial support to vulnerable children. Each and every district saw the establishment of the Center for Children at Risk (104) and proper management of the existing child helpline (1098). Through these contacts, child trafficking, child abuse as well as child labour violations were closely monitored and appropriately responded to. Awareness programs were also initiated in local languages in order to extend their reach. This was met with a positive response from all parties involved. The coordination between the central and district offices was lauded by the public, establishing CCWB as a reputable institution.

The election of the Constituent Assembly held in 2070 B.S. and general elections of 2074 B.S. could have exposed children to the risk of being used in political campaigns, manipulation and disturbance in education. Protests during elections could also have adverse effects on children and put them at risk. Recognising these issues CCWB formulated detailed procedures to monitor the elections and make sure that child rights were not violated at any cost. After strict monitoring of the elections, a report was published and deep discussions were held with political parties and the Election Commission to sensitize them to child rights issues and encourage responsible election practices. The guidelines and reports that were published today serve as a precedent for future elections. After the formation of the Constituent Assembly, CCWB worked closely with the members of the assembly, its committees and its secretariat in order to create an emphasis on child rights in the constitution, which yielded positive results as child rights are reflected in constitution explicitly

In order to help children at risk due to conflicts, CCWB, with help from the then Ministry of Peace and Reconstruction, conducted activities in remote areas previously unreached by such efforts. This received incredibly positive feedback from the public. Similarly, after the devastating earthquake of 2072 BS, the institution responded quickly and introduced child-centered relief packages alongside launching various rescue missions. Similar activities were conducted for the benefit of children affected by floods, landslides, wildfires and other emergencies throughout the years.

With the combined efforts of CCWB, the Press Council, National Federation of Journalists and Department of Information, Nepal's first Child-friendly Media Directive was issued. Working with the sociology department at Tribhuvan University, CCWB encouraged students at the master's level to write their final thesis on children related topics via scholarships. It also introduced various child rights related classes in the BSW curriculum and initiated the National Child-sensitive Journalism prize for exceptional journalists and media organizations that report on various child related issues. To establish child rights as a concern for all, the institution started the tradition of analyzing the concluding observations in the state report on the Convention on Child Rights, forwarding the particulars to all concerned ministries.

With increasing numbers of street children in the country despite years of effort, the institution initiated a campaign for the rescue and protection of such children, enlisting the help of NGOs around the country. This initiative had its doubters, with most deeming it impossible at such scale. However, confident in the meticulous research and tremendous effort that had been put into this project, I travelled from place to place, persuading sceptics into believing that it was possible: "Yes, we are placing our hands in a raging pit of fire, but we have on fireproof gloves and can save all those childhoods that lay helpless and

burning in the pit.” The campaign officially commenced on 27Baisakha, 2073 BS inside Kathmandu Valley and with great pride, today, I can say that it is a nationwide campaign. A similar initiative was also taken, in collaboration with the labour office, to facilitate the rescue of victims of child labour and prohibit child labour in the transportation sector in Kathmandu Valley

CCWB’s efforts to prioritize child rights issues in the constitution, laws, policies, plans and programs yielded very positive results. For the promotion and protection of child rights, CCWB organized interaction programs in each province in the presence of chief ministers and other concerned ministers in which their roles were clarified and commitments were expressed. In a federal system, the local government is the frontliner when it comes to the provision of essential services. To aid them, CCWB published three booklets that included legal provisions, issues and examples of intervention activities: ‘Role of Local Government in Child Protection’, ‘Role of Local Government in Education and Health’ and ‘Role of Local Government in Child Participation’. In addition to these, CCWB also published a booklet on child rights based planning in the current context.

Research was always a priority of CCWB and was done at all scales and levels. Some of the research done by the institute include ‘Child Friendly VDC, Chitre’ and ‘Child Protection Mechanism in Nepal’ in 2070, research on juvenile correction homes and conflict-affected children residing in childcare homes in 2071, and after the earthquake of 2072, monitoring and assessment of child care homes as well as mapping of organisations working for street children. In 2073, research was conducted on children residing in monasteries and child sensitivity in legal procedures for cases where children were involved. 2074 saw a thorough assessment of child centric programs conducted by different ministries in addition to research on children residing in religious centers, impact assessment of emergency child protection programs in 14 highly earthquake-affected districts and research on orphans and children in care of relatives. In addition to its own research, the institute also introduced Ethical Consideration for child related research by any person or organisation. It also published many publications aimed at improving conceptual clarity on child related issues and enhancing the skill of those working in the field. If updated regularly, these publications can be used to guide generations of those concerned in the field of child rights.

