

**Situation of  
Human Rights in 2014:  
Mutual Understanding in  
Constitution Making**

**Chapter**

**1**



## 1. Background

The year 2014 started with a hope of taking on-going peace process to the logical conclusion. The election of the Constituent Assembly (CA) held at the end of 2013 not only provided opportunity to form the government of people's representatives but also an opportunity to end the transitional period. However, the optimism withered towards the end of the year with the political parties failing to deliver on their commitments.

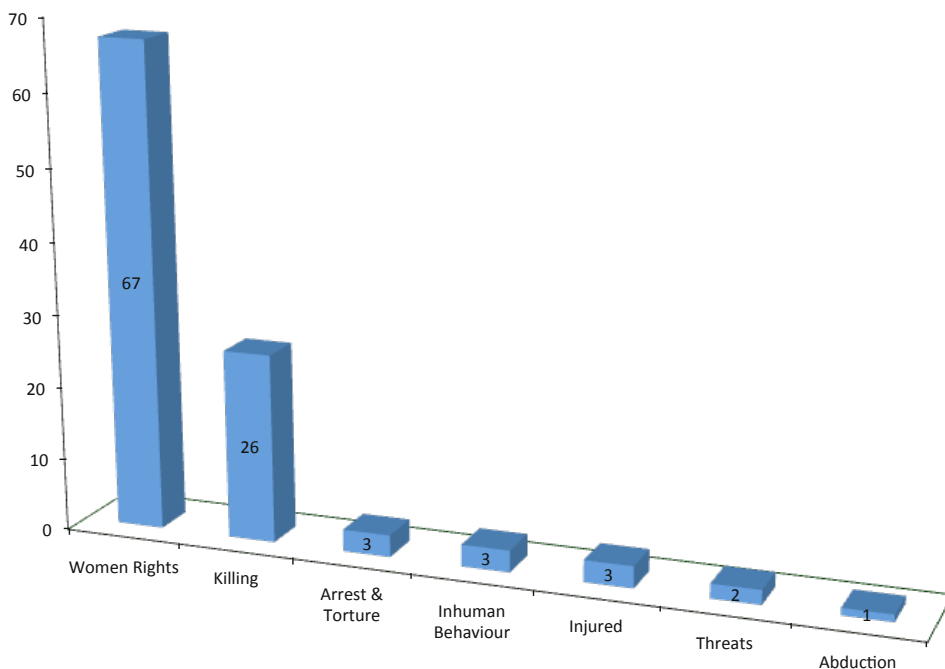
Informal Sector Service Center (INSEC) has been publishing Nepal Human Rights Yearbook since 1992. INSEC District Representatives have been monitoring the incidents of human rights violations, abuses and violence against deprived communities in all 75 districts of the country and making necessary interventions. Similarly, they have been exerting pressure to provide justice to victims and to take action against perpetrators. The field activities are carried out simultaneously with monitoring, verifi-

cation and documentation of such important incidents. Nepal Human Rights Yearbook is a brief report based on documentation of the incidents of 2014.

INSEC documented 5,382 victims in different incidents of human rights violations and abuses. In 2013, there were 5,435 victims. This year saw an increase in the victims of violence against women. Most of them were victims of rape, domestic violence, killing by family members, dowry violence, including killing, inhuman behavior on the allegation of practicing witchcraft. Unlike in previous years, there were no clashes among the cadres of sister organizations of the political parties. A total of 63 women and 246 men were victimized by state actors. Likewise, non-state actors were responsible for victimizing 4,685 women, 411 men and four third gender people. In 2013, 640 persons were victimized by the state actors while 4,795 were victimized by the non-state actors.

The Yearbook has been analysing the role of three organs of the state - Legislature,

**Figure 1: No. of Victims Above 60 years of Age (2014)**



Executive and Judiciary - for the protection and promotion of human rights. The Universal Declaration of Human Rights 1948 and various international treaties to which Nepal is the state party are the indicators for monitoring and analysing the human rights situation.

Appointment of commissioners at the National Human Rights Commission and 4<sup>th</sup> National Human Rights Action Plan for protection and promotion of human rights are the achievements of the year. Promulgation of the Commission on Investigation of Disappeared Persons and Truth and Reconciliation Commission Act could be taken as one of the achievements of the government but some provisions of the Act, which are against the principles of human rights, raised suspicion over whether the attempt to make such instruments would give expected outcome or not.

It was found that the state has failed to achieve its objective in terms of right to education, health and food in line with the state investment. The government's inaction continued in the year as well on the issues of rights of the senior citizens, migrant workers

and people with disabilities. Health professionals were not found as per the appointment in most of the health facilities. Most of the prisons across the country were found overcrowded well beyond their capacity during the monitoring of prisons by INSEC District Representatives.

