



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined third to fifth periodic reports of Nepal\*

#### I. Introduction

1. The Committee considered the combined third to fifth periodic reports of Nepal (CRC/C/NPL/3-5) at its 2110th and 2111th meetings (see CRC/C/SR.2110 and 2111), held on 19 and 20 May 2016, and adopted the present concluding observations at its 2132nd meeting (see CRC/C/SR.2132), held on 3 June 2016.

2. The Committee welcomes the submission of the combined third to fifth periodic reports of the State party and the written replies to the list of issues (CRC/C/NPL/Q/3-5/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the ratification of or accession to the following instruments:

(a) Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2010;

(b) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2007;

(c) International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), in 2007.

4. The Committee notes with appreciation the adoption of the following legislative measures:

(a) Constitution of Nepal of 2015;

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\* Adopted by the Committee at its seventy-second session (17 May-3 June 2016).



- (b) Act Amending Some Nepali Acts to Maintain Gender Equality and End Gender-Based Violence of 2015;
  - (c) National Human Rights Commission Act of 2012.
5. The Committee welcomes, among others, the following policy measures:
- (a) National strategy against child marriage, 2016;
  - (b) Multisectoral nutrition plan for 2013-2017;
  - (c) National child policy, 2012;
  - (d) National plan of action against child bonded labour, 2009.

### **III. Factors and difficulties impeding the implementation of the Convention**

6. The Committee notes the continuing effects of the 2015 earthquake, which hinders the implementation of the rights enshrined in the Convention, and recommends that the State party continue its efforts related thereto.

### **IV. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44 (6))**

##### **Legislation**

7. The Committee welcomes the adoption of the 2015 Constitution, which recognizes children's rights. However, the Committee is concerned that the draft Children's Bill does not provide a comprehensive, integrated and rights-based approach to the State party's legislation and does not adequately define key terms or mandates.

**8. The Committee recommends that the State party review its Children's Bill with a view to adopting a comprehensive, integrated and rights-based legislative framework for the implementation of the Convention in the light of the present concluding observations. In doing so, the State party should ensure that all child-related provisions in its legislation are in accordance with the Convention. The State party should also ensure that the said legislative framework adequately defines key terms and mandates to ensure its effective implementation.**

##### **Comprehensive policy and strategy**

9. The Committee notes as positive the fact that the State party adopted a national plan of action for children for the period from 2004/5 to 2014/15. However, the Committee notes that there has yet to be an evaluation of that plan of action. Furthermore, the Committee is concerned that there is a significant amount of overlap among the various ongoing sectoral national plans of the State party, and a lack of adequate details, indicators, targets and timelines for their effective implementation.

**10. The Committee recommends that the State party conduct an evaluation of its previous national plan of action, with a view to preparing a comprehensive policy on children that encompasses all areas covered by the Convention. Furthermore, the State party should develop a strategy that coordinates the sectoral plans in a coherent manner and ensure that these are provided with sufficient human, technical and financial resources.**

### Coordination

11. **The Committee urges the State party to take action on its previous recommendation (see CRC/C/15/Add.261, para. 23) to appoint or establish a single interministerial and intersectoral mechanism for the coordination, monitoring and evaluation of all activities relating to the implementation of the Convention. Such a body should be closely coordinated with the National Planning Commission and be provided with a strong mandate and sufficient human, technical and financial resources to carry out its functions effectively, and include members of civil society, child rights experts and other professionals, as well as governmental representatives.**

### Allocation of resources

12. The Committee welcomes the increase in the resources allocated for the fulfilment of children's rights during recent years, as well as the adoption of the child-friendly local governance national framework in 2009, and its accompanying implementation guidelines in 2010. Nevertheless, the Committee remains concerned that:

- (a) The resources dedicated to children continue to be insufficient;
- (b) The mobilization of resources by the State in order to address the needs of children is limited and significantly hampered by corruption;
- (c) The efficacy, efficiency and transparency in the use of the resources that have been made available through international cooperation in response to the earthquake in 2015 are insufficient.

### 13. The Committee:

- (a) **Reiterates its previous recommendation (see CRC/C/15/Add.261, para. 28) that, with a view to strengthening its implementation of article 4 of the Convention and in the light of articles 2, 3 and 6, the State party prioritize budgetary allocations to ensure the implementation of the rights of children to the maximum extent of available resources and the use of a rights-based approach;**
- (b) **Recommends that the State party increase its efforts to mobilize resources, including by strengthening its efforts to combat corruption through ensuring effective prosecution and commensurate sanctions;**
- (c) **Urges the State party to ensure that resources are efficiently, effectively and transparently allocated within the framework of international cooperation, prioritizing the reconstruction of the infrastructure destined for child services.**

### Data collection

14. **The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 30) for the State party to develop a system of data collection and indicators consistent with the Convention and disaggregated by sex, age, parish and dependency. The Committee recommends that the State party seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF) in this regard.**

### Independent monitoring

15. The Committee is concerned that the independence of the State party's national human rights institution, the National Human Rights Commission of Nepal, has been undermined by the National Human Rights Commission Act, 2012, which subjects staff appointments and expenses of the Commission to government approval and requires that all claims of human rights violations must be filed within six months of their occurrence. The

Committee is also concerned that there is no dedicated State entity with a mandate to receive complaints on child rights violations and that only one staff member within the National Human Rights Commission has so far been designated specifically to monitor children's rights in the State party.

16. **In the light of its general comment No. 2 (2002) on the role of independent human rights institutions in the promotion and protection of the rights of the child, the Committee recommends that the State party ensure the independence of the National Human Rights Commission of Nepal by amending the National Human Rights Commission Act to ensure full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including with regard to its staff appointments, funding, mandate and immunities. It should also consider establishing a specific mechanism or section within the National Human Rights Commission for monitoring children that is able to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring, follow-up and verification activities for victims, and ensure that it is allocated adequate human, technical and financial resources. To that effect, the Committee recommends that the State party seek technical cooperation from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNICEF and the United Nations Development Programme.**

#### **Dissemination, awareness-raising and training**

17. **The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 32) for the State party to strengthen its efforts to ensure that the provisions and principles of the Convention are widely recognized and understood by adults and children alike. It also recommends to the State party that it undertake systematic education and training on the rights of the Convention for children and their parents, as well as all professional groups working for and with children, in particular parliamentarians, judges, magistrates, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel and social workers. The Committee recommends that the State party consider seeking technical assistance from UNICEF and OHCHR in this regard.**

### **B. Definition of the child (art. 1)**

18. While the Committee notes that the draft Children's Bill provides a definition of the child in line with the Convention, it is concerned that the age of majority is currently set at 16 years and that not all children under the age of 18 benefit from full protection under the Convention.

19. **The Committee recommends that the State party expeditiously amend its definition of the child to ensure that all of its laws comply with the Convention and ensure that all children under the age of 18 benefit from full protection under the Convention.**

### **C. General principles (arts. 2, 3, 6 and 12)**

#### **Non-discrimination**

20. The Committee welcomes the anti-discrimination provisions of the new Constitution. However, notwithstanding the de jure prohibition of discrimination, it remains

concerned that discrimination based on, inter alia, gender, lineage, ethnicity, religion, social standing and disability remains prevalent. In particular, the Committee is concerned that:

- (a) Gender discrimination is still highly prevalent in all aspects, such as in the health sector and in education;
- (b) There is persistent de facto discrimination against Dalits, on the basis of their caste, resulting in them living in marginalized communities with hindrances to accessing education and public places, including water sources and places of worship.

21. **The Committee urges the State party to:**

- (a) **Ensure the effective implementation of its legislation in order to ensure that girls enjoy the same rights and entitlements as boys in all aspects of life, especially in family relations, the criminal and civil justice system and property rights, and take measures to eliminate any forms of discrimination in practice;**
- (b) **Carry out awareness-raising activities with a view to eliminating patriarchal values and gender stereotypes;**
- (c) **Strengthen its efforts to combat discrimination against, and stigmatization and social exclusion of, Dalit children and, in so doing, establish targeted programmes, including awareness-raising programmes, to facilitate their integration into other communities and ensure the enforcement of non-discriminatory access to education and to public places.**

#### **Best interests of the child**

22. The Committee is concerned that neither the Constitution nor any other legislation refers to the “best interests of the child”.

23. **In the light of its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party explicitly include the best interests of the child as a criterion for decision-making in all relevant legislation and take further steps for this right to be appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions, as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area.**

#### **Respect for the views of the child**

24. **The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 40) that the State party:**

- (a) **Promote and facilitate respect for the views of children and ensure their participation in all matters affecting them in all spheres of society, particularly in the family, in school and in communities, in accordance with article 12 of the Convention;**
- (b) **Amend legislation so that the child is heard and her/his views are taken into account, inter alia, in custody disputes and other legal procedures affecting children;**
- (c) **Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary and society at large on children’s rights in order to have children’s views taken into account and to allow the participation of children.**

**D. Civil rights and freedoms (arts. 7, 8 and 13-17)****Birth registration**

25. The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 43) and urges the State party to increase its efforts, including awareness-raising campaigns, to ensure the registration of all children at birth. In this regard, the Committee recommends that the State party ensure that local government authorities, who are entrusted with the task of birth registration, actively engage with the local communities to ensure that births are registered in a timely and effective manner. In this regard, the Committee urges the State party to seek assistance from, inter alia, UNICEF, non-governmental organizations and other members of civil society.

**Nationality**

26. The Committee is concerned about the hindrances experienced by many children to obtaining Nepalese nationality. It is especially concerned that:

(a) Acquisition of Nepalese citizenship by descent is conditional on evidence that both the father and mother of the child are Nepalese citizens; furthermore, it excludes children of unwed mothers, children of a Nepalese mother and a foreign or unknown father, children of refugees or of parents who are unable to prove citizenship, and children of same-sex parents;

(b) Children of Nepalese mothers and non-national fathers are not granted Nepalese citizenship until they attain majority, which exposes them to the risk of statelessness until adulthood;

(c) The criteria for transmission of citizenship from Nepalese mothers to their children remain discriminatory, as they require the mother to be a resident of Nepal, exclude children born to women who are not permanent residents, and make citizenship subject to revocation for children whose previously unidentified father is later proven to be a foreigner.

27. The Committee recommends that the State party amend, as a matter of priority, relevant legislation, particularly the Birth, Death and Other Personal Event (Vital Registration) Act of 1976, the Citizenship Act of 2006 and articles 11 (3), 11 (5) and 11 (7) of the Constitution to ensure full compliance with articles 7 and 8 of the Convention. The Committee also recommends that the State party amend its legislation on transmission of nationality by:

(a) Removing the requirement for both parents to prove citizenship;

(b) Making citizenship by descent accessible through proof of citizenship of one of the parents, regardless of the parent's sex;

(c) Making the acquisition of Nepalese nationality by descent accessible to children at birth.

**E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)****Torture and other cruel or degrading treatment or punishment**

28. The Committee notes the efforts made by the State party to address torture and ill-treatment of children. However, it remains deeply concerned about:

(a) Reports of widespread acts of torture and ill-treatment of children in detention facilities and in residential homes;

(b) Impunity for extrajudicial killings, enforced disappearances and torture of children, including the continued lack of accountability for such violations committed during the country's civil war;

(c) The absence of domestic legislation criminalizing crimes in international law, including torture and enforced disappearance, which hinders access to justice and reparation for child victims of such crimes and their families by limiting legal action for such acts to disciplinary proceedings and financial compensation.

**29. With reference to the Committee's general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and target 16.2 of the Sustainable Development Goals, on ending abuse, exploitation, trafficking and all forms of violence against and torture of children, the Committee recommends that the State party:**

**(a) Strengthen its effort to put an end to torture and ill-treatment of children in all settings, including by ensuring that children are only detained as a measure of last resort, and by establishing an independent mechanism for the regular inspection of residential care facilities;**

**(b) Expediently establish an independent inquiry into all alleged cases of torture and ill-treatment of children during and after the civil war; ensure that all those who have been ordering, condoning or facilitating these practices at all levels of decision-making are prosecuted and subject to commensurate sanctions; and ensure that children who have been victims of torture and ill-treatment obtain redress and adequate reparation, including physical and psychological recovery and guarantees of non-repetition;**

**(c) Amend domestic legislation to bring it into line with international standards requiring the explicit criminalization of torture and other forms of ill-treatment.**

#### **Corporal punishment**

30. The Committee welcomes the prohibition of corporal punishment in article 39.7 of the Constitution. However, it remains concerned that corporal punishment is not explicitly prohibited in all legislation relating to children's rights, and that it remains prevalent at home, in schools and in other institutions and forms of childcare.

**31. The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 48) for the State party to:**

**(a) Expressly prohibit corporal punishment and ill-treatment of children by law in the family, schools and other institutions;**

**(b) Expedite the process of amending the relevant provision of the Children's Act and the 1963 Muluki Ain (Civil Code) to ensure compliance with article 19 of the Convention;**

**(c) Strengthen awareness-raising campaigns to inform parents, teachers and professionals working with children, particularly in institutions, as well as the public at large, about the negative impact of corporal punishment and ill-treatment on children, and actively involve children and the media in the process;**

**(d) Ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child's human dignity and in**

conformity with the Convention, in particular article 28 (2), as an alternative to corporal punishment at all levels of society.

#### **Abuse and neglect**

32. The Committee is concerned about the prevalence of abuse and neglect of children and the lack of laws addressing this situation, as well as the absence of effective and child-friendly reporting mechanisms for cases of abuse and/or neglect.

33. **In the light of its general comment No. 13, and taking note of target 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Enact legislation which clearly defines and prohibits the abuse and neglect of children in all settings;**

(b) **Further strengthen awareness-raising and education programmes, including campaigns, with the involvement of children, in order to formulate a comprehensive strategy for preventing and combating child abuse;**

(c) **Establish a national database on all cases of domestic violence against children, and undertake a comprehensive assessment of the extent, causes and nature of such violence;**

(d) **Ensure the allocation of adequate human, technical and financial resources to enable the implementation of long-term programmes for addressing the root causes of violence and abuse;**

(e) **Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect, including by involving former child victims, volunteers and community members, and providing training support to them.**

#### **Sexual exploitation and abuse**

34. The Committee is deeply concerned about the prevalence of sexual violence against children in all settings, the social stigmatization of victims of sexual violence, and barriers to access to justice. It is particularly concerned about:

(a) The weak and non-commensurate sanctions for rape, particularly marital rape;

(b) The lack of assistance and mental health support measures for child victims of sexual exploitation and abuse;

(c) The six-month statute of limitation for rape, which hinders access to justice;

(d) The lack of reparations for survivors who suffered sexual violence during the conflict, some of whom were children at the time;

(e) Reports of girls being forced to marry their rapist.

35. **The Committee urges the State party to conduct awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse, including incest, and ensure accessible, confidential, child-friendly and effective reporting channels for such violations. Furthermore, the Committee recommends that the State party:**

(a) **Amend its legislation to ensure commensurate penalties for rape and align the penalties for marital rape with penalties for rape outside of marriage;**

(b) **Ensure the availability and accessibility of psychological support for child victims of sexual exploitation and abuse;**

(c) **Abolish the six-month statute of limitation for rape and establish mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation;**

(d) **Establish mechanisms with adequate funding allocations to provide reparations for victims of sexual violence during the Nepalese civil war;**

(e) **Develop programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children;**

(f) **Ensure effective reporting and protection mechanisms to prevent forced marriages of victims of rape to their aggressors.**

#### **Gender-based violence**

36. **The Committee draws attention to target 5.2 of the Sustainable Development Goals, on the elimination of all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, and urges the State party to ensure that allegations of crimes related to gender-based violence are independently and thoroughly investigated and that perpetrators are brought to justice. The State party should provide regular substantive training for judges, lawyers, prosecutors, the police and other relevant professional groups on standardized, gender- and child-sensitive procedures for dealing with victims and on how gender stereotyping by the judiciary negatively affects strict law enforcement.**

#### **Harmful practices**

37. The Committee welcomes the initiatives taken by the State party to eradicate harmful practices. However, it remains deeply concerned at the continuing prevalence of such practices, which primarily affect girls, including:

(a) The caste system and its related traditional practices such as dowry; bonded labour, including *Kamalari*, *Kamaiya*, *Haliya* and *Haruwa-Charuwa*; and sexual exploitation, such as *Badi*;

(b) Widespread reports of the forced isolation of menstruating women and girls (*Chaupadi*), which is particularly harmful in rural areas, exposing girls to heightened risk of sexual violence and health hazards;

(c) Reports of serious violence related to accusations of witchcraft;

(d) The social exclusion that is forced upon girls chosen as *Kumari*.

38. **In the light of joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee reiterates its previous recommendations (see CRC/C/15/Add.261, para. 68) and urges the State party to take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, by strengthening awareness-raising programmes and adopting and implementing legislation explicitly prohibiting such practices. It further recommends that, in so doing, the State party prioritize girls, particularly girls with disabilities, girls living in rural areas and Dalit girls.**

39. The Committee welcomes the explicit prohibition of child marriage in the Constitution, the recently approved strategy to end child marriage and the State party's leadership in implementing the regional action plan to end child marriage in South Asia for the period 2015-2018. However, it is deeply concerned that, although the State party has set

the minimum age for marriage for boys and girls at 20 years, child marriage, especially of girls, remains prevalent in the State party. It is also concerned about the possible impact of the 2015 earthquake on the risk of child marriage for girls.

40. **The Committee urges the State party to ensure that the minimum age of marriage set in the Constitution is applied. It also recommends that the State party:**

(a) **Review allegedly contradictory legal provisions in the draft Penal and Civil codes to ensure that child marriages can be rendered void if it is in the best interests of the child or children concerned;**

(b) **Develop awareness-raising campaigns and programmes on the harmful effects of early marriage on the physical and mental health and well-being of girls, as ordered by the Supreme Court of Nepal in *Sapana Pradhan Malla and others v. Government of Nepal* in 2006, targeting households, local authorities, religious leaders, judges and prosecutors;**

(c) **Establish protection and support schemes for children wishing to void their marriage, particularly those who file a complaint;**

(d) **Undertake an assessment of the impact of the 2015 earthquake on girls' vulnerability to child marriage and apply those findings to guide the implementation of measures to address the increased risk of child marriage.**

41. The Committee welcomes the positive steps taken by the State party towards the recognition of lesbian, gay, bisexual, transgender and intersex rights, including the reference to "gender and sexual minority" in the grounds for discrimination that are prohibited under article 18 of the new Constitution (right to equality) and the recent addition to identity documents of a third gender category recognizing genders other than "male" and "female". However, the Committee remains concerned about:

(a) Lack of awareness of issues related to intersex children in Nepal and the high levels of stigma and discrimination faced by intersex children;

(b) Challenges faced by intersex children in accessing identity documents that correspond with the sex/gender identity of their choosing;

(c) Cases of medically unnecessary surgeries and other procedures on intersex children before they are able to provide their informed consent, which often entail irreversible consequences and can cause severe physical and psychological suffering, and the lack of redress and compensation in such cases.

42. **The Committee recommends that the State party:**

(a) **Conduct awareness-raising campaigns to combat stigmatization of and discrimination against intersex children;**

(b) **Ensure that intersex children have access to identity documents that correspond with the sex/gender identity of their choosing;**

(c) **Ensure that no child is subjected to unnecessary medical or surgical treatment; guarantee bodily integrity, autonomy and self-determination to the children concerned; and provide families with intersex children with adequate counselling and support;**

(d) **Undertake investigations of incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions in order to provide redress to the victims of such treatment, including reparation and/or adequate compensation;**

(e) Educate and train medical and psychological professionals on the range of sexual, and related biological and physical, diversity and on the consequences of unnecessary surgical and other medical interventions for intersex children.

**F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

**Children deprived of a family environment**

43. The Committee notes that the State party is in the process of considering draft procedural guidelines on alternative care regulation, and that it has a draft policy on the regulation of foster care. However, the Committee is concerned about:

- (a) The continued absence of a legal framework for alternative care and foster care;
- (b) The unnecessary placement of children in residential care resulting from the absence of an assessment system based on necessity and appropriateness;
- (c) The lack of government oversight of private institutions, which often do not comply with the minimum standards, and the inadequate qualification of personnel.

44. Drawing the State party's attention to the Guidelines for the Alternative Care of children,<sup>1</sup> the Committee emphasizes that financial and material poverty should never be the sole justification for removing a child from parental care, for receiving a child into alternative care or for preventing a child's social reintegration. In this regard, the Committee recommends that the State party:

- (a) Expediently pass legislation that is in compliance with the Convention for the regulation of alternative care and foster care;
- (b) Support and facilitate family-based care for children, wherever possible, including for children in single-parent families, and establish a system of foster care for children who cannot stay with their families, with a view to reducing the institutionalization of children;
- (c) When alternative care cannot be avoided, ensure adequate safeguards and clear criteria, based on the needs as well as best interests of the child, for determining whether a child should be placed in such care;
- (d) Ensure periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment of children;
- (e) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children resident therein to the greatest extent possible.

**Adoption**

45. The Committee recalls its previous recommendation (see CRC/C/15/Add.261, para. 54) for the State party to develop and implement policies and legal provisions regarding intercountry adoption. In this regard, the Committee recommends that the State party, in particular:

<sup>1</sup> General Assembly resolution 64/142, annex.

(a) **Develop and implement strict criteria for the adoption of Nepalese children, ensuring in particular that reasonable time is given for an effective tracing of the parents or close relatives of children separated from them as a result of the 2015 earthquake, and abolish the provision stating that the poverty of the parents of a child can be a legal ground for adoption;**

(b) **Ensure that exhaustion of all means of preventing termination of parental responsibility and/or separation of the child is set as a clear criterion in all cases involving adoption;**

(c) **Regulate and monitor the practice of placing children with close relatives or others to ensure that all their rights, including the right to education and to health care, are fully respected;**

(d) **Review the current mechanisms and procedures for domestic and intercountry adoption, particularly the role and responsibilities of national and district-level decision-making bodies, with a view to ensuring that professionals responsible for adoption cases are fully equipped with the expertise needed to review and process adoption cases;**

(e) **Consider ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, in order to, inter alia, prevent trafficking and smuggling of children.**

**G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)**

**Children with disabilities**

46. The Committee welcomes the inclusion of provisions on the rights of children with disabilities under the new Constitution. However, it remains concerned that:

(a) There is no comprehensive inclusive education policy framework, and segregated special education for children with disabilities remains the norm;

(b) Discrimination against and social stigmatization of children with disabilities, the number of whom has increased following the 2015 earthquake, is prevalent and manifests itself in multiple and intersecting forms, including with regard to girls with disabilities;

(c) Children with disabilities face hindrances to accessing health care and housing;

(d) There is a lack of adequate physically accessible infrastructure for children with disabilities;

(e) Existing measures for the inclusion of children with disabilities are limited to children with physical or sensorial disabilities, which excludes children with mental or intellectual disabilities, exacerbating their stigmatization;

(f) Disaggregated data on the abuse and neglect of children with disabilities are lacking.

47. **In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human-rights-based approach to disability, set up a comprehensive strategy for the inclusion of all children with disabilities (with physical, mental, intellectual or sensory impairments) and:**

(a) **Prioritize the development of inclusive education and ensure that it is given priority over the placement of children in specialized institutions and classes and, in so doing, train and assign specialized teachers and professionals in integrated classes providing individual support and all due attention to children with learning difficulties;**

(b) **Undertake awareness-raising campaigns aimed at government officials, religious leaders, the public and families to combat the stigmatization of and prejudice against children with disabilities and promote a positive image of such children;**

(c) **Take immediate measures to ensure that children with disabilities have access to health care, including early detection and intervention programmes;**

(d) **Take measures to increase the availability of physically accessible public buildings, including in its ongoing reconstruction process;**

(e) **Ensure that the legislative and programmatic definition of disabilities in the State party conforms to the Convention on the Rights of Persons with Disabilities, and that it encompasses mental or intellectual disabilities;**

(f) **Prioritize the collection of data on children with disabilities and develop an efficient system for diagnosing disability, in order to implement appropriate policies and programmes for children with disabilities.**

#### **Health and health services**

48. The Committee welcomes article 35 of the Constitution on the right to health care. However, the Committee is concerned that:

(a) The quality of and access to health services in rural areas remain significantly poorer than in urban areas;

(b) Despite the progress made in reducing overall mortality and morbidity among children under 5 years of age, the neonatal mortality rate remains high due to a lack of accessible and affordable health services, with these deaths representing 61 per cent of all deaths of children under 5 years of age in the State party;

(c) Chronic malnutrition (stunting) and wasting (acute malnutrition) are prevalent among children, and poor nutrition continues to cause 60 per cent of child mortality in the State party.

49. **In the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and taking note of target 3.2 of the Sustainable Development Goals, on ending preventable deaths of newborns and children under 5 years of age by 2030, the Committee recommends that the State party:**

(a) **Expediently allocate additional human, technical and financial resources for improving access to and the quality of health services, particularly in rural areas;**

(b) **Take measures to reduce neonatal mortality rates, including by preventing infectious diseases and ensuring care for newborns during the neonatal period and allocating adequate resources to provide emergency services and resuscitations in rural areas; and, in so doing, to implement and apply the OHCHR technical guidance on the application of a human-rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31);**

(c) **Ensure the full involvement of all relevant ministries concerned in the effective implementation of the 2013-2017 multisectoral nutrition plan for addressing chronic malnutrition among children, and consider establishing a programme for the non-discriminatory provision of food and nutritional supplements for children at risk of malnutrition, with a particular focus on young infants, up to 2 years of age.**

50. **In implementing the above, the State party is encouraged to seek financial and technical assistance from UNICEF and the World Health Organization (WHO), among others.**

#### **Mental health**

51. The Committee is concerned about the short- and long-term impacts of the 2015 earthquake on children's mental health. The Committee is also concerned about the lack of mental health support for children who have been victims of violence or trauma.

52. **The Committee recommends that the State party take all necessary measures to provide mental health-care services to children, including those affected by the 2015 earthquake and/or violence or trauma.**

#### **Adolescent health**

53. The Committee welcomes the 2015 upgrading of health facilities across the State party to provide adolescent-friendly clinics with confidential counselling and services related to reproductive health issues. However, the Committee remains concerned about the high rate of early pregnancy, the low rate of practice of birth control and the resulting vulnerability to sexually transmitted infections and HIV, and poor awareness of safe abortion practices.

54. **In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party adopt a comprehensive sexual and reproductive health policy for adolescents and ensure that meaningful sexual and reproductive health education is part of the mandatory school curriculum and targeted at adolescent girls and boys, with special attention to preventing early pregnancy and sexually transmitted infections.**

#### **Standard of living**

55. The Committee is gravely concerned about the severity of the food shortages in the State party, with a significant proportion of the population suffering from food shortages on a daily basis and almost 40 per cent of children below the age of 5 suffering from malnourishment. The Committee is especially concerned about the districts of Dhading, Dolakha, Gorkha, Nuwakot, Rasuwa and Sindhupalchock, which have had their agricultural capacity further reduced by the earthquake amid pre-existing food shortages. Furthermore, the Committee remains concerned about the continued severity and prevalence of child poverty, an issue that it raised in its previous concluding observations (see CRC/C/15/Add.261, para. 72).

56. **The Committee urges the State party to expeditiously take measures to increase its budgetary allocations to its multisectoral nutrition plan and ensure equitable and non-discriminatory distribution of food pursuant to this plan, paying particular attention to children in vulnerable situations, including those of Dalit backgrounds, minorities and those living in rural areas. The Committee also recommends that the severely earthquake-affected districts of Dhading, Dolakha, Gorkha, Nuwakot, Rasuwa and Sindhupalchock be prioritized. The State party is also encouraged to seek international assistance in that regard.**

57. The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 73) for the State party to:

- (a) Strengthen its strategy for combating poverty, with due emphasis on monitoring the impact on the rights of children, and allocate sufficient human and financial resources to its implementation, including through international assistance;
- (b) Reinforce its efforts to provide support and material assistance to economically disadvantaged families, notably in rural areas, slums and squats, and to guarantee the right of children to an adequate standard of living;
- (c) Establish poverty indicators and an official poverty line, so as to define the extent of poverty and to monitor and evaluate progress in alleviating poverty and improving the standard of living for children in the State party;
- (d) Establish a social security policy, along with a clear and coherent family policy, as well as effective strategies for using social safety net benefits to further children's rights and provide adequate financial resources to the social security system.

## **H. Education, leisure and cultural activities (arts. 28-31)**

### **Education, including vocational training and guidance**

58. The Committee welcomes the constitutional provisions on free and compulsory basic education and free secondary education. However, the Committee is concerned about:

- (a) The fact that this constitutional provision is not yet enshrined in legislation;
- (b) Decreases in the proportion of the budget allocated to State-provided education, combined with the emergence of private schools, which exacerbates segregation and discrimination in the education system while reducing the overall quality of education available to children;
- (c) The high number of children who are out of school due to hidden fees;
- (d) The high dropout rate of girls between primary and secondary school, and during secondary school, due to lack of separate toilets and menstrual hygiene;
- (e) The low enrolment rate and high dropout rate of indigenous children;
- (f) Significant gaps in the quality of education between rural and urban areas;
- (g) Inadequate development of early childhood care and education.

59. In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party:

- (a) Enact legislation to ensure the effective implementation of the constitutional right to education;
- (b) Implement appropriate financing strategies, so as to ensure the effective and actual provision of free quality education to all without discrimination, in all parts of the country, in particular for children in the most marginalized situations;
- (c) Take appropriate regulatory measures to ensure that private providers of education do not undermine social cohesion, or exacerbate segregation and discrimination, in particular by effectively regulating fees, syllabi, admission criteria and diversity of student backgrounds, and other barriers to access, and ensure the adequate implementation of the legislation, as well as ensure child-friendly school infrastructure in private schools;

(d) **Ensure regulatory and enforcement frameworks, including reporting mechanisms, to combat the phenomenon of schools and/or teachers subjecting children to hidden costs for attending school;**