Since its formation after the Children’s Act of 2048, CCWB experienced quite a few ups and downs during its operation. After the introduction of federalism, the institution was left with three options: either to jump into new heights, limp its way through operations or hit rock bottom. Realizing this, the institution tried to heighten its status through the drafting of the new Children’s Act. Although the result wasn’t as expected, today the institution shows great prospects for the future as the National Child Rights Council chaired by the Minister of Women, Children and Senior Citizens..

CCWB: major events and activities that affected its institutional development at a glance:

- 2048: Promulgation of Children's Act of 2048
- 2049: Formation of CCWB (almost inactive)
- 2053: Formation of DCWB in all Districts
- 2057: Inserted 'Children' in the name of then Ministry of Women and Social Welfare
- 2059: Appointed first Executive Director in CCWB (initiation of institutional development)
- 2060: Declared Women Development Officer as Child Welfare Officer
- 2061: Started to appoint Programme Officer in DCWB as pilot project supported by development partners
- 2066: MOU on 5 yrs program between the Ministry, CCWB and Development Partners (where the Ministry was supposed to create the position of CRO in districts gradually, but was not implemented)
- 2067: Inserted 'Children' in the name of then Women Development Department
- 2067: Appointed Child Rights Officer (CRO) in all districts with the support of development partners
- 2070: Introduced the new position of Child Protection Officer/Inspector under MWCSW
- 2070/71: Uncertainty, confusion, crisis of resources and protests by CROs
- 2072: End of programme to support CRO in districts
- 2072/73: Crisis to Secured Future: an exploration
- 2074/75: Development and implementation of new concept to work in new context by heightening its status

The way forward:

As a successor of CCWB, NCRC must act as a specialized authority for child related issues. It must also extend its activities to different sectors and function as a high level multi sectoral coordination body. All members of the organization must be well qualified and highly experienced in the field of child rights and the institution should give special attention to the following:

- Monitoring:
 - Monitoring of the implementation of Convention on Rights of Children, national plan of action etc
 - Monitoring of child related services (provided by the government, NGOs, private sectors, childcare homes etc) keeping child rights standard in mind
 - Overall surveillance of the status of child rights in the nation
- Coordination with different sectors (concerned with child survival, child protection, child development and child participation) in order to respect, protect, fulfill and promote child rights

- Initiation of awareness programs to fight against child rights violations and provision of an immediate response to such violations, ideally working closely with the National Human Rights Council
- Development of NCRC as a national research and resource center when it comes to child rights
- Capacity building of all stakeholders in order to promote child rights based planning
- Initiation of large scale campaigns and awareness programs to instill responsibility and child rights oriented thinking
- Policy impact analysis and advocacy:
 - Analysis and assessment of any policy or program that may impact children if implemented, from a child rights perspective
 - Evaluation of existing policies and programs and their impact on children
 - Evidence based advocacy of child related laws, policies and programs
- Involvement in the preparation of state reports on various international/regional instruments and commitments while facilitating the implementation of their concluding observations/recommendations
- Careful analysis of the budget allocated to child sector, recognition of points of improvement and attempts to increase investment in child rights related activities
- Protection and preservation of child rights during emergencies, including assisting in/facilitating rescue operations and provision of relief packages to children at risk
- Development of result oriented indicators to ensure evidence based, data-oriented approach to planning, implementation of plans and coordination between concerned bodies while addressing child related issues
- Coordination with all three tiers of the government to develop the capacity to formulate child sensitive policies, plans and programs, and implement them effectively
- Instigation of discussions to address new, emerging issues on children and coordinating with concerned authorities to implement the ideas
- Involvement in formulation of acts, laws and policies, serving as an advisory body and providing feedback from a child rights perspective in all three tiers of government

To summarize, NCRC must act as a child centric national resource organization based on study, research, situation analysis, monitoring, national and international commitment of the state and the existing laws and policies. CCWB, throughout its existence, served as an activist inside the government system and as a successor, I expect NCRC to continue this legacy. In the lack of other competent organizations, CCWB was compelled to address each and every issue despite having very limited resources, much like a general store scrambles to meet many demands. But in today's changed context, NCRC should operate more as a branded store, providing specialized and specific but very high quality services.