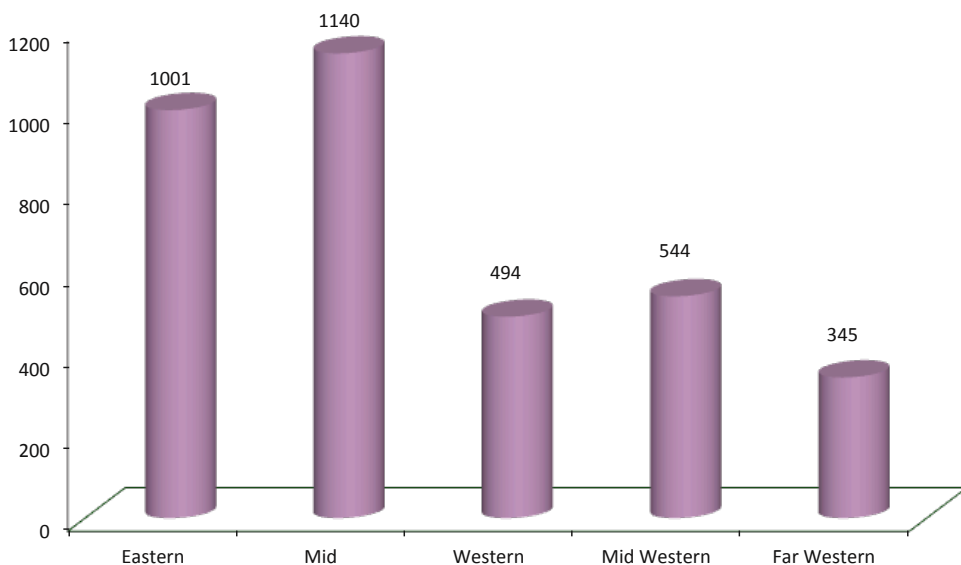
This Chapter will briefly analyse the human rights situation of the country in 2014 based on the monitoring and documentation carried out by INSEC.

## 2. Management of Transitional Period

It has been eight years since the armed conflict of the country formally ended. After signing of the Comprehensive Peace Agreement (CPA), the main challenge before the state was to bring the then rebel CPN-M in the mainstream of democratic politics. However, the government failed to properly manage the transitional period. The conflict victims are yet to get justice and the political parties are yet to give logical conclusion to the transitional period.

Since the signing of the CPA, there was the tendency of analysing transitional justice from a narrow perspective and taking

**Figure 2: No. of Female Victims (2014)**



the small economic support provided by the state as Justice and reparation. The plan of taking action against perpetrators involved in serious human rights violations committed during the period of armed conflict, providing reparation and some support to conflict victims for their livelihoods remained unfulfilled. The issue was mentioned in National Human Rights Action Plan but very few of the recommendations made by concerned stakeholders were found encompassed while finalizing this Action Plan. The Action plan did not realize the fact that the main objective of transitional justice is restoring sustainable peace in the country.

As the state failed to address the issues of grave human rights violations committed during the period of armed insurgency, the victims of armed conflict became frustrated and started resorting to their own method to seek justice. The state failed to address the demand of Nanda Prasad Adhikari and his wife Ganga Maya Adhikari to take action against Maoist cadres who killed their son in June 2004. Their son Krishna Prasad Adhikari was killed by Maoist cadres while

he was in Chitwan to see his grandmother. Nanda Prasad Adhikari died on September 22 while staging fast-onto death at Bir Hospital 333 days after he began the fast. However, the state seemed insensitive to their demands even after the death of Nanda Prasad Adhikari. Dead body of Nanda Prasad remained at Tribhuvan University Teaching Hospital until the end of the year.

Whether it is the killing of Krishna Prasad Adhikari by the Maoists or the killing of four teenaged Maoist girls by the Army after arresting them in Badtandi of Rajahar VDC-8 and shooting them dead in the Badtari community forest on May 8, 2004, both are crimes in terms of international humanitarian law. No action has been initiated to bring perpetrators of such crimes to justice.

### 3. Executive

While assuming top post of the Executive on February 10, newly elected Prime Minister Sushil Koirala expressed commitment for moving ahead through consensus to end the transitional period within a year by promulgating new constitution and com-

**Table 1: No. of Victims by Region (2014)**

Types of Events	Eastern	Mid	Western	Mid Western	Far Western	Total
Abduction	12	17	2	2	5	38
Arrest & Torture	8	7	5	38	7	65
Beatings	35	29	5	41	23	133
Child Rights	290	268	184	129	69	940
Death in Detention	1	1				2
Death in Jail	1				3	4
Economic, Social and Cultural Rights	3	1	4			8
Inhuman Behaviour	9	3	1	7	1	21
Injured	20	30	23	26	3	102
Killing	107	115	41	27	18	308
Racial Discrimination	28	14	13	14	19	88
Right to Assembly	35	41	16			92
Threats	19	14	11	13		57
Women Rights	1001	1140	494	544	345	3524
<b>Total</b>	<b>1569</b>	<b>1680</b>	<b>799</b>	<b>841</b>	<b>493</b>	<b>5382</b>

pleting other remaining related tasks. Ruling parties Nepali Congress and CPN-UML forged consensus on March 18 to prepare initial draft of new constitution within six months and promulgate it from the CA after another six months. Similarly, they also expressed commitment to hold election of local bodies within six months to strengthen foundation of democracy at the local level but none of the aforementioned commitment materialized until the end of the year.