(e) **Carry out awareness-raising activities with a view to eliminating patriarchal values, gender stereotypes and menstruation-related discrimination, which undermine the right of girls to education, and ensure the allocation of adequate resources for the provision of sufficient gender-separated toilets and menstrual hygiene items in schools;**

(f) **Implement targeted programmes, along with earmarked funding, for increasing the rate of school enrolment and secondary school completion rates for indigenous children;**

(g) **Take the necessary measures to improve the accessibility and quality of education, and provide quality training for teachers, with particular emphasis on rural areas;**

(h) **Allocate sufficient financial resources for the development and expansion of early childhood education, based on a comprehensive and holistic policy of early childhood care and development.**

## **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)**

### **Asylum-seeking and refugee children**

60. The Committee welcomes the State party's strong cooperation with the Office of the United Nations High Commissioner for Refugees on the issue of resettlement of refugees from Bhutan. However, the Committee regrets that, despite its previous recommendations (see CRC/C/15/Add.261, para. 80), the State party has not established a national refugee and statelessness legal protection framework. Furthermore, the Committee is concerned about:

(a) Reports of forced returns of Tibetan families, including children, to China without proper assessment of their asylum claims;

(b) The lack of refugee certificates and identity documents for Tibetan refugees born after 1979 and their children, and the resulting risk of statelessness;

(c) The absence of universal birth registration for refugee and asylum-seeking children and the barriers to receiving identification documents for Bhutanese children, children belonging to the growing Rohingya Muslim population and children of non-Nepalese mothers or mothers who cannot prove citizenship;

(d) The lack of education for Tibetan refugee children.

61. **The Committee reiterates its previous recommendations (see CRC/C/15/Add.261, para. 80) and recommends that the State party:**

(a) **Take legislative, administrative and institutional measures to ensure that all children are registered at birth, including children born to refugees and asylum seekers;**

(b) **Adopt domestic legislation covering the rights of refugees and asylum seekers in line with international standards;**

(c) **Seek to ensure, as a matter of priority, that all refugee and asylum-seeking children and their families have access to health and education services, and**

that all their rights contained in the Convention are protected, including the right to be registered at birth;

(d) **Carry out a comprehensive registration exercise for the long-staying Tibetan population and their children in order to provide them with documentation and promote the enjoyment of their human rights, as well as access to basic services, as already recommended in the Committee's previous concluding observations (see CRC/C/15/Add.261, paras. 43-44 and 80).**

#### **Internally displaced children**

62. The Committee welcomes the adoption of the national policy on internally displaced persons (2007) and the efforts of the State party to find lasting solutions for children displaced by the 2015 earthquake. However, it is deeply concerned about the impact of the earthquake on children's rights and about the high number of displaced children living in IDP camps or informal settlements without adequate access to food, safe drinking water, sanitation, health care and education.

63. **The Committee recommends that the State party:**

(a) **Expediently strengthen its efforts to provide adequate housing for internally displaced children and their families living in internally displaced person camps or informal settlements and ensure that they have access to sufficient food, clean drinking water, sanitation, health care and education;**

(b) **Take immediate measures to prevent all forms of violence against displaced children, including by ensuring that women and girls have access to separate lockable latrines and safe houses, as well as by increasing police controls and providing functioning illumination in internally displaced person camps and informal settlements;**

(c) **Ensure that children are informed and consulted about all stages of disaster response and preparedness.**

#### **Children belonging to minority or indigenous groups**

64. The Committee welcomes the creation of the National Dalit Commission and the National Foundation for Development of Indigenous Nationalities. It is, however, concerned about:

(a) Reports of discrimination against children and indigenous people, particularly with regard to access to water during rescue and relief efforts after the 2015 earthquake;

(b) Denial of indigenous peoples' free, prior and informed consent with regard to resettlement and reconstruction decisions affecting them and their children after the 2015 earthquake.

65. The Committee recommends that the State party:

(a) **Remove barriers in accessing water supply, paying particular attention to traditionally excluded groups, such as the Madhesi, Dalit and Janajati;**

(b) **Consult and cooperate in good faith with the indigenous peoples concerned, including indigenous children, in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, and provide effective remedies in cases of violation of their rights, also in the context of rehabilitation efforts after the 2015 earthquake.**

66. The Committee notes with satisfaction that the new Constitution recognizes the right of indigenous children to education in their mother tongues. However, it is concerned about:

(a) The lack of legal clarity on the responsibility for implementing this right and the de facto suppression of the right of indigenous children to information and access to media in their native language;

(b) Dalit children, children belonging to minorities and Tibetan children frequently suffering from hindrances to accessing education, health and social services; insufficient quality and cultural appropriateness of health care accessible to indigenous children and their mothers, including after the 2015 earthquake; and the resulting disproportionately high mortality rate of indigenous and Dalit children in comparison with other children in the State party;

(c) The lack of learning materials in the native languages of indigenous children, and their low school enrolment rates;

(d) Widespread reports of violence, through bullying and/or by teachers, against indigenous children in schools;

(e) The 2015 earthquake exacerbating the vulnerability of orphans, children of indigenous groups, religious minorities, the Dalit community and migrant workers to human trafficking.

**67. With reference to the Committee's general comment No. 11 (2009) on indigenous children and their rights under the Convention, the Committee urges the State party to strengthen its efforts to ensure that all children, irrespective of whether they belong to a caste, minority or indigenous group, enjoy the entire range of rights enshrined in the Convention. The Committee recommends that the State party:**

**(a) Enact legislation and reporting procedures to ensure the effective implementation of the constitutional right of indigenous children to have meaningful access to information and media in their native language;**

**(b) Provide culturally and linguistically adapted awareness-raising campaigns and targeted support measures in Dalit, minority and Tibetan communities to ensure meaningful access to education, health and social services;**

**(c) Ensure the provision of educational syllabi in the native language of indigenous children;**

**(d) Establish accessible measures for reporting violence in schools and ensuring adequate safeguards and commensurate sanctions against such violence;**

**(e) Establish special units in the State party's social services sections to ensure that the needs of orphans, indigenous children and religious or other minorities are addressed and, in so doing, ensure that these units are provided with adequate human, technical and financial resources and that they pay particular attention to the risk of human trafficking.**

#### **Economic exploitation, including child labour**

68. The Committee is concerned about the prevalence of child labour in the State party and, notwithstanding the ratification of International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182), there are reportedly over 600,000 children involved in the worst forms of child labour. The Committee is also concerned about the continuity of practices that are forbidden by law, such as *Kamalari*.

69. The Committee recommends that the State party:

- (a) Amend the Child Labour Act and other relevant legislation so that the necessary regulation of child labour applies to all areas of work, including the worst forms of child labour and the informal sector;
- (b) Strengthen the enforcement of existing legislation and policies to eradicate the practice of child bonded labour;
- (c) Take preventive measures to ensure that those children who engage in labour do not work under harmful conditions and continue to have access to education;
- (d) Fully implement all policies and legislation relevant to child labour, *inter alia*, through public awareness campaigns and education for the public on the protection of the rights of children;
- (e) Strengthen the implementation of the Kamaiya Prohibition Act, and take effective measures to ensure the social integration of emancipated *Kamaiya* workers;
- (f) Seek technical assistance from the International Programme on the Elimination of Child Labour of the International Labour Organization in this regard.

#### Administration of juvenile justice

70. The Committee reiterates its previous recommendation (see CRC/C/15/Add.261, para. 99) that the State party review its legislation and policies to ensure the full implementation of juvenile justice standards, in particular article 37 (b) and article 40 (2) (b) (ii)-(iv) and (vii) of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)<sup>2</sup> and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),<sup>3</sup> and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice. In this regard, the Committee recommends that the State party, in particular:

- (a) Ensure that detained children below 18 years of age are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and under appropriate conditions;
- (b) Expedite the construction of separate facilities (child correctional centres) and separate cells in detention facilities for persons below the age of 18 to ensure that such facilities exist in all districts;
- (c) In cases where deprivation of liberty is unavoidable and used as a last resort, for the shortest appropriate time, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law;
- (d) Ensure that persons under 18 years of age are not held accountable, detained or prosecuted under anti-terrorism laws;
- (e) Review and, where necessary, amend all (judicial, legal and protection) procedures, including those of district administrative offices, so as to ensure that all persons under 18 years of age who are alleged as, or have been accused of, breaking

<sup>2</sup> General Assembly resolution 40/33, annex.

<sup>3</sup> General Assembly resolution 45/112, annex.

the law are fully guaranteed the right to a fair trial provided for by article 40 (2) of the Convention;

(f) Provide formal training for judicial professionals on juvenile justice administration and human rights;

(g) Seek technical cooperation from, inter alia, UNICEF and OHCHR.

**Follow-up to the Committee's previous concluding observations and recommendations on the Optional Protocol on the Convention on the sale of children, child prostitution and child pornography**

71. The Committee regrets the lack of information on the implementation of its 2012 recommendations on the State party's initial report under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NPL/CO/1).

72. The Committee calls on the State party to implement its previous recommendations, particularly those relating to the following:

(a) Ensuring that national legislation complies with articles 2 and 3 of the Optional Protocol (see CRC/C/OPSC/NPL/CO/1, para. 30);

(b) Repealing the provisions of the 1970 Public Offences and Control Act that are used to arrest and prosecute child victims, and ensure that no child victim of any of the crimes under the Optional Protocol faces criminal charges (see CRC/C/OPSC/NPL/CO/1, para. 32);

(c) Ensuring that its domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all crimes covered by the Optional Protocol (see CRC/C/OPSC/NPL/CO/1, para. 36);

(d) Ensuring appropriate measures to protect the rights and interests of child victims of the practices prohibited under the Optional Protocol at all stages of the criminal justice process (see CRC/C/OPSC/NPL/CO/1, para. 40).

## **J. Ratification of the Optional Protocol to the Convention on a communications procedure**

73. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

## **K. Ratification of international human rights instruments**

74. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearance; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

## **IV. Implementation and reporting**

### **A. Follow-up and dissemination**

75. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined third to fifth periodic report, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

### **B. Next report**

76. The Committee invites the State party to submit its combined sixth and seventh periodic reports by 13 October 2021 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

77. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.

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