



**International Convention  
on the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 9 OF THE CONVENTION**

**Sixteenth periodic reports of States parties due in 2002**

**Addendum**

**NEPAL\***

[29 April 2003]

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\* This document contains the fifteenth and sixteenth periodic reports of Nepal, due on 1 March 2000 and 2002 respectively, submitted in one document. For the fourteenth periodic report of Nepal and the summary records of the meetings at which the Committee considered that report, see document CERD/C/337/Add.4 and CERD/C/SR.1415, 1427.

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\* Available for consultation in the files of the Secretariat.

## **Executive Summary**

### **Major highlights of the report**

The report is divided into four parts. The first part provides a description of the geophysical features, history, political organization, demographic features, including social and cultural specificities and trends of economic development.

The second part, which constitutes the main body of the report, deals with the major aspects relating to the implementation of the articles of the Convention. The major aspects of the report are as follows:

*Article 1 of the Convention defines “racial discrimination”*. It also outlines the scope of the Convention, especially its areas of application. Articles 2 to 7 set out the obligations of States parties with regard to the implementation of the Convention.

*Article 2 of the Convention and State obligations.* Nepal as a party to the Convention, denounces all acts of racial discrimination and has fulfilled its obligations under the Convention by pursuing a policy aimed at ensuring mutual harmony and respect among the different racial communities and groups and at implementing relevant measures in fulfilment of the non-discriminatory policy.

### **Constitutional framework and elimination of racial discrimination**

The Constitution of the Kingdom of Nepal 1990 guarantees human rights without any discrimination on grounds of caste, creed, religion, race or ideology. The Constitution envisages two kinds of frameworks in respect of the promotion and protection of human rights:

- (a) Spirit of directive principles of the Constitution;
- (b) Framework for the implementation of legal obligations.

### **Spirit of directive principles of the Constitution**

The Constitution in its preambular part lays down the obligations of the State with respect to the promotion and protection of human rights. Similarly, the chapter relating to directive principles of State policy requires the State to implement measures towards the promotion, protection and enforcement of human rights of its citizen. The chapter embodies provisions towards promoting and enhancing human rights values and norms for the purpose of strengthening equality, fraternity and unity among the peoples without any discrimination. Similarly, the Constitution requires the Government to implement affirmative action and to take measures to eliminate discrimination with a view to promoting and enhancing harmony and respect among the different racial groups, irrespective of caste, creed or religion.

### **Framework for the implementation of legal obligations**

#### *Constitutional Provisions*

*Article 11 (1):* All citizens shall be equal before the law. No person shall be denied the equal protection of the law.

Article 11 (2): No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, caste, tribe or ideological conviction or any other ground.

Article 11 (3): The State shall not discriminate among citizens on grounds of religion, race, caste, tribe or ideological conviction or any other ground:

Except that special provisions may be made by laws for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially or educationally backward.

Article 11 (4): No person shall, on the basis of caste, be discriminated against as untouchable, be denied access to any public place, or be deprived of the use of public utilities. Any contravention of this provision shall be punishable by law.

#### *Relevant legal and statutory instruments*

*Treaty Act 1990* - This Act, under section 9 thereof, provides that in the event that the provisions of a treaty to which the Kingdom of Nepal has become a party following its ratification, accession, acceptance or approval by parliament conflict with those of domestic laws, the latter shall be held invalid to the extent of such conflict for the purpose of that treaty, and the provisions of the treaty shall be applicable in that connection as law of Nepal.

*Civil Liberties Act 1954* – The Act guarantees the right to equality and equal protection of the law and prohibits restrictions against any citizen on the basis of religion, race, sex, caste or any other ground.

*Legal Aid Act 1998* – The Government has, through this Act, sought to enforce the principle of State obligation to improve access to justice to the economically underprivileged and other disadvantaged groups like Dalit, women and other ethnic groups. This Act has been enacted in compliance with the constitutional obligation created by Article 26 (14), that is, to pursue a policy of providing free legal aid to indigent persons for their legal representation in keeping with the principle of the rule of law.

*Local Self-Governance Act 1999* – The Act constitutes an important legal instrument towards enforcing equality provisions of the Constitution. It seeks to institutionalize the process of development through representation of ethnic communities, indigenous groups and down-trodden people in the local bodies.

*Special measures adopted to develop socio-economic conditions* – Notwithstanding the legal provisions based on equity and equality, their rational and importance is realized through effective implementation and enforcement. The Government is committed to implementing special socio-economic measures to achieve the objective of social equality and development enshrined in the various legal measures and instruments with the means and resources at its disposal.

Special socio-economic measures adopted by the Government following the submission of its fourteenth periodic report to the Committee include the following:

(a) Despite the numerous efforts by the Government to eliminate discriminations and to provide equitable participation, discrimination still persists in Nepalese society. The representation of the underprivileged communities in decision-making bodies is not adequate. However, the policy announcement on enhancing their participation made by the Prime Minister recently is a welcome milestone in this direction. Several measures have been implemented and the relevant programme interventions carried out during the ninth plan period (1997-2002). However, illiteracy, lack of social awareness, prevalence of socio-economic discrimination and the traditional mindset all have militated against the measures designed to uplift Dalits and down-trodden sections of the society. The recent statement by the Prime Minister before Parliament in which he expressed commitment to improving the lot of down-trodden sections of the society through effective measures demonstrate the willingness to improve the conditions of the oppressed. The key thrust areas of the Government's commitment in this connection have been included in the present report;

(b) The ninth plan has specific policies, strategies and programmes for Dalits, nationalities and indigenous peoples of Nepal. The details of the programme in the ninth plan for the development of Dalits, nationalities and other disadvantaged groups have been described in the present report;

(c) The concept paper of the tenth periodic plan (2002-2007) places emphasis on poverty alleviation programmes specifically targeting women, Dalits, nationalities and other deprived groups in the country;

(d) The report notes the adoption passing of a bill by Parliament in November 2001 on the establishment of a National Academy for Social, Economic and Cultural Development and the upliftment of nationalities;

(e) His Majesty's Government has established a National Committee for the upliftment of the Depressed, the Oppressed and Dalits Community under the Ministry of Local Development and initiated several affirmative measures to that end;

(f) The report discusses the measures undertaken by the Government in cooperation with several non-governmental organizations and inter-governmental organizations. It outlines the position of the government especially with respect to denouncing all acts of racial discrimination and the efforts made by the Government to prevent all acts of discrimination in the country.

#### *Article 4 of the Convention and State obligations*

Laws in Nepal prohibit all forms of discrimination. Nepal legally prohibited all forms of discrimination long ago, but vestiges of caste-based discrimination still persist in Nepalese society. Efforts both at the policy and application levels have been made to eliminate all forms of the discrimination. The National Civil Code of 1964 explicitly prohibits any form of discrimination based on caste, as well as the denial of access to public places and public utilities, and also prescribes punishment for those violating this provision. Furthermore, public authorities or institutions are not permitted to disseminate ideas based on racial superiority or hatred, to incite racial discrimination, or to commit any act of violence or incite others to commit such acts against any race or group of persons of different ethnic origin.

*Article 5 of the Convention and State obligations*

Rights are established and exercised only when there is a mechanism for remedial action. In compliance with the provisions of the Convention, the right to equal treatment before the courts and other institutions administering justice is fully ensured by the judicial system in Nepal.

The Constitutions of the Kingdom of Nepal guarantees the right of remedy through exercise of ordinary and extraordinary jurisdiction. There are 16 courts of appeal and 75 district courts covering every administrative unit in the country. Every person has the right of access to these courses without discrimination on grounds of caste, race, sex, religion and so on.

Besides the judiciary whose task it is to safeguard the human rights of citizens, a Human Rights Commission has been set up as an independent statutory institution for the promotion and protection of human rights in Nepal. The Commission and other institutions have to play similar roles in protecting and enforcing human rights without discrimination of any kind.

Participation of all sections of society is fundamental to instituting and strengthening the democratic process. The rights of every eligible citizen to participate in political and civil life are guaranteed by the Constitution and other laws. The right to move freely within the country and the freedom to practise any profession or to engage in any occupation, industry or trade are guaranteed. Other aspects of civil liberties and freedoms, such as the right to free choice of spouse, the right to own, use and dispose of property and the right to nationality are guaranteed under the law.

Free access to public transportation and places of public utilities is legally guaranteed. However, in some cases, there exist some forms discrimination based on caste.

*Article 6 of the Convention and State obligations*

All citizens are entitled to have their rights and basic freedom enforced. The Constitution stipulates remedial measures for citizens whose rights and freedoms have been violated. The present report discusses the compensatory mechanism provided for by law in case of human rights violations:

(a) The Constitution of the Kingdom of Nepal of 1990 guarantees human rights to all citizens. Articles 23 and 88 of the Constitution provide for the right of citizens to invoke extraordinary jurisdiction of the Supreme Court for effective remedies against violations of human rights. In exercising extraordinary jurisdiction the Supreme Court may issue habeas corpus, *cetiorari*, *mandamus*, *quo warranto*, prohibition and other necessary writs and orders;

(b) The Act relating to Compensation against Torture of 1996 authorizes district courts to hear cases of alleged torture and to award compensation.

The National Civil Code authorizes the District Court to hear cases relating to discrimination and sentence the offender for a term of up to one year in prison or impose a fine on him if found guilty. Despite their legal provisions there exist some instances of discrimination in Nepalese society. Cases of caste-based discrimination have not yet been

totally eliminated. Public opinion is in favour of awarding compensation to victims of discrimination, as punishment has proved insufficient to offenders. The Government is aware of this situation and is seriously thinking of ways to address it.

The report outlines the role of the Human Rights Commission in hearing cases of discrimination which constitutes a violation of the human rights of citizens.

*Article 7 of the Convention and State obligations*

Nepal is committed to the principle of social justice and human rights. Measures aimed at positive discrimination have been implemented in the areas of communication, information and education with a view to giving effective enforcement to human rights. School and higher education curricula have been revised to inculcate and reinforce values and norms against discrimination. Human rights as a subject has been included in the training of law enforcement official.

**Summary of the Government's response to the concluding observations of the Committee on Nepal's fourteenth period report**

Nepal is thinking of reconsidering its reservation to the provisions of the articles 4 and 6 of the Convention. At the time when the fourteenth report was submitted, the Human Rights Commission Act was passed. The Commission, which was set up in May 2000, is engaged in promoting and protecting human rights as stipulated by the provisions of the Act. An assessment of the activities of the Commission shows that it is active in promoting and protecting the rights of citizens. A total of 528 complaints have been filed with the Commission, of which 255 relate to civil and political rights, 15 to socio-economic rights and 7 to civil service, the remaining 81 complaints being mixed. Investigations have been completed in almost 150 cases and the Commission is looking into complaints relating to caste-based discrimination.

The Government allocates 500,000 rupees a year to village development committees – local government units at the lowest level whose task it is to plan and implement projects benefiting women and disadvantaged groups.

The report discusses the situation of Bhutanese refugees in the country, and describes the cooperation and support extended to Nepal by the Office of the United Nations High Commissioner for Refugees and other donor nations with regard to refugees living in the different camps of eastern Nepal.

The report mentions the training provided to law enforcement officials, placing emphasis on the provisions of the Constitution relating to equality in the training curricula.

In the course of preparing the present report, consultations have been held with all stakeholders concerned and their inputs and opinions have been incorporated therein.



## **Introduction**

1. Human beings are born free and equal in dignity and rights. Human rights are protected and enforced in a social and political environment supportive of the notions of equity and respect among communities and human persons. Equality and fraternity are fostered in a social milieu in which community members respect each other and social discriminations and exploitations do not persist. In this milieu recognition is given to the inherent dignity and equal and inalienable rights of all members of the human family to freedom, justice and peace, and any doctrine of racial differentiation or discrimination is considered prejudicial to human dignity and freedom. The United Nations adopted the Universal Declaration of Human Rights in 1948. Affirming the principle of the inadmissibility of discrimination and the dignity and worth of the human person, the United Nations in 1965 adopted the International Conventions on the Elimination of All Forms of Racial Discrimination. Nepal ratified the Convention in 1971. For the last thirty-two years, the Convention has been implemented in the country. Under article 9 of the Convention, States parties undertake to submit every two years to the Committee on the Elimination of Racial Discrimination reports for consideration and examination on the legislative, judicial and administrative measures they have undertaken to implement the Convention.

2. Nepal had been submitting reports to the Committee on a regular basis two years after it ratified the Convention and continued to do so till 1986. From 1986 to 1996 reports could not be submitted due to various reasons. However, a consolidated report combining the ninth to thirteenth periodic reports was submitted to the Committee for consideration in 1997. In 1998, the fourteenth periodic report was submitted to the Committee. A consultation exercise has been carried out in connection with the preparation of the present Report. The exercise pertaining to the preparation of the report has been undertaken by a drafting committee constituted under the auspices of the Ministry of Local Development of His Majesty's Government of Nepal.

## **I. COUNTRY PROFILE**

### **A. Geophysical characteristics**

3. Nepal is a landlocked, mountainous country situated between China in the north and India in the east, west and south. It lies between 26° 22' N and 30° 27' N latitude and 80° 4' E to 88° 12' E longitude. It has a land area of 147,181km<sup>2</sup>, with an average length of 885km, east to west, and a width of 193km north to south.

4. The altitude rises from about 70m from sea level in Terai, the southern plain, to 8,848m in the high Himalayas to the north. It has a tremendous altitude variation, with a wide range of topography and climates, ranging from the subtropical to the alpine. The annual rainfall ranges between 1,154mm and 3,620mm.

5. Topographically, Nepal is divided into three belts: the Mountains, the Hills and the Terai. The Mountains, covering 35.21 per cent of the total area, in the north of the country, rise between 4871 and 8848 metres above sea level. The population of this region is thinly scattered and there is a considerable seasonal migration to the southern part of the country during the severe winter.

6. The Hills cover 41.68 per cent of the total area. Their height varies between 900 and 3000 metres, lying between the Himalayan region in the north and Mahabharat range in the south. There is a great pressure of over population on the limited land resources in the hilly region.
7. The Terai covers 23.11 per cent of the total area. The Terai region (Madesh) lies south of the foothill adjoining the plain of India. The maximum height is 305 metres. More than half of the Terai is made up of forests. The Terai is hot and humid, but it is a fertile and a food surplus area.
8. For administrative purposes, the country is divided into 5 development regions and 75 districts. These districts are further subdivided into 58 municipalities and 3,912 Village Development Committees (VDCs).

### **B. History and political structure**

9. The history of modern Nepal begins only in 1769 A.D., when the founder of present-day Nepal, King Prithvi Narayan Shah, unified a number of small feudal states into a single State with the valley town of Kathmandu as its capital. Later in the beginning of the nineteenth century, the aristocratic rule of the Rana families emerged in the political history of Nepal. In 1846 A.D., following the Kot massacre, the Shah Kings, successors to Prithivi Narayan Shah, lost their power to the Rana Prime Ministers. It was the start of a 104-year Rana family oligarchy. Up to the middle of the twentieth century, Nepal was little known outside South Asia. During this period, the caste system was legalized in the old legal Code of 1853 A.D., whereby all social groups of Nepal were brought under four principal caste hierarchy, i.e. *tagadharai* groups (twice born groups wearing sacred thread) consisting of high caste groups; *matawali* groups (liquor-drinking group) mostly comprising non-Hindu tribal groups who were further divided into salvable and non-salvable group; groups who were considered touchable but from whom water cannot be accepted; and lastly, at the bottom of the hierarchy were the untouchable groups. This was a major setback against the pluralistic structures of Nepalese society. The legalization of the caste-based ideology not only guided the principle of governance, but also set the principle basis of social organization. It also stratified Nepalese society that excluded the majority of the Nepalese population from the national mainstream, the manifestations of which Nepal is still struggling to overcome.
10. The 104-year Rana rule ended after the popular peoples' movement for democracy in 1951. Then Nepal had a multiparty democratic political system and the first ever popular election on the basis of adult franchise was held in early 1959. An elected Government took power for the first time in the history of Nepal, but this experiment did not last long. On 15 December 1960, King Mahendra declared an emergency and introduced a party less *panchayat* system, dismissing the 19-month-old democratically elected Cabinet. A new Constitution promulgated in 1961 vested the sovereignty of the State in the Crown, from where all legislative, executive and judicial powers emanated. The King was thus placed in the center and at the apex of government machinery. The caste system was abolished legally in 1963, which also helped to reduce the magnitude of caste-based discrimination. The 30 years of the party less *panchayat* system could not foster peoples' aspirations for democracy and freedom nor did it provide room for the strengthening of the pluralistic forms of Nepalese society. The political rule was directed with monolithic and assimilationist approach to social integration.

11. As a result of a popular movement launched in 1990, the party less *panchayat* system was dissolved and a new, democratic Constitution was promulgated. A multiparty parliamentary system on the Westminster model was established with the King as head of State (Constitutional monarch), the Prime Minister responsible to the Parliament as the head of Government, and an independent judiciary. Parliament includes a House of Representatives of 205 members and a National Assembly or Upper House consisting of 60 members. The local government institutions are the District Development Committees (DDCs) at district level, municipalities at the town level and VDCs at the village level. Municipalities and VDCs are the lowest tiers of the local government system in Nepal.

12. The restoration of a democratic political system with constitutional guarantees of fundamental human rights has for the first time accepted the cultural pluralism of Nepalese society, declaring Nepal as multicultural Hindu kingdom. Nepal's 11 years of multiparty democracy has institutionalized the process of democratization in the country, and has opened up and widened the roles of civil society and the private sector in promoting good governance and human rights by strengthening the participation of all sections of the society into the national life.

13. Nepal has been facing socio-economic, cultural and environmental problems due to the presence on its territory of a large number of refugees from Bhutan. Nearly 100,000 refugees from Bhutan are lodged in seven camps in the eastern part of Nepal. They have been allowed temporary asylum on humanitarian grounds. The United Nations High Commissioner for Refugees and the International Red Cross are active in providing relief to the refugees. Nepal, in accordance with the policy it has adopted and guided by its international commitments, is of the opinion that no one must be rendered stateless. Therefore, HMG firmly believes that refugees must be allowed to return to their home country with dignity and their fundamental rights protected. A solution to the refugees' problems has been sought through bilateral talks. In fact a verification process, through moving at a slow pace, is under way. Its objective is to establish the identity of the refugees. To expedite the identification process, meetings at the ministerial level have been taking place, one such meeting having been held recently.

14. In recent years, Nepal has been facing problems in connection with the Maoist insurgency that started in the mid-western and mountain districts some five years ago. The resultant violence that was unleashed has claimed the lives of thousands of people in Nepal. This has adversely affected peace, stability, and the economy of Nepal. The Government initiated dialogue with the insurgents and three rounds of talks were held then. But the Maoist insurgents broke off the peace process and launched attacks on security forces. The Government proclaimed a state of emergency to quell the Maoist violence. The Government is committed to ensuring the restoration of peace, law and order, and to safeguarding the fundamental rights of the people.

### **C. Democratic features**

15. There has been a steady increase in the population of Nepal. In 1961, the population was recorded as 9.4 million and the figure increased to 15 million in 1981. According to the census of 1991 the total population of Nepal is 18.5 million, which means that the population has doubled in 30 years (1961-1991).

16. The preliminary census report of 2001 puts the country's population at about 23.2 millions, representing a growth rate of 2.27 per cent, or an increase of 0.19 per cent over the preceding inter-census period. The 2001 census also reveals a sex ratio of 0.947; average household size has fallen to 5.38 from 5.56 reported in the proceeding census (1991).

17. In terms of the three major topographical regions, the 1991 census recorded 7.8, 45.5 and 46.7 per cent of the total population in the Mountains, Hills and the Terai respectively. Currently, the urban population is estimated at 12 per cent of the total population. As details of the 2001 are yet to come, the following demographic features are based on a 2000 projection.

#### Number and percentage of population by sex and age

<i>Age group</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
0-14	4 737 493 (41.4)	4 535 978 (39.6)	9 273 471 (40.5)
15-64	6 314 777 (55.2)	6 505 036 (56.7)	12 819 813 (56.0)
65+	385 682 (3.4)	424 632 (3.7)	810 314 (3.5)
All ages	11 437 952 (100)	11 456 646 (100)	22 903 589 (100)

Crude Birth Rate (per 1000 population): 33.58

Crude Death Rate (per 1000 population): 9.96

Total Fertility Rate (per 1000 population): 4.3

Infant Mortality Rate (per 1000 population): 64.1.

#### D. Social and cultural characteristics

18. Nepal is a multi-ethnic, multireligious and multilingual nation exhibiting cultural diversity. Peoples of different caste and ethnicity and spatially distributed to all parts of Nepal, with some specific cultural groups being concentrated in some specific regions of the country since ancient times. Many groups are endogamous and perform distinct rites of passage and maintain various types of commensal and other forms of groups' exclusiveness. The caste hierarchy to some extent dictates social distance and social exclusion.

19. There are more than 100 caste/ethnic groups speaking numerous languages and dialects (see annex 1 (a) and (c)). The 1991 census has for the first time provided a list of 30 castes and 26 ethnic groups in Nepal. The caste groups include people of the Indo-Aryan origin and are ranked in accordance with the Hindu *Varna* system. These caste groups are from both the Hills and Terai origins. The ethnic groups of Nepal are mostly of Mongoloid origin who have their own language (mostly of Tibeto-Burman family) and distinct culture. They are identified as "Nationalities" (*janajatis*) indigenous groups of Nepal – and are spatially distributed to all ecological zones of Nepal. The Government has so far approved 59 ethnic groups as Nationalities of Nepal.

20. The Himalayan/Mountain Region of Nepal is home to many ethnic/indigenous peoples. It is inhabited by the mountain groups like *Bhote*, *Sherpa*, *Thakali*, etc. All the Himalayan people are Lamaistic and Buddhist, and their spoken languages are various Tibetan dialects. The "Gomba" monastery is the centre of all religious activities.

21. The Hill people are from both caste and ethnic groups. The major caste groups of the Hills are *Brahmin, Chhetri, Thakuri* and occupational caste groups (*Dalits*) like *Kami, Damai, Sarki*, etc. The major ethnic groups of the Region are *Tamang, Magar, Sunuwar, Rai, Limbu, Gurung, Jirel, Chepang*, etc. Among these Hill people, *Brahmins, Chhetris* and Occupational Castes (*Dalits*) are Aryan, while the rest are Tibeto-Burman/Mongoloid group. There is also a Hill Muslim group called *Churaute*.

22. The Terai of Nepal is also diverse in terms of caste and ethnic composition. *Bhraman, Kayastha, Yadav, Bhumihar, Rajput*, etc. are the major caste groups of Terai. There are also Occupational Castes (*Dalits*) like *Khatve, Kasai, Doshad*, etc. in the Terai as in the Hills. *Tharu, Dhimal, Rajbhanshi, Meche*, etc. are the major ethnic groups of Terai. Muslim and Bengali are some of the other groups of this region.

23. Nepal is home to numerous languages and dialects. There is no consensus on the number of languages and dialects; suffice it to say that more than 40 languages and dialects are spoken. If spatial and ethnic dimensions are taken into account more than 100 variants can be identified (see annex VI). Nepali is the lingua franca of the nation, is spoken by the majority of population and is the official language. However, various groups speak their own mother tongues in their everyday life.

24. Nepal, though declared a Hindu kingdom constitutionally, is home to diverse religious practices and faiths. The majority of the population (about 86.5 per cent) are reported to be Hindus; other religions groups are: Buddhists (7.8 per cent), Muslims (3.5 per cent), Kiratia - form of animistic practices - (1.7 per cent), Christians (0.7 per cent) and other (0.2 per cent) (see annex VII).

25. Hinduism as the main ideology of the rulers in the different historical periods of Nepal and the legalization of Hindu ethos in 1854 has established Hindu caste system as a deeply-rooted element of Nepalese social structure. It is so much so that the originally non-caste ethnic groups today often define themselves in terms of caste. The Laws of *Manu* (Ca. fifth century A.D.) is considered the source of all subsequent codes and laws pertaining to the caste system. It is also believed that the consolidation of laws began as early as 1500 B.C. The medieval Nepali rulers as well as the rulers of the modern period (e.g. Prime Minister Jung Bahadur's Country Code of 1854) drew heavily from the Laws of *Manu (Manusmriti)*. Jung Bahadur's codification of the earlier oral as well as written traditions into strict legal codes can be seen to have very strong bearings on the contemporary Nepalese social structure. The classical four-tier hierarchy (*Brahmin, Kshetriya, Baisya and Sudra*), somewhat modified and applied to Nepalese society, manifested itself in a corresponding economic hierarchy. Thus, the *Sudras* (although the term 'Sudra' has also broader connotations including the originally non-Hindu ethnic groups), today's Dalits, occupy the lowest socio-cultural and economic status among all the categories of people in Nepalese society.

26. Over the centuries, Hinduism as a dominant cultural ideology (religion) has been a State ideology effectively subsuming other religions notably Buddhism, animism, shamanism and the Kiranti religion. Today, we understand these historical milieus and we are trying to rectify these by interventions that are possible within a democratic framework. These include: religious freedom, prohibition of discrimination on grounds of religious faith and practices, and promotion of religious tolerance and harmony.

27. Nepalese society is overwhelmingly patriarchal and therefore male dominated. Almost in all caste/ethnic groups there is a son preference system. Sons are highly valued over daughters and are thus given preference in education and other opportunities. Relatively egalitarian gender relations can be observed among the Tibeto-Burman ethnic groups in which women play significant roles in household decision-making. Pervasiveness of patriarchal ideology means that only sons can inherit their father's property. In the past couple of years this issue (equality in property rights) has been mooted very strongly as a result of the amendment to the National Civil Code, which has been ratified by Parliament. The law recognizes women as co-partner in the property inheritance.

#### **E. Economic overview**

28. Nepal is an agrarian country, and agriculture is still the backbone of Nepalese economy. Agriculture contributes more than one half of the household income, provides employment to over 70 per cent of the economically active population (which was 81 per cent in 1990), and has a significant bearing on the manufacturing and export sectors.

29. The Government has adopted a liberal, open and market-oriented economic policy aimed at achieving sustainable economic growth, poverty alleviation and reduction of regional imbalances, and at the same time maintaining macro-economic stability. Some structural and economic changes have taken place in the national economy during the current fiscal year. This year, gross domestic product (GDP) (at factor cost at the constant price of 1984/85) has recorded a growth rate of 5.8 per cent. Agriculture and non-agriculture sectors are expected to register a growth rate of 4.0 per cent and 6.9 per cent, respectively. As for the last fiscal year, GDP grew by 6.4 per cent, of which agriculture and non-agriculture sectors posted a growth rate of 5.0 per cent and 7.4 per cent, respectively. During the fiscal year, community and social services recorded a growth rate of 16.4 per cent. This, on the one hand, contributed to achieving a higher GDP growth rate and, on the other, its relative contribution to GDP increased considerably (11.8 per cent), second only to the agriculture sector. As a result, the contribution of the agriculture sector declined to 38.1 per cent and that of non-agriculture increased to 61.9 per cent. GDP per capita of Nepal is US\$244.

30. Poverty remains entrenched in the rural agricultural households. The proportion of the population living under the poverty line was estimated to 42 per cent at the beginning of the Ninth Plan (1997-2002). The Plan aims at bringing down this proportion to 10 per cent by the end of the fiscal year 2016/17 by gradually raising the living standard of poor people. The measures to be taken to alleviate poverty include: developing the social and economic infrastructure in underdeveloped areas, empowering the weaker and less developed sections of the society, carrying out various programme targeting people lacking access to productive and income-generating jobs and enlisting the participation of these people in the process.

31. Even with these programmes, we have not been able to reduce the incidence of poverty as planned. By the third year of the Ninth Plan, the poverty level is estimated to have been reduced to 38.05 per cent. The employment rate is estimated to have grown at a rate of 2.72 per cent in 1999/2000. Nevertheless, poverty reduction has not been achieved as planned. Some of the reasons for this include: low economic growth rate, stagnant productivity in agriculture, lack of proper mechanism to allow the benefits of economic growth achieved in the non-agriculture sector to trickle down to the rural poor, limited access of the poor to the social services such as health, education, drinking water. Inability to curb the population growth rate,

inadequate rural infrastructure and ineffective public expenditure management have also adversely affected our efforts aimed at poverty alleviation.

32. The general poverty situation is also reflected in the proportion of underemployed labour force. With the current population growth rate, around 300,000 strong labour force enters into the labour market each year, and the most recent economic survey shows that of the total number of those employed, 47 per cent is underemployed, most of whom being dependent on agriculture.

33. Young people from some ethnic groups are employed as regular soldiers in the armies of countries such as India and Britain. In addition they have been also employed in the Singapore Police and as security people in Brunei Darussalam. The tradition goes as far back as the British imperial days (early nineteenth century). Because of the remittances they receive some of these groups are relatively better off in terms of their household incomes and education.

34. An increasing number of Nepalese young people are also engaged in civilian jobs abroad. In the fiscal year 1999/2000, a total of 34,591 Nepalese workers went abroad for employment. During the first eight months of the fiscal year 2000/2001, 25,840 went abroad for employment.

35. In an agrarian society like Nepal, land is the most important source of livelihood. The landholding size of the household also correlates with social, economic and political entitlements of the family members. Only about 18 per cent of the total land area of the country is comprised of agricultural land. The per capita land holding is 0.14 ha and 69 per cent of landholding is less than one hectare. The bottom 40 per cent of the agricultural households operate only 9 per cent of the total agricultural land area, while the top 6 per cent occupy more than 33 per cent. Disparity in landholding pattern among the different groups of Nepal, a product of the land tenure pattern of the past (particularly before 1950s), is recognized as one of the major causes of economic and social inequalities in Nepal.

36. Despite a number of efforts in the past, beginning from the abolishment of the *Birta* system (land grant) and the initiation of the land reform programme in the mid-1960s, people belonging to the higher caste groups tend to own more land. Ethnic groups taken as category own less land (in terms of mean value) than the higher caste groups taken as a group. The low caste groups (Dalits), as a category, own the least land among the three major caste/ethnic categories.

37. For an economy which is still heavily dependent on subsistence agriculture land is not only the most important means of production, it is also an important determinant of social status. The Government understands this and, more recently (August 2001), has once again shown its determination to initiate bold land reform measures. The Government has prioritized land reform as a primary and urgent agenda for social justice and development. Recently a bill has been initiated in the House of Parliament for a progressive land reform in the country.

38. There are certain groups of people that are most adversely affected by poverty. For example, the Dalits (traditionally defined as untouchable, low caste people and estimated to be around 4.5 million) still occupy the bottom rung of the economic hierarchy. Also, there are many ethnic (nationalities) and minority groups worst affected by poverty.

39. Poverty reduction programme specifically targeted at these groups are being launched. The Government in more recent years has become more sensitive to the plight of these groups.

40. HMG has prepared an Interim Poverty Reduction Strategy Paper. The paper includes an elaborate working plan and a three-year economic and policy statement on poverty reduction emphasizing the following strategies:

- (a) Broad-based economic growth;
- (b) Social sector development;
- (c) Targeted programme to empower the socially and economically marginalized and oppressed peoples.

#### **F. Social development trends**

41. Notable progress has been achieved in the areas of education and health. School attendance in general, especially by girls and children from disadvantaged groups, has increased noticeably. However, today, we accept that because of our socio-cultural and historical legacy and the ineffectiveness of the interventions to reach the target population, it can be observed that the majority of the disadvantaged groups have been left behind in economic and social development. In relative terms, these groups, particularly the human development index for Dalits, have not improved much in areas like education, health (life expectancy), morbidity, infant mortality, etc. Similar situations exist for most of the ethnic groups of Nepal. Gender disparities in human development have not been reduced by much.

42. We realize that participation of the various groups in different sectors of governance is not that satisfactory. For example, political participation of some of the caste/ethnic groups is very low (see annex XI). The term "caste" here refers to the Dalit group. For example, in the House of Representatives, the members of which are elected through popular election, Dalit representation is nil (the estimated Dalit population is 20 per cent of the total population of Nepal). The Upper House of Parliament (the National Assembly) has four Dalit members, one of whom recently (August 2001) became the Vice-Chairman of the Upper House. This is a welcome development in terms of political participation.

43. Similarly, there exists unequal participation of the different caste and ethnic groups in the civil service, Parliament and judiciary (see annexes XII and XV), which leaves one with the feeling that those communities not having equal participation in the national mainstream are discriminated against and marginalized. The Government is aware of this and is committed to redressing this imbalance.



### **Some important indicators for 1999**

HDI Rank: 129 out of 162 (154 in 1994);

- Life expectancy at birth: 58.1 years;
- Adult literacy rate: 40.4 (per cent age 15 and above);
- Combined primary, secondary and tertiary gross enrolment rate: 60 per cent;
- GDP per capita: US\$ 1,237;
- Life expectancy index: 0.55;
- Education index: 0.47;
- GDP index: 0.42;
- HDI: 0.480.

## **II. SPECIAL MEASURES RELATING TO SPECIFIC ARTICLES OF THE CONVENTION**

### **Introduction**

44. The International Convention on the Elimination of All Forms of Racial Discrimination is an important instrument, which has formally recognized the right of everyone to enjoy human rights without any discrimination. Nepal is committed to full compliance with the spirit of the Convention. Article 9 of the Convention provides that within one year after the entry into force of the Convention and thereafter every two years, State Parties are required to submit reports on the legislative, judicial, administrative or other measures adopted to give effect to the provisions of the Convention and the progress made in this respect to the Committee on the Elimination of Racial Discrimination (CERD). Nepal already submitted its fourteenth periodic report on 12 May 1999. Following the remarks and comments by CERD on that report, His Majesty's Government of Nepal (HMG/N) formed a Steering Committee under the chairpersonship of the Secretary of the Ministry of Local Development to prepare Nepal's fifteenth periodic report. A Drafting Committee comprising representatives from different ministries as well as from non-governmental organizations has also been formed. Prior to finalizing the fifteenth report, the Steering Committee and the Drafting Committee held consultations with the various stakeholders, and a national workshop to which representatives of the different communities were invited was also organized to discuss the proposed draft report. The suggestions and views put forward by the participants at the national workshop has further assisted in finalizing the present report. Their suggestions have been incorporated in the final version of the report. The present report has been prepared following wider consultations with various stakeholders and actors in the field.

45. Article 1 of the Convention defines "racial discrimination" as any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedom. Based on this definition, the activities and commitments of Nepal in relation to the Convention are described below.

## A. Article 2

46. The right to enjoy human rights without discrimination is one of the fundamental principles underlying the Nepalese legal system. The Constitution of the Kingdom of Nepal of 1990 (herein referred to as “the Constitution”), the fundamental law of the country, explicitly guarantees the norms of equality in our legal system. The Constitution provides guidelines in relation to the protection of human rights and contains both moral and legal obligations in this regard. The provisions of the Constitution envisage certain goals to be achieved the State. These provisions, especially those mentioned in the Preamble and Part IV of the Constitution relating to the principles and policies of the State, though they may not be enforceable at the courts of law do impose a moral obligation on the State to apply certain standards in the process of governance. Following is a brief description of those provisions.

### **Preamble to the Constitution of 1990**

47. The Preamble to the Constitution prescribes justice to all citizens, classifying justice into three categories, i.e. social, political and economic. Social justice means that all citizens must be treated equally, irrespective of their status in society, and all types of social inequalities and discrimination should be eliminated. Political justice entitles citizens to enjoy the fruits of democracy through wider participation of the people in the governance of their country by means of decentralization and promotion of general welfare. Economic justice requires putting in place arrangements for the equitable distribution of economic gains by preventing economic exploitation of any class or individual.

48. The fundamental norm of the Universal Declaration of Human Rights, namely, that “all human beings are born free and equal in dignity and rights”, has been accepted by the Nepalese Constitution by “guaranteeing basic human rights to every citizen” (preamble to the Constitution). The words stated above amply reflex the degree of commitment by Nepal to human rights in the context of Nepalese legal system.

### **Directive principles and policies of the State**

49. The directive principles and policies of the State outline the fundamental guidelines for the State, which it must strive to accomplish. Article 25 (3) of the Constitution sets the social objectives of the State as seeking to establish and develop the foundations of justice and morality, guaranteeing a healthy social life by eliminating all types of social and economic inequalities and establishing harmony amongst the various castes, tribes, religions, languages, races and communities.

50. Article 26 (2), which also relates to the International Convention on the Elimination of All Forms of Racial Discrimination, seeks to guide the State to pursue a policy of strengthening the national unity by promoting healthy and harmonious social relations amongst the various religions, castes, tribes, communities and linguistic groups and by helping in the promotion and protection of their languages, literatures, scripts, arts and cultures.

51. To translate moral obligations into reality, several provisions have been developed in the form of legislative instruments for fulfilling obligations concerning the elimination of racial discrimination. The prohibition of racial discrimination is one of the most fundamental principles set fourth in the Nepalese legal system. These legal provisions may be divided into two groups, namely constitutional and legislative.

### **Constitutional provisions**

52. Article 11 guarantees every citizen the right to equality before the law in accordance with the international human rights instruments. Article 11 (1) directs the State to treat its citizen equally and to ensure equal protection of the law to every person.

53. Article 11 (2) prohibits discrimination by the State against any citizen in the application of the general laws on grounds of religion, race, sex, tribe, ideological conviction or any other ground.

54. Article 11 (3) provides a further explanation of the general rule of equality by stipulating that the State shall not discriminate amongst citizens on grounds of religion, race, sex, caste, tribe, ideological conviction or any other ground. Apart from ensuring the right of citizens not to be subjected to any form of discrimination, this paragraph also prohibits the State from undertaking any such activity or action. Article 11, paragraph 3, contains an exception to the general rule against discrimination embodied in paragraphs 1 and 2 thereof. This paragraph enables the State to make special provisions by law for the protection and advancement of the interests of women, children, the aged and those who are physically or mentally disabled or those who belong to a class which is socially, economically or educationally disadvantaged. It also authorizes the State to take concrete or special measures to ensure adequate development as well as protection of the weaker sections of the society. Thus the need to actively involve the socially, economically and politically disadvantaged groups in the life of the Nepalese society is positively affirmed in the Constitution.

55. Article 11 (4) address the vices of the caste system still prevailing in Nepal at the social level. It provides Constitutional safeguards against the menace of discrimination, which would otherwise be practised extensively, especially in the more remote and illiterate sections of Nepalese society. It guarantees every one the right not to be discriminated against on any ground. Similarly, it provides that no person shall be denied on the basis of caste access to any public place or be deprived of the use of public utilities. Contravention of this provision is to be made punishable by law.

56. Article 18 (1) stipulates the cultural diversities of Nepal in terms of caste, ethnicity, creeds and religious beliefs, and ensures Constitutional protection to each community residing within the Kingdom of Nepal by guaranteeing them the right to preserve and promote their language, script or culture. Article 18 (2) guarantees each community the right to run schools up to primary level and to provide education to its children in its own language.

57. Article 19 guarantees every person the right to profess and practise his/her religion, with due regard to traditional practices. However, no person is entitled to engage in acts involving religious conversions. Article 19 (2) guarantees every religious denomination the right to maintain its independent existence. Article 20 (2) prohibits slavery, serfdom and forced labor in any form, which are punishable by law.

## **Legislative provisions**

### *Treaty Act, 1990*

58. The Treaty Act, 1990 under section 9, explicitly guarantees the implementation of the convention of treaty to which Nepal is a party. Section 9 (1) of the Act provides that “in the event that the provisions of a treaty to which the Kingdom of Nepal or His Majesty’s Government (hereinafter “HMG”) has become a party following its ratification, accession, acceptance or approval by Parliament conflict with those of domestic laws, the latter shall be held invalid to the extent of such conflict for the purpose of that treaty, and the provisions of the treaty shall be applicable in that connection as law of Nepal”. In other words, in case of conflict between the provisions of a treaty and those of the national law(s), the provisions of that treaty prevail. For this reason, the Government is bound to comply with its obligation(s) under the International Convention on the Elimination of All Forms of Racial Discrimination. For the treaty provisions to be applied, the contradictions, if any, have to be challenged before a competent court.

### *Civil Liberties Act, 1954*

59. The Act guarantees the right to equality and equal protection of the law in recruitments in the civil service, and prohibits any restrictions against any citizen on the basis of the religion, race, sex, caste or any other ground. The Act also provides grounds for affirmative action in favour of the socially and economically backward communities.

### *Legal Aid Act, 1998*

60. Due to traditional social practices and the existing wide gap between the “haves and have-nots” access to justice in Nepal has been an objective hard to realize. It is submitted that economically vulnerable groups are always in a disadvantageous position when asserting their legal rights. To remedy the existing situation, the Government has expressed willingness to create legal provisions governing the concept and administration of legal aid through the said Act and regulation thereof. Through this Act the Government sought to enforce the principle of equal justice for the economically underprivileged and other disadvantaged groups like Dalits, women and ethnic groups. The objectives of the Act are set out in the preamble as follows:

“The Parliament has enacted this law for the purpose of providing necessary legal aid to indigent persons who are incapable of protecting their rights and interests due to economic and social factors, in as much as it is essential to provide justice to everybody on an equal basis according to the principle of the rule of law”.

This Act has been enacted in compliance with the Constitutional obligation created by Article 26 (14), i.e. to pursue a policy of providing free legal aid to indigent persons for their legal representation in keeping with the principle of the rule of law. The Central Legal Aid Committee and the District Legal Aid committees are the two operative limbs created by the Legal Aid Act to administer legal aid services.

61. The above Constitutional provisions and legislative measures are in line with the spirit of article 2 of the Convention. Nevertheless, despite these Constitutional and legislative measures undertaken by HMG of Nepal, casteism is still widespread in Nepalese society. The ideology of caste still operates, for the large segments of the population, as a basis for social

relations. The Dalits are vulnerable to caste-based discrimination mostly in the rural areas of the country. Due to their remoteness, illiteracy, lack of legal awareness, ignorance, as well as traditionally conceived caste ideology, the Dalits are still subjected to caste-based discrimination. The implementation of the provisions of this Act has not been effective as expected. Realizing this weakness and concerned about the demands of the Dalit communities to be treated with full dignity in the society, the Government is committed to taking strong political, social, legal and administrative measures to end existing practices of untouchability in Nepal. On 16 August 2001 the Nepalese Prime Minister, Mr. Sher Bahadur Deuba, in a special statement of public importance made before Parliament announced that special measures to combat these inhumane practices will be undertaken by the Government.

62. Similarly, the Government is concerned with the issues of the nationalities and indigenous groups of Nepal who feel that their cultures, languages, symbols and identities had not received due recognition from the State in the past, and their aspirations to have their identities mainstreamed into the national life had been ignored. The Government is committed to protecting and promoting their cultures, religions, scripts, languages and accelerating their participation in the national mainstream. The Prime Minister announced on 16 August 2001 that an academy, vested with full authority, for the upliftment of the nationalities and indigenous peoples of Nepal will be formed. Accordingly, the Parliament passed the bill on the National Academy for the upliftment of Nationalities. A plan to establish socio-economic and political rights of women, oppressed groups like Dalits and ethnic and tribal peoples and to provide them with special protection for education and employment opportunities is being discussed.

63. The existing laws authorize the local/government institutions like VDCs, municipalities, the Office of the Chief District Officer, and the local police stations to take action against any person or groups practicing caste-based discrimination. Yet, incidents of caste-based discrimination against certain communities are still widespread. The lack of effective monitoring mechanisms and institutional support to these communities at the community level are some of the constraints that the State must address in order to eliminate all forms of caste-based discrimination. His Majesty's Government is committed to eliminating the existing caste-based discrimination from society by implementing social, economic, legal and other forms of interventions. The role of civil society is crucial in this regard, and positive results have been achieved by the advocacy/awareness programme and social mobilization measures to end caste-based discrimination at the society level.

#### *Local Self-Governance Act, 1999 (LSGA)*

64. Ensuring people's effective participation in the development process is a major challenge facing Nepal. As a result, the Government enacted the Local Self-Governance Act 1999, to institutionalize the process of development through wider participation including that of the ethnic communities, indigenous people and down-trodden as well as socially and economically backward groups. This Act seeks to achieve social equality by mobilizing and allocating means for the development of their respective region and through balanced and equal distribution of the fruits of development.

65. LSGA, under Section 8 (2) (c) and 172 (2) (e), calls for the nomination of women, individuals from socially and economically backward tribes, ethnic communities, down-trodden and indigenous people to the respective Councils of the Local Bodies. Sections 12 (2) (c), 80 (2) (d) and 176 (2) (d) of LSGA provide for the nomination of two members, including

one woman and another from backward groups, ethnic communities, down-trodden and indigenous people, to the Village Development Committee and the Municipality and District Development Committee. This provision has helped to increase the participation of women, Dalits and other marginalized groups in the local government institutions. Many NGOs are working to help in developing the leadership of the elected women in VDCs.

66. Under LSGA, Local Bodies are required to undertake activities for the benefit of women, backward communities, disabled persons, etc. The Act also requires that women and people from backward communities be included in the list of arbitrators set up to deal with small local disputes so that they may be represented on the arbitration board to be formed by the Local Bodies. The formation of arbitration boards can only be enforced through executive decision and after being published in the Official Gazette. The Government, however is yet to make such a decision. In the present scenario, even if a decision is made, the Local Bodies do not have the required trained personnel for the said purpose. This is because Local Bodies lack persons with legal background or knowledge. Hence, potential arbitrators have to be trained and briefed about the task to be entrusted to them. This task may be accomplished through the concerned departments and NGOs in liaison with the Ministry of Local Development. The Ministry of Local Development, DDC Federation, NGOs, etc. can be instrumental in developing the required human resources for the related activities of the Local Bodies.

67. The Village Development Committees and Municipalities in formulating their respective plans, are required to give priority to the projects providing direct benefits to women and backward groups. Yet, significant demand for development projects with limited resources at hand has been a key obstacle in attaining this priority. Further, the lack of expertise in formulating plans has also been a hurdle to achieving the desired results. There is a need to train the Local Bodies in plan formulation and appropriate allocation and utilization of resources. This could be achieved through assistance from governmental and non-governmental agencies.

### **Special measures adopted to develop socio-economic conditions and to mainstream the Dalits and Nationalities in Nepal**

68. Various factors have contributed to the prevalence of socio-economic disparities among castes and ethnic groups in Nepal. Despite almost four decades of development efforts, the human development index of Dalits and the majority of the ethnic groups are low compared to other groups. The majority of these groups are not at all involved in the decision-making process of the State, which is one of the major challenges in establishing good governance and achieving social justice in Nepal. Caste-based discrimination, as stated earlier, still persists. The Government has announced its commitment to overcome these evil practices by means of strengthening the voice of the communities suffering from dissemination, educating society and imposing tougher penalties on violators.

69. Following the restoration of multiparty democracy in 1990, the Dalits, Nationalities and other disadvantaged groups have had the opportunity to raise the issue of marginalization of their communities in a more open environment. Fostering of cultural pluralism and ensuring equitable participation in the national life is a precondition for good governance. HMG of Nepal is committed to the principle of good governance, which has also been directed by the Constitution. Despite the Government's sincere effort to ensure equitable participation, the representation of the targeted communities is not as expected. The Government has already acknowledged the need to revise its strategy. The policy announcement made by the Prime

Minister on 16 August 2001 is a welcome milestone in this direction. This announcement has been welcomed by various political parties and also by the Dalits' organization.

70. HMG of Nepal has initiated long- and short-time initiatives to address the issues of Dalits, Nationalities and other disadvantaged groups of Nepal. The census of 1990 for the first time recorded and made public the caste, ethnic, religious and linguistic composition of Nepal. Similarly, the Government constituted a National Committee for Policy on Cultures in 1992, a National Language Advisory Committee in 1993, and a Task Force for the Establishment of an Academy for Development of Nationalities of Nepal in 1995. The Government has approved the list of 61 ethnic/indigenous groups recommended by the Task force (see annex IV (a)).

71. His Majesty's Government of Nepal is committed to reducing the existing socio-economic disparities and has begun implementing special socio-economic intervention programme aimed at improving the living standards of the marginalized groups like Dalits, Nationalities and other disadvantaged groups. The Eighth Plan (1992-1997) had special socio-economic programme specially targeted at deprived groups including Dalits, Nationalities and others. The current Ninth Plan (1997-2002) has specific policies, strategies and programme for Dalits, Nationalities and indigenous peoples of Nepal. The details of the programme set out in the Ninth Plan for the development of the Dalits, Nationalities and other disadvantaged groups had been described in the fourteenth periodic report of Nepal.

72. The concept paper of the Tenth Plan (2003-2007) outlines that one of the three overall strategies of the Plan will be to implement poverty alleviation programmes specifically for women, the Dalits, Nationalities and other deprived groups of the country.

73. The process of institutionalization by addressing the social, economic and cultural issues of these groups has already been initiated to accelerate the participation of these communities in national mainstream. As for the spirit of "the Constitution of the Kingdom of Nepal and the programme addressed in the Ninth Plan, the Government has established a National Committee for the Development of Nationalities of Nepal hereafter ("NCDN") in 1998 under the Ministry of Local Development to mainstream the Nationalities of Nepal into national development process. NCDN is undertaking various activities such as research on different ethnic groups of Nepal, capacity-building of ethnic organizations, socio-economic activities, awareness-raising, training, scholarship for ethnic students in higher education, dissemination of the rights of indigenous people as enshrined in international instruments, cultural promotion, advocacy, etc. HMG of Nepal is committed to strengthening the institutional development of NCDN for social, economic and cultural development of Nationalities of Nepal.

74. His Majesty's Government of Nepal has introduced a bill for the establishment of an autonomous Academy for the uplifting of the Nationalities (*jana-jatis*)/indigenous communities. The bill on "National Academy for the Upliftment of Nationalities" was approved by Parliament at its twentieth session. The basic objective of this bill is to establish an independent national academy for social, economic and cultural development and uplifting of the nationalities. This affirmative action has been taken by the State in line with the proviso of article 11 (3) of the Constitution.

75. The Dalits of Nepal are the most marginalized and deprived group of Nepal, which has been subjected to caste-based discrimination from ancient times. Despite the legal abolition of the caste system in 1963, and the legal prohibitions of caste-based discrimination, they

continue to suffer from attitudinal discrimination in society. The persistence of a caste-based ideology in the day-to-day life of people has not been totally eliminated, especially in rural areas of the country. Casteism is a major social problem that still makes the Dalits vulnerable to attitudinal discrimination in society. Strong legal measures under the Constitution are taken against any individual or groups practising such discrimination. Nevertheless, due to the high level of illiteracy, lack of legal awareness, the legacy of caste-based traditions, social and economic inequalities among caste and ethnic groups, the lack of effective implementation and execution of legal provisions against caste-based discrimination, etc. casteism continues to be practised in many parts of the country. His Majesty's Government of Nepal is committed to implementing institutional, legal, social, economic and political measures to end caste-based discrimination prevalent in society.

76. The historical exclusion of Dalits from resources and the decision-making process has not only kept them outside the social, economic and political mainstream. But has also been a loss to the country in terms of their input to nation-building. His Majesty's Government of Nepal is committed to the socio-economic and political empowerment of Dalits. Besides strong legal measures, improving the socio-economic conditions of the Dalits is a must for ending existing attitudinal discrimination against them and their community.

77. His Majesty's Government of Nepal in 1998 established a National Committee for the Upliftment of the Depressed, Oppressed and Dalits Community under the Ministry of Local Development. The Committee is working under the executive order of the Government for the development of the Dalits. The Committee is undertaking various activities such as research, advocacy, income-generating and capacity-building programmes, as well as legal awareness programme, literacy and scholarship programme, networking of Dalit organizations and NGOs/INGOs, interactions with HMG ministries and officials, National Planning Commission, Human Rights organizations, parliamentarians, scholars, etc. It was through such interaction and consultations that separate and comprehensive legislative measures were felt necessary to eliminate this social evil from every corner of the society, especially by Dalit and human rights NGOs. To fill this gap a draft bill on "Upliftment and Protection of Dalit Community" is being prepared at the government level incorporating almost all the suggestions and recommendations provided by Dalit and human rights organizations. The Government plans to introduce this bill at the current parliamentary session. The objective of this draft bill is to promote, uplift and protect the socially, politically, economically and educationally backward Dalit community. The commitment of the Government to the uplifting of the Dalits of Nepal has been mentioned earlier in the present report.

78. Many INGOs and NGOs are actively involved in different parts of the country for development of Dalits and other disadvantaged groups. As stated earlier, Local Bodies like DDCs, Municipalities and VDCs are also responsible for promoting the participation of the communities in the development process. The Government is working in close consultation with the Nepal Federation of Nationalities and Organizations of Dalits to formulate policies, plans, programme and legislation for the development of Nationalities, oppressed and down-trodden groups of Nepal. HMG of Nepal is committed to providing all necessary support and to working in partnership with civil society and local government institutions in consolidating their efforts to end existing discrimination based on caste, race and ethnicity.

79. Despite the socio-economic measures adopted and implemented by the State for poverty reduction in the Ninth Plan, no significant changes have been observed in the living conditions of the poorer sections of the population. There is still a lack of adequate and



effective socio-economic measures for the uplifting of the Dalits, Nationalities and other minority groups of Nepal. Equitable distribution of resources and equal participation are necessary for ending socio-economic disparities, a goal to which the Government is firmly committed.

### **B. Article 3**

80. His Majesty's Government of Nepal does not have public policies of racial segregation or apartheid, nor does it promote such policies. Similarly, the Government does not have public policies which favor or incite discrimination or reparation resulting from such policies.

### **C. Article 4**

81. The Constitution and legal provisions in Nepal prohibit all forms of discrimination. The National Civil Code explicitly prohibits any sort of discrimination on the basis of caste, denial of access to public places and public utilities and also prescribes penalties for violators of this provision. Nevertheless, as stated earlier, caste-based discrimination still persists in Nepalese society.

82. The government has already made its commitment (announcement of 16 August 2001) that it will no longer tolerate such discrimination and that violators will be severely dealt with. Apart from the courts and government institutions, the Human Rights Commission, NGOs and other organizations can also assist the Government in achieving this objective.

83. All legal measures are in place to curb propaganda and organizations which are based on ideas or doctrines of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form. Further, public authorities and institutions are not allowed to disseminate ideas based on racial superiority or hatred, to incite racial discrimination, or to commit or incite others to commit any act of violence against any race or group of persons of another colour or ethnic origin. There is no provision of assistance, including financial assistance, to racially prejudicial activities. The present Constitution does not allow His Majesty's Government to sponsor, defend or support racial discrimination by any person(s) or organization(s). The Constitution, in article 112 (3), has empowered the Election Commission to withhold recognition from any political organization or any party which has been formed on the basis of religion, community, caste, tribe or region. The provision is in line with the spirit of article 4 of the Convention.

### **D. Article 5**

84. The right to equal treatment before the tribunals and all other organs administering justice is fully ensured by the Nepalese Constitution. The Constitution guarantees a fair trial for everyone in accordance with internationally accepted norms and practices.

85. Nepal accepts that if justice is not freely, fully and impartially administered, no rights can be protected. Therefore, under article 23, the Constitution guarantees the right of every person to legal remedy. The preamble of the Constitution calls for the establishment of an independent and competent justice system. The Supreme Court is the highest court in the Nepalese judicial system having two types of jurisdiction – ordinary and extraordinary. In addition, there are 16 appellate courts and 75 district courts covering every administrative unit

of the country. Every person has the right of access to these courts without any discrimination on grounds of caste, race, sex, religion, etc. The proceedings of the Courts and other institutions administering justice are transparent and open to the public.

86. Geographical remoteness from district centres where the courts are located, and the inadequate institutional support for the poor, illiterate and rural population may sometimes hinder the easy accessibility of legal services to the people. To remedy this situation the Government has, through LSGA, assigned certain dispute settlement rights to the local-level institutions to resolve local disputes (13 types) through the process of mediation and arbitration by forming three-member mediation committees. The Act has ensured the participation of the Dalits, women and indigenous groups in the mediation committees. The effectiveness or the impact of the mediation committees is yet to be assessed.

87. Article 14 (1) of the Constitution explicitly states that no person may be punished for an act which was not punishable by law when it was committed, nor may any person be subjected to a punishment greater than that prescribed by the law in force at the time of commission of the offence. Any person held in preventive detention shall, if the detention is contrary to the law carried out in bad faith, have the right to be compensated in a manner prescribed by law.

88. Every person, irrespective of race, caste, colour or ethnic origin has the right to security and protection against violence and bodily harm, whether inflicted by government officials or by any individual group or institution.

89. Apart from the right to constitutional remedy stipulated in article 23, there are other ways of ensuring human rights. For example, the establishment of the Human Rights Commission is one of the major achievements made after the submission of the fourteenth periodic report to CERD.

90. Besides the judiciary and the Human Rights Commission, there are other organs which deal with the activities relating to the protection of human rights. The Foreign Relations and Human Rights Committee of the House of Representatives and the Committee on Social Justice of the National Assembly are entrusted with the task of monitoring, evaluating and analyzing the situation of human rights in the country. These Committees discuss human rights issues from different perspectives and then make recommendations and suggestions to their respective Houses. They also examine the policies pursued by the Government and issue directives accordingly. They organize workshops and seminars from time to time, inviting human rights experts and others to assess public and expert opinion regarding social evils prevailing in the Nepalese society and submit the outcome documents to the two Houses of Parliament. These parliamentary committees have been effective in monitoring the activities of the Government and issuing directives whenever necessary. There are instances where the Committees have also dealt with isolated individual cases.

### **1. Civil and political rights**

91. Political participation of all sections of society is fundamental to a democratic process. The right of every eligible citizen to participate in political and civil life is guaranteed by the Constitution and other laws. Article 47 of the Constitution clearly states that any citizen of Nepal having attained the age of 25 years is eligible to run for the election to the House of Representatives. The Law on the Election of Members of the House of Representatives, 1990

provides that every citizen has the right to vote if he or she has attained 18 years of age. It is guaranteed that no eligible person may be deprived of his right to political participation.

92. The Local Bodies Election Procedure Act, 1991, makes provision for the nomination of women, Dalits and members of other minority communities as candidates at the DDC, Municipality and VDC level elections to ensure their representation at the local level. As a consequence, their representation at the local level has increased,

93. Any political party or organization contesting the election to the House of Representatives must nominate at least five per cent of women candidates of the total number of candidates nominated by that party or organization (the Constitution, article 114). This Constitutional provision has ensured the representation of women in the House of Representatives. As a result, in the present House of Representatives, out of 205 members 12 are women. Similarly, there are 8 women MPs in the Upper House. Though the present representation may seem insignificant in numerical terms, it is a good start. Apart from other issues of national importance, their presence has also been helpful in drawing the attention of the Houses of Parliament to women's rights and issues. But for the other disadvantaged groups, there is no system of nomination. It therefore depends entirely upon the conscience of the respective political parties to nominate such candidates in the elections. Yet, there have been positive developments in this regard. For instance, the Chairperson of the Upper House is from a minority community and the Vice-Chairperson of the Upper House, for the first time, has recently been elected from Dalit community. Similarly, the Deputy Speaker of the House of Representatives is a women and belongs to a minority community. The political parties have to give serious thought to nominating more candidates from these communities so that their voice may be heard at the national level and also to include them in the mainstream of national politics.

94. The right to a nationality is guaranteed by Nepal Citizenship Act, 1964. This Act ensures that every person who has his/her domicile in Nepal is eligible for citizenship by birth, irrespective of race, caste, religion, creed, ethnicity or colour. A foreign woman married to a Nepalese citizen is also eligible for citizenship.

95. Article 12 of the Constitution is the fundamental legal provision which guarantees the civil rights of every citizen in Nepal. It guarantees the following freedoms:

- (a) Freedom of opinion and expression;
- (b) Freedom to assemble peacefully and without arms;
- (c) Freedom to form unions;
- (d) Freedom to move throughout the Kingdom and reside in any part thereof;
- (e) Freedom to practise any profession or to engage in any occupation, industry or trade.

The rights enumerated above are not absolute, and are some restrictions are attached to them. The basic rationale for imposing restrictions on such civil rights is to maintain harmonious relations among the people of the various castes, tribes or communities. These are reasonable restrictions which are accepted in any democratic country. But the Constitution

does not authorize the State to impose restrictions on the basis of caste, religion, race, creed, etc.

### **Right to marriage and choice of spouse**

96. Every mature person has the right to choose his/her partner for marriage. For this purpose, the legal age of marriage without parental consent is 21 for males and 18 for females. With parental consent, the marriage age is 18 for males and 16 for females. The free will of the future spouses is given due importance. But in remote parts of Nepal, the right to free choice of spouse is violated. This is due to prevalent defective value system of the society and to illiteracy. This situation gives rise to different forms of exploitation of the right of the girl child. The State is committed to putting an end to this faulty system and to establishing a more healthy society.

97. To guarantee the right to free choice of spouse, marriage by registration system has been introduced for those who have attained the marriageable age. Interested persons may register their marriage application and obtain a certificate of registration of marriage from the District Administration Office. This system is applicable to everybody without any discrimination based on race, caste, religion, ethnicity or creed.

98. The right to own property alone as well as in association with others is guaranteed by article 17 of Constitution. This article states that all citizens have the right to property subject to existing law which covers the right to acquire, own, sell and dispose of such property. The State is also directed to secure the right to property through article 25 of the Constitution, which envisages the principal objective of the State as promoting conditions of welfare on the basis of the principles of an open society by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the life, liberty and property of the people. The State's fundamental economic objective is to transform the national economy into an independent system by preventing the country's available resources and means from being concentrated in the hands of a small section of society, and by making arrangements for an equitable distribution of economic gains, thereby promoting social justice. The right to property inheritance is guaranteed by Country Code 1964 (*Muluki Ain*).

## **2. Economic, social and cultural Rights**

99. The right to work, to free choice of employment, to just and favorable conditions of work and equal pay for work of equal value is guaranteed by the Nepalese legal system. Article 12 (2) (e) of the Constitution ensures that everyone has freedom to practise any profession, or to engage in any occupation, industry or trade. Article 11 (5) of the constitution guarantees "equal pay for work of equal value". Despite the legal provisions concerning equal pay, frequent grievances are heard of the non-application of this principle by the private sector. The Government stands firm in its commitment to the principle of equal pay for work of equal value without any discrimination as to sex, race, caste, religion, ethnicity or creed.

100. *Kamaiya* system of labour was the major social problem practised in some parts of Nepal. Given that the Constitution does not prohibit human exploitation of any sort additional legal provisions were made in conformity with the principles and provisions of Constitution. In spite of these constitutional and legal arrangements, *Kamaiya* system of labour continued. The principal victims of this exploitative system were Tharus, the indigenous groups of Terai regions from the western and westernmost parts of Nepal. This form of labour system, apart

from being exploitative, was also a source for bonded labour. The Government, considering the above-mentioned facts, emancipated all *Kamiayas* by cancelling their loans taken from the landlords and abolished this exploitative system, beginning in July 2000. The Government has already implemented the Bonded Labour (Prohibition) Act, 2002.

101. His Majesty's Government of Nepal is implementing a special package programme to rehabilitate as well as to provide socio-economic support to the former *Kamaiya* families with assistance from different INGOs, bilateral organizations, human right organizations and other NGOs. Land has been distributed to 9,378 families out of 13,259 freed *Kamaiya* families. Special measures are also being undertaken to address the problems of women and children of the freed *Kamaiya* families.

102. His Majesty's Government of Nepal is concerned with the issues raised by the ex-British Gorkha Soldiers of Nepal who have served as an integral part of the British Army. British Gorkha is an important source of employment for many groups of Nationalities/indigenous communities of Nepal. They have been serving in the British Army since 1947 and have been universally acclaimed for their honesty, dedication, efficiency and bravery. The Government of Nepal is concerned with the issues of unequal treatment faced by the British Gorkha soldiers, and has already received the report of the Foreign Relations and Human Rights Committee of the House of Representatives on the British Gorkha soldiers. The Government is trying to solve this problem through diplomatic and bilateral measures with Her Majesty's Government of the United Kingdom.

103. The right to form and join trade unions is guaranteed by article 12 (2) (c) of the Nepalese Constitution as well as Section 6 (3) of the Civil Liberties Act. Under article 112 of the Constitution, citizens have the freedom to form and run political organizations or to associate themselves with the parties of their choice. Restrictions may be imposed on this right on the ground of a genuine threat to the sovereignty and integrity of the country or to public order or morality.

104. Article 26 of the Constitution directs the State to pursue policies that will raise the peoples' standard of living through the development of health, education, housing and employment opportunities. The State has recognized the right of every person to the enjoyment of the highest attainable standard of physical and mental health.

105. Cultural diversity is the fabric of Nepalese society; the protection and promotion of the cultures of the different communities has been the responsibility of the State. The Constitution of the Kingdom of Nepal guarantees the cultural rights of the different cultural groups of Nepal. The State has adopted a policy of promotion and protection of the cultures of the different ethnic groups. The National Committees for the Development of Nationalities is playing an important role in promoting and preserving the cultures of nationalities. The Constitution guarantees the rights of cultural groups to form organizations in order to preserve and promote their cultures. Various organizations of the nationalities are actively working in different parts of the country. His Majesty's Government is committed to protecting and promoting the cultures of the different ethnic and other groups and to mainstreaming their culture symbols and values into the national life.

106. The Constitution of Kingdom of Nepal recognizes the different languages of Nationalities as national languages of the country. The Government is pursuing a policy aimed at promoting the national languages of the different communities of Nepal. The Government in

line with the spirit of the Constitution and the recommendations of the National Advisory Committee for National Policy on National Languages is broadcasting national news in nine National languages, and there are regional radio programme in national languages broadcast by Radio Nepal. Similarly, the cultures of the different groups have been promoted through Nepal Television, Radio Nepal and other mass media outlets. The Government is committed to preserving and promoting the national languages of Nepal.

107. The Royal Nepal Academy promotes the works of literature and arts of the different ethnic communities by publishing dictionaries in their languages, and steps are being taken to establish a national ethnographic museum.

108. Article 26 (9) of the Constitution proclaims that the State shall adopt policies in matters of social security for the protection and welfare of orphans, helpless women, the aged and the disabled. Allowances to widows and the elderly have already been initiated. At the local level, elected bodies like DDCs, Municipalities and VDCs are required to initiate and implement programme in the area of social security.

109. Article 26 (9), spells out the policies to be adopted in respect of promoting education. In the context of implementing education policies, Nepal has declared basic education for all as a fundamental goal and school education has now been made free. For this purpose, textbooks up to the fifth standard are also given to students free of charge. Similarly, vocational training has been provided to vulnerable groups. However, due to resource constraints it has been difficult to provide training facilities to the needy groups of people. A scholarship programme for children of the Dalits at the primary school level has been implemented in all districts of Nepal. At the higher education level, four seats with scholarship for the Dalits and ethnic students are reserved in the Institute of Medicine and Institute of Engineering.

110. Article 18 (2) of the Constitution entitles each community to operate schools up to the primary level in its own mother tongue. The Government is committed to supporting the constitutional right of children to be educated at the primary level in their mother tongue. For this purpose, the Government has developed primary school textbooks in nine national languages, and is also planning to organize training programmes for teachers on national languages and to facilitate the teaching of primary education students in their mother tongue.

### **E. Article 6**

111. All citizens have the right to have their human rights enforced. Articles 23 and 88 of the Constitution stipulate remedial measures for the citizens whose rights have been violated. The Supreme Court of Nepal has been vested with ordinary as well as extraordinary jurisdiction for the protection of fundamental rights. The extraordinary jurisdiction comprises habeas corpus, certiorari, mandamus, quo warranto, prohibition and other necessary writs and orders.

112. The Compensation Act against Torture 1996 authorizes the competent District Court to hear cases of alleged torture and award compensation up to 100,000 Nepalese rupees to the victims. The compensation may not seem adequate; however this is the first attempt by the Government to establish the right of victims to be compensated.

113. The Miscellaneous Chapter of the Country Code, 1964 (*Muluki Ain 1963*) authorizes the District Court to hear cases of discrimination. However, the Court does not have the

jurisdiction to award compensation, but to punish the violators. Public opinion is against such an arrangement, which seems plausible, and the Government is seriously thinking of introducing amendments in this regard.

114. The National Human Rights Commission, established in 2000, is an independent commission, which can receive complaints from any citizen who feels that his/her human rights have been infringed and may also receive complaints through a third party acting on behalf of the aggrieved person. The Commission may also take up *suo moto* a matter involving human rights violations. It can punish the violators as well as direct the Government to pay compensation to victims. The Commission is also undertaking programme to promote awareness of human rights issues relating to racial discrimination (for further details on the Commission, see section III of the present report).

#### **F. Article 7**

115. Equality is the cornerstone of any democratic society which aspires to uphold the principles of social justice and human rights. Nepal, as a democratic country, is committed to these principles. Non-discrimination is its fundamental basis for maintaining social justice, which is guaranteed through constitutional as well as other legislative measures. Against this background, the Government has formulated immediate any long-term objectives and programme to promote the welfare and accelerate the development of marginalized and backward groups. In this context, the Government has retreated from its previous position and is firmly committed to the cause of eliminating all forms of discrimination against any religion, race, sex, or tribe in Nepal.

116. His Majesty's Government is committed is implementing long-term as well as short-term strategies to educate the masses on human rights through literacy initiatives and projects. Human rights, as a subject, has been included in the curricula of the Nepal police as well as general schools. Comprehensive training on contemporary human rights issues has already been provided to government attorney, court personnels, defence lawyers, and the police force, among others. The Government in partnership with NGOs and INGOs, has developed guidelines on criminal procedure incorporating human rights instruments for its effective implementation. Similarly, radio programme on Dalits issues and human rights are currently being broadcast by Radio Nepal. There has been an increase in the coverage of the issues of Dalits and other disadvantaged groups in the mass media, and the Government is committed to active involvement in the dissemination of human rights issues through education and information.

### **III. RESPONSE TO THE CONCERNS AND RECOMMENDATIONS MADE BY THE COMMITTEE ON THE FOURTEENTH PERIODIC REPORT OF NEPAL**

117. The Government is serious about the recommendation made by the Committee in its concluding observations (CERD/C/304/Add.1.8, para. 7) regarding the withdrawal of reservations on articles 4 and 6 of the Convention.

118. The National Human Rights Commission was established in 2001. It is a statutory body comprising five members with people of high integrity, experience and an unblemished reputation. It is headed by a retired Chief Justice of the Supreme Court with other members drawn from among distinguished personalities who have provided acknowledged contributions in the field of law, human rights, social services and administration. The members of the

Commission are appointed by His Majesty the King on the recommendation of a panel consisting of the prime Minister, the Chief Justice and the leader of the main opposition party in the House of Representatives. The Commission is structured to deal effectively with questions involving human rights violations with recourse to simple and inexpensive procedures. It receives complaints from any individual citizen or a third party acting on behalf of the aggrieved person. The Commission can also take up a matter involving human rights violations on its own initiative. With regard to the Commission's involvement in combating racial discrimination, it has received various complaints of different nature. To fulfil its responsibilities effectively, the Commission has established five internal sections dealing with protection, promotional activities, legislation, secretarial work and research planning evaluation. Apart from hearing complaints about racial discrimination, the Commission is focusing on promotional activities of human rights. The Commission has been in existence for just over a year, and is all set to publish its first annual report.

119. Concerning paragraph 10 of the concluding observations of the Committee, it is submitted that without effective mechanism to monitor implementation, sincere application is not possible. With this fact in mind, a National Human Rights Commission has been established to hear complaints on human rights violations. The objectives and powers of the Commission has already been described in the earlier parts of this report. Similarly, the Foreign Relations and Human Rights Committee of the House of Representatives and the Social Justice Committee of the National Assembly are two parliamentary committees closely involved with human rights issues. The powers and responsibilities of these committees have already been discussed earlier in this report.

120. The existence of caste-based discrimination in the Nepalese society is a harsh truth, though it is prohibited by the Constitution and the Nepalese Civil Code, 1963. The Government is fully aware of the existing situation and is firm in its determination to eliminate this evil practice. For this purpose, a National Committee for the Development of Nationalities and a Committee for the Development of Depressed and Oppressed Dalit Community have been established through the executive order of the Government for the empowerment of these communities. Apart from these, a bill on "National academy for the Upliftment of Nationalities" has been passed by the Parliament recently.

121. With regard to paragraph 12, the Local Self-Governance Act (LSGA), 1999 has been enacted. The Government allocates 500,000 rupees a year to each VDC for each planning and implementing local development projects. In formulating their plans local bodies are required to give priority to the development of women and the socially, economically, educationally and politically backward communities. NGOs and INGOs are also active in improving the conditions of these communities.

122. Concerning paragraph 13, Nepal has been facing socio-economic and environmental problems due to the presence on its territory of a large number of refugees from Bhutan. The presence of these refugees is also having a negative impact on the cultural behaviour of the local people. Nearly 100,000 refugees from Bhutan are lodged in seven camps in the eastern part of Nepal. Nepal has given them temporary asylum on humanitarian grounds. The Office of the United Nations High Commissioner for Refugees and the International Red Cross are active in providing relief to the refugees. Nepal, in accordance with its policy guided by its international commitments is of the opinion that no one must be rendered stateless. Therefore, HMG firmly believes that refugees must be allowed to return to their home country with dignity and that their fundamental rights should be protected. A solution to this problem has



been sought through bilateral talks. In fact, though moving at a slow pace, a process to ascertain the identity of refugees is under way. To expedite the identification process, meetings at the ministerial level have been taking place, one such meeting having been concluded recently.

123. Education is no doubt an effective medium for improving behavioural patterns. The Government is therefore encouraging programmes for the masses. Human rights, as a subject, has been included in the curricula of the Nepal police as well as schools. Comprehensive training on contemporary human rights issues is being provided to government attorneys, court personnel, defence lawyers, the police, among others. The Government, in partnership with the NGOs and INGOs, has developed guidelines on criminal procedure incorporating human rights instruments for its effective implementation.

124. With regard to paragraph 15, the Government is seriously considering making a declaration on article 14 of the Convention.

125. The Government is pleased to submit the present report in the time limit set for it and believes that the points raised by the Committee in its concluding observations have been properly and adequately addressed.

#### **IV. CONCLUSION**

126. In a democratic system, the Government is bound to respect the public opinion, especially those of the weaker sections of the society. Fostering of cultural pluralism and ensuring equitable participation in the national life is a precondition for good governance. The Government of Nepal is committed to rendering all necessary support and to working in partnership with civil society and local government institutions in consolidating their efforts to end existing discrimination based on caste, race, gender or ethnicity. The Government is also committed to responding to the recommendations and suggestions made by organizations representing the Dalits, Nationalities/indigenous peoples, women and other minority groups for their empowerment and upliftment. Yet, despite the commitment of the Government, discrimination still persists in Nepalese society.

127. For a country like Nepal with diverse cultures and traditional societal behaviour, departure from certain discriminatory traditions is not easy. Further, the problems are compounded by the fact that the majority of people live in abject poverty and are illiterate. Enacting laws to outlaw discrimination is one thing; translating them into action is an entirely different thing. Hence, to expect radical change by means of legal instruments is not reasonable. The Government not only recognizes these difficulties but is also firm in its commitment to eliminate all forms of racial discrimination, as evidenced by the Government's announcement made before Parliament on 16 August 2001. This announcement was necessary in view of the existing realities of our country. Apart from the commitment of the Government to deal heavy-handedly with the offenders in cases of racial discrimination, it is also planning to formulate a special package for the upliftment of the targeted communities. The special package to be implemented over a period of 25 years will be developed with due regard to the existing realities of the country.

128. The issues highlighted in the present report amply demonstrate that discriminatory societal behaviours have to be changed in favour of the communities affected. For, laws may deter people from practising or indulging in discriminatory behaviour but attempts should be

made to encourage the ready acceptance of those communities by the society in the day-to-day life. This objective can only be achieved by bringing about a behavioural change from within the society and also amongst the different communities which have been ignored or neglected so far. Capacity-building, awareness-raising, and institutional and societal support for the weaker and backward communities, along with penal sanctions for those who persist in this inhuman practice are some of the issues on which the Government should focus.

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