The CA adopted the decisions taken by the earlier CA, which could be attributed as a major milestone in the process of drafting constitution. The government's effort to hold talks with all the political parties, which are out of the CA, Madhesh-based political parties and other fringe parties for incorporating their concerns in the new constitution is a positive step.

As an important component of transitional justice, the Legislature-Parliament passed the bill to form Truth and Reconciliation Commission. National and international communities criticised the Act saying that it proposed to provide amnesty to perpetrators rather than punishing them and delivering

justice to victims. The verdict of the Supreme Court on January 2 ruled against providing amnesty to persons involved in grave human rights violations and that the bill should be in line with the international principles of human rights.

#### 4. Legislature

The Legislature opened the possibility of providing justice to the victims of armed conflict after promulgating the Truth and Reconciliation Act but the Act was mired in controversy. Stating that some provisions of the Act were against the international standard of human rights, communities including the United Nations requested the government to amend such provisions. Conflict victims also raised suspicion over the commissions, which were being set up even ignoring the order of the Supreme Court.

Clause 5.2.3 of the Comprehensive Peace Agreement (CPA) signed between the then insurgent CPN-M and the Government of Nepal, eight years ago provides that: Both parties agree to make public, within 60 days after the signing of the Peace Accord the real names, surnames and addresses of

**Table 2: No. of Victims by Region (2013)**

Types of Events	Eastern	Mid	Western	Mid Western	Far Western	Total
Abduction	18	22	12	21	4	77
Arrest & Torture	28	22	65	47	9	171
Beatings	131	182	112	210	39	674
Child Rights	228	221	188	87	75	799
Death in Detention	1		2	1		4
Death in Jail		2		1	1	4
Economic, Social and Cultural Rights	16	2	9	9	3	39
Inhuman Behaviour	23	4	7	4	2	40
Injured	34	132	88	86	55	395
Killing	128	104	41	34	24	331
Landless and Squatters Problem				6		6
Racial Discrimination	8	39	9	26	19	101
Right to Assembly	81	159	35	38	13	326
Threats	26	25	19	43	7	120
Women Rights	534	900	344	355	215	2348
<b>Total</b>	<b>1256</b>	<b>1814</b>	<b>931</b>	<b>968</b>	<b>466</b>	<b>5435</b>

the people disappeared by them and of those killed during the war and provide information thereof to the family members, as well. Likewise, Clause 5.2.5 of the same Accord reads that: Both parties agree to constitute, with mutual understanding, a high level truth and reconciliation commission for finding out the truth about those who committed the gross violation of human rights and were involved in the crime against humanity in the course of armed conflict and for creating an environment of reconciliation in the society. Furthermore, Clause 5.2.7 holds that: Both parties guarantee to withdraw accusations, claims, complaints and sub judice cases made or filed against various persons on political grounds and immediately make public the status of detainees and release them at once. However, this Accord was also not observed as in the case of other agreements and commitments made in various periods of time.

The government presented an Ordinance on the Investigation of Disappeared Persons, Truth and Reconciliation Commission at the parliament in the same previous form, ignoring the Supreme Court call to amend the same. The Court on February 2, 2014 had directed the government to form

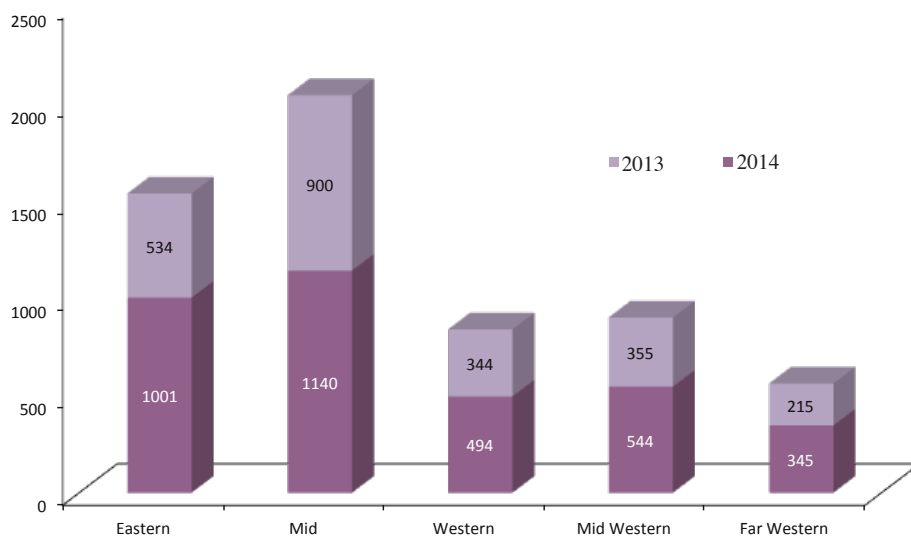
two separate Commissions on Investigation of Disappeared Persons; and Truth and Reconciliation as well as to amend Sections 23, 25 and 29 of the Ordinance to forbid amnesty in heinous crimes.

Practice of obstructing the proceedings of the Legislature-Parliament continued even in 2014. As people have to directly bear the expenses of the Legislature-Parliament their concern regarding the obstruction is natural. Opposition political parties UCPN-M, RPP Nepal and some Madhesh-based political parties obstructed the parliament protesting the government. The parliament remained obstructed for nearly three and half months during the year.

Federation of Nepalese Journalists (FNJ) and Nepal Bar Association (NBA) raised serious reservations on some provisions of the Bill on Contempt of Court tabled by the government at the Legislature-Parliament. They alleged that several points of Sections 4, 5 and 8 amount to violation of civil rights and press freedom.

The stakeholders were of the view that the Bill was moved with an intention to proscribe any remarks on a judge. According to the Bill, a judge may instantly order for

**Figure 3: No. of Female Victims**



action on contempt of court against the concerned person in cases when s/he takes suo moto cognizance of contempt of court from act, action or activity of anyone in the Bench; s/he is convinced upon his/her attention being drawn towards contempt of court from act, action or activity of anyone in the Bench.

The Bill is contested as Section 4 deems Contempt of Court "to cast undue influence in the proceedings of a sub-judice case in court or its decision, to publish misleading and false statements that would erode the public trust towards judiciary and would disillusion the public on judicial acts or to express similar views".

Amidst vehement protest, it was decided that the controversial Bill shall be sent for discussion among the public. For the first time in the history of parliament, vox populi is to be garnered from the public and stakeholders over a proposed law. Speaker Subash Nembang suggested and convinced the government that instead of withdrawing the Bill enacted for ending the lawlessness on contempt of court, the Bill should be better revised through suggestions from the public.

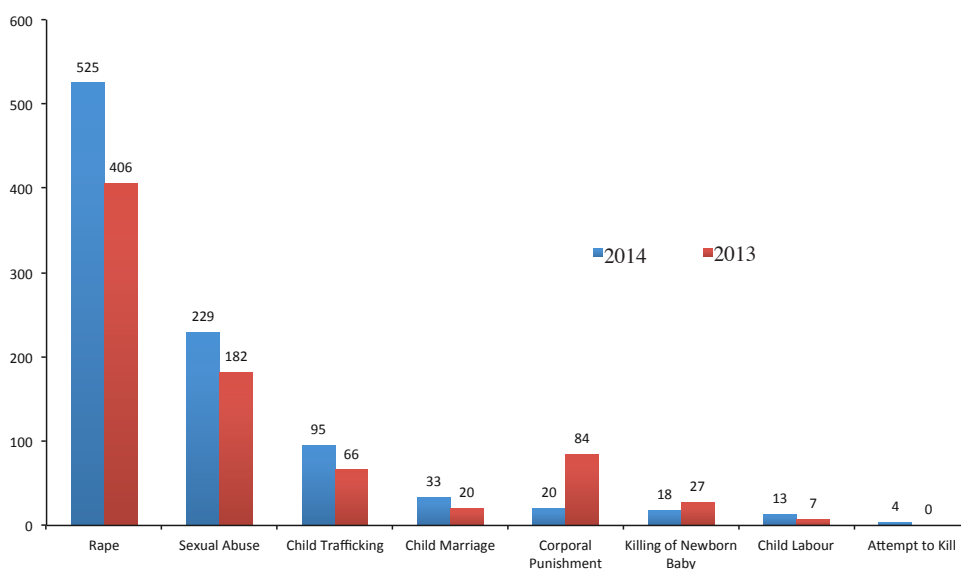
The Legislature-Parliament unani-

mously passed a motion to consider the Bill on Witchcraft (Crime and Punishment), 2014. It also unanimously approved another motion to refer the Local Self Governance (First Amendment) Bill, 2014 to the concerned Committee for clause-wise discussion, tabled by Deputy Prime Minister and Minister of Federal Affairs and Local Development Prakash Man Singh.

In a move to end gender discrimination, when the government registered a Bill at the Parliament granting equal property rights to married or unmarried daughters on par with sons, it raised public eye. Claiming that the provisions of Muluki Ain are discriminatory against women, the government registered the Bill to amend those disputed provisions on the second week of June, 2014. In case the Bill is passed in its present form, it would entitle even the daughters married prior to this amendment to seek equal share of property on ancestral assets on par with their brothers.

In the proposed amendment a jail term of five years has been proposed for husbands guilty of marital rape. The wife who claims forceful transgressions shall be given

**Figure 4: No. of Child Victims**





protection by the government till the case is disposed, as provisioned in the amendment.

The Bill also provides a 10 year jail term for rape or gang rape of a pregnant or incapacitated woman. Moreover, in the prevailing Nepali laws, husbands are allowed bigamy on certain grounds. The men have been taking advantage of such concessions while the women are becoming victims. However, in the proposed amendment, bigamy is totally proscribed till a wife is legally together.

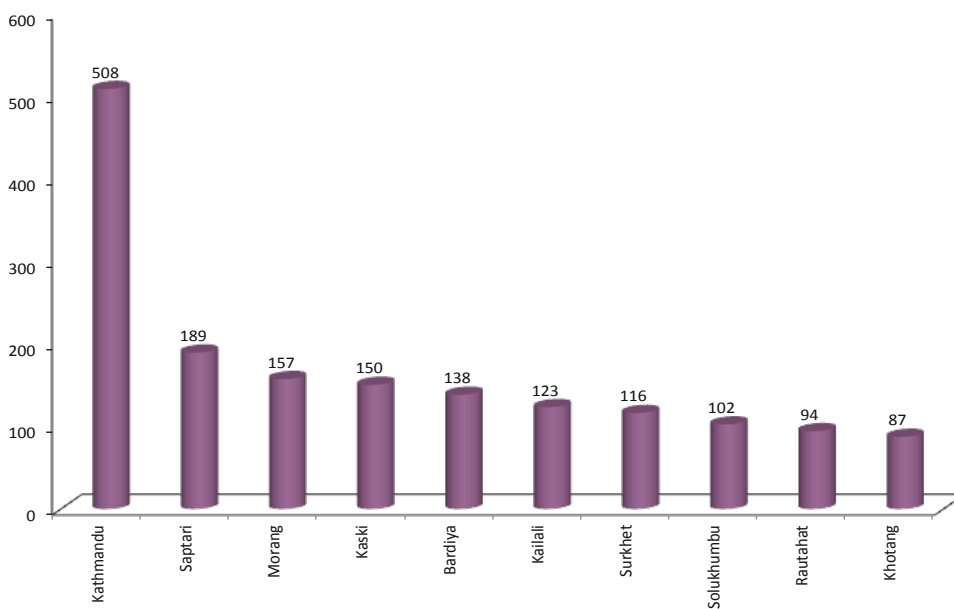
### 5. Judiciary

The government fulfilled the vacant posts of Justices at the Supreme and Appellate Courts. Some of the Justices of Appellate Court, who were considered very capable during their performance review, were deprived from opportunity to join the Supreme Court as the government failed to appoint justices at the Appellate and Supreme Court on time. The Judicial Council and the Prime Minister were criticised for not appointing some experienced temporary Justices of the

Supreme Court to the post of Permanent Justice. Prompt Justice, Justice for All is the slogan of Second Strategic Plan of Judiciary. It has also been stated that one of the indicators of speedier justice is to prioritize the cases of caste discrimination and untouchability, cases involving a person above 75 years as a party, case for christening a baby in which a woman is a plaintiff, case seeking confirmation of a relationship in which a woman is a plaintiff, case involving a widow as the plaintiff, case of human trafficking, case for maintenance/alimony, case in which senior citizens are only the litigants, rape case, domestic violence case and case involving a foreign citizen, and shall have to be decided within a year. INSEC district representatives have been monitoring the rulings of the district and appellate courts on the basis of this strategy.

During the monitoring it was found that some courts implemented the decision, while some were not taking decision soon despite not having pressure of cases. During the monitoring of case load of the courts in

**Figure 5: No. of Female Victims in 2014 (Top 10 Districts)**



December 2015, it was found that in some courts there is work load of 600 cases per Judge while in other courts it was less than 100. It was found that there is a work load of more than 600 cases per Judge in Chitwan District Court. After the monitoring it was realized that the Supreme Court Administration should pay the attention towards the fact that it will not be possible to decide cases very fast if there is heavy load of cases.

The District Court Lalitpur asked the government to provide Rs 500,000 as compensation to a girl, who was raped by her own father. The court made the ruling after analysing the physical, mental and psycho-social status of the victim. Similarly, the court also ordered to make regular health check-up and to provide free-education to her. There is no doubt that the verdict will help to hold the state more responsible. However, regardless of the decision made by the Court, people will not feel justice if the court verdicts are not implemented effectively. The government has the responsibility to enforce the decisions made by the Court but during the monitoring it was found that the government has been unable to do so. There is a trend that the Court itself has to be active for

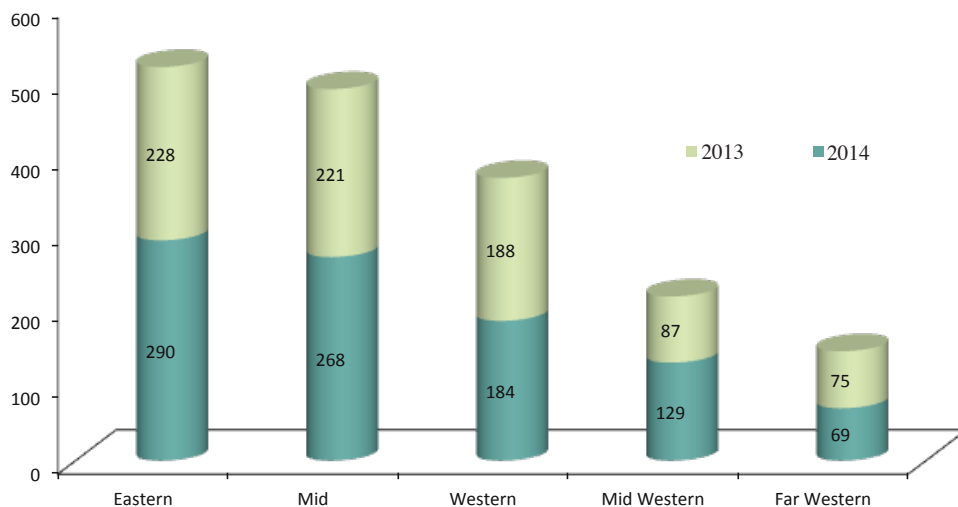
implementing its verdict. (Please see Chapter 2 : Judiciary.)

## 6. International Obligation

Nepal will be reviewed in the second cycle of Universal Periodic Review (UPR) in November 2015. Similarly, stakeholders like different persons and organizations will also submit their report within March 23, 2015. Different Non-Governmental Organizations are in the process of preparing NGO report to be submitted for the UPR. INSEC, the secretariat of Nepal NGO Coalition for UPR (NNC-UPR), a coalition of nearly 250 NGOs, is preparing the report. INSEC has completed regional consultations in five development regions of the country for preparing the report. Based on the findings of these regional consultations, INSEC also completed national consultation for holding dialogue on the issues raised at the regional level and incorporated them in the report.

This year's report mainly raises the concerns like obstruction in promulgating the new constitution, controlling corrupting and other issues like environment, concerns of women and children and conflict transformation. The report also includes implemen-

**Figure 6: No. of Child Victims**



tation status of the commitments made by the government during first UPR. The report also raises the issues like failure to address the demands of conflict victims, Commission on Investigation of Disappeared Persons and Truth and Reconciliation Commission Act, dispute for the appointment in these commissions, endorsement of regressive constitutional provision related to citizenship among others.

The government expressed commitment to submit different reports reflecting the ground reality of the country. Speaking during the National Consultation of NGOs organized by INSEC, Joint Secretary at the Office of the Prime Minister and Council of Ministers Ramesh Dhakal informed that the government will prepare the report in coordination with NGOs and NHRC. The government should endorse various treaties and agreements to improve the human rights situation of the country. Human rights communities have been exerting pressure on the government to ratify some important treaties related to human rights.

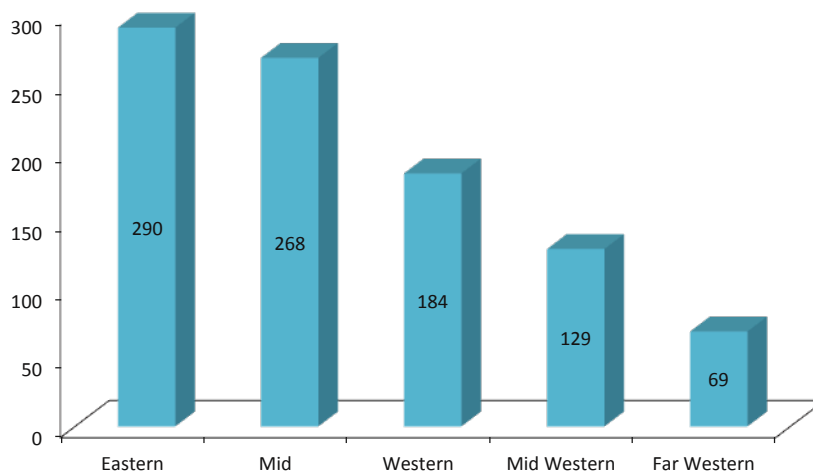
### 7. Implementation of 4<sup>th</sup> National Human Rights Action Plan

The government has implemented the 4th National Human Rights Action

Plan (2014/15- 2018/19). The Action Plan has prioritized 18 important issues, including the right to health. The government held consultation at local level and collected suggestions for the implementation of Action Plan. The cabinet meeting of July 16 endorsed the action plan. The government has been preparing and implementing National Human Rights Action Plan since FY 2004/05 to develop the culture of human rights and protect and promote human rights. The previous National Human Rights Action Plan prepared by incorporating the provisions of Universal Declaration of Human Rights, international treaties, to which Nepal is a state party, and existing laws of the country, could not be implemented effectively.

The Action Plan not only incorporates all aspects of human rights but also makes more effort to address the transitional period. The Action Plan has also provisioned for impartial investigation of incidents related to armed conflict and reparation to victims, formation of Commission for Investigation on Disappeared Persons and Truth and Reconciliation Commission among others. The Action Plan includes the provision of management of landmine and explosive remnants of war, mainstreaming of conflicting parties and promoting rights of people

**Figure 7: No. of Child Victims by Region (2014)**



for security and development. It has the provision of managing post-conflict situation. It also includes reconciliation, rehabilitation, return of the seized properties and providing reparation to the victims among others. The Action Plan also includes the provisions of prison reform, reduction of the incidents of violence against women and ending the culture of impunity among others. There is no doubt that the Action Plan will have a positive impact on improving human rights situation of the country if it is effectively enforced, learning from the failures of such Action Plan formed in the past. If evaluation is done in the district, regional and national level about the achievements and weaknesses of the Action Plan, it will provide realistic information for its effective implementation.

### 8. Availability of Food

As per the information provided by the Ministry of Agriculture during a program in Birgunj on the third week of December, Nepal is in 49<sup>th</sup> position among the 78<sup>th</sup> Countries in terms of food security. Mountain districts of Far-Western region are in the risk of food insecurity. According to

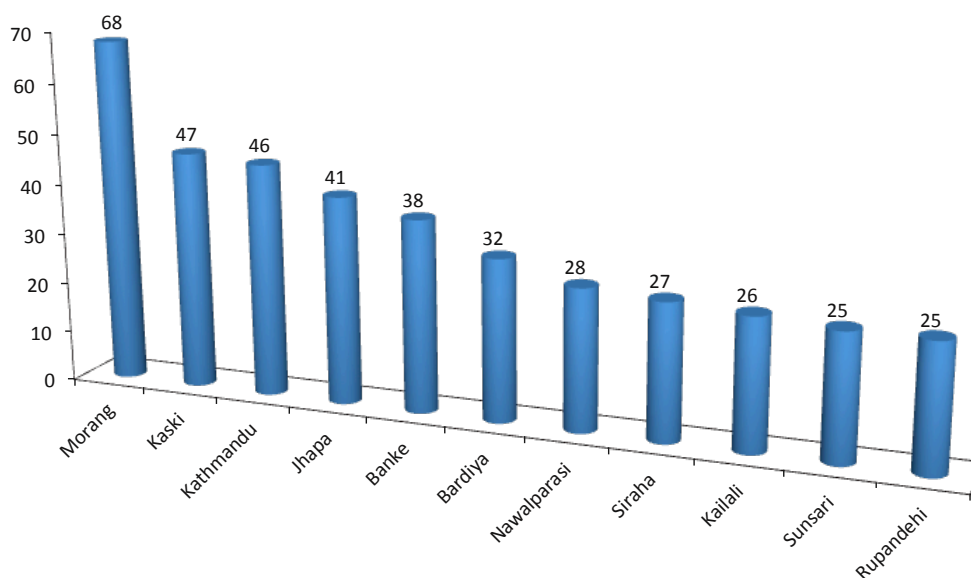
**Table 3: No. of Journalist Facing Threat and Beating (2014)**

Types of Events	By State			By Non-State		
	Female	Male	Total	Female	Male	Total
Beatings	1	7	8	1	15	16
Threats		6	6		12	12
<b>Total</b>	<b>1</b>	<b>13</b>	<b>14</b>	<b>1</b>	<b>27</b>	<b>28</b>

statistics 40 per cent Nepali people have not been able to take minimum calorie. 44.9 per cent people of the same region and 44.3 per cent people of Mid-Western region have not been able to take minimum calorie. Bajhang falls in 72<sup>nd</sup> position among 75 districts of the country.

In this context INSEC conducted a study in Bajhang district about food security. As per the study the number of people having food sufficiency for three months is 33.68 per cent, while the number of people having food sufficiency for six months is 41.32 per cent. Similarly, the number of people with food sufficiency for nine months stands at 14.71, while the number of people with food sufficient for a whole year stands at 6.28 per

**Figure 8: No. of Child Victims in 2014 (Top 10 Districts)**



cent. The finding of the study clarifies the food sufficiency status of the district.

Change in traditional food habit of the people is another cause of food scarcity. People are more attracted towards paddy and wheat, which needs regular irrigation and the people do not like the food grains like millet and buckwheat, which could be grown in the district easily. If proper attention is given towards geographical situation, agricultural area, irrigation in line with the population and the Nepal Food Corporation operating more food depots in rural VDCs, local people will be free from food scarcity.

### 9. Right to Reproductive Health of Chepang Women

A survey conducted by Partnership for Maternal Newborn and Child Health with World Health Organization, World Bank and John Hopkins University concluded that from 1990 to 2013, the maternal mortality rate dropped from 790 to 190 per 100,000 live births. However, the progress did not include the most marginalized indigenous community of the country. Chepang community, who reside in Makawanpur district very near from Kathmandu, is not included in any of the development indicators. The capital also failed to realize their problems. INSEC conducted a micro-research about situation of reproductive rights of Chepang women and the study revealed that the development programs, which are being operated targeting Chepang Women for the last three decades, needs to be reviewed.

The study also revealed that these programs targeted for the development of the community for a long time has not got intended achievements as they were formulated without identifying the real needs of the community. There are hardly any women above 50 in the community due to lack of education, prevalence of child marriage and lack of access to health facilities. The community could not be mainstreamed before

implementing integrated plan for the development of health education and skill development programs for Chepang community.

### 10. Rehabilitation of Freed Kamaiyas in Bardiya District

Although international treaties and national laws prohibited the bonded labor system, Kamaiya system continued in Nepal for a long time as a bonded labor system. The government announced liberation of Kamaiya system on July 17, 2000 after announcing exemption of their remaining debts following strong protest by Kamaiyas and support of civil society and political parties. The international communities also expressed their solidarity towards Kamaiya movement.

Of the total Kamaiyas, who are eligible for getting identity cards, 883 people of Bardiya district are yet to receive identity cards even after their identity cards are ready. The Land Revenue Office informed that they could not get the identity cards as they had renounced their bonded life of Kamaiyas before the government announced abolition of Kamaiya system. There is a provision in the directive for providing identity cards to freed Kamaiyas that only the committee

Table 4: No. of Child Victims (2014)

Types of Events	By Non-State		
	Female	Male	Total
Attempt to Kill	1	3	4
Child Labour	9	4	13
Child Marriage	33		33
Child Trafficking	58	37	95
Corporal Punishment	5	15	20
Deprived From Various Opportunities	2		2
Discrimination in Education		1	1
Killing of Newborn Baby	15	3	18
Rape	525		525
Sexual Abuse	216	13	229
<b>Total</b>	<b>864</b>	<b>76</b>	<b>940</b>

headed by Chairperson of the District Development Committee can take the final decision on whether to provide identity cards to them or not. As the local bodies remain without elected representatives for over one and half decade, the provision could not come into force, so, either the government should amend the provision of the directive or hold the election of the local bodies to take decision to this effect.

The freed Kamaiyas are facing various problems as they do not have sustainable source of livelihoods. The problems could be resolved by adopting group farming measures and engaging those freed Kamaiyas who have received vocational trainings in some livelihoods option after providing them loan without interest for a short term and in a low interest rate for a long term.

### 11. Education in mother tongue in Rajbanshi Community

There are 12 indigenous communities in Jhapa district but school education in mother tongue is being conducted only in Rajbanshi community. It proves that the government policy in mother tongue education is not effective. The government authorities did not have exact statistics on how

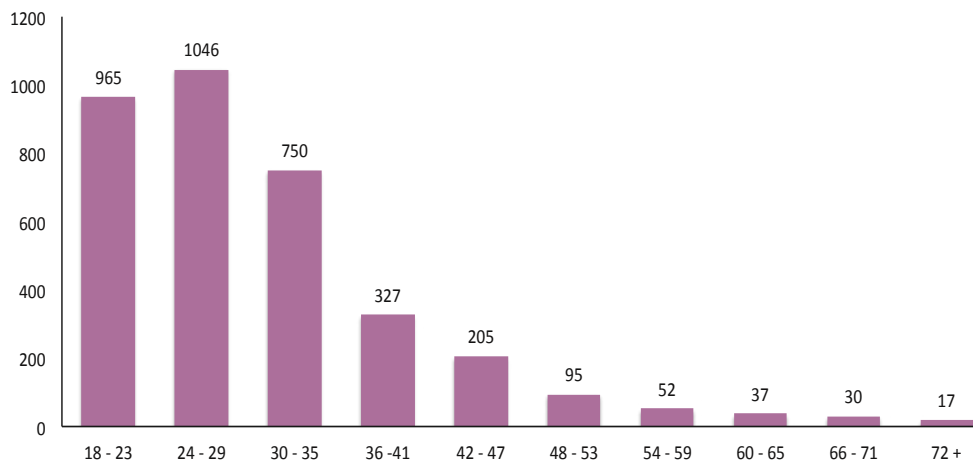
many students have been receiving education in mother tongue in how many schools.

Apart from forming curriculum in mother tongue, the government did not make investment in other aspects like its implementation and monitoring. Appointment of teachers as per the need and promulgating necessary policies for the education in mother tongue are major problems in this regard. The conclusion of a mini research conducted about Rajbanshi Communities by INSEC concluded that the state failed to form necessary policies for education in mother tongue and allocate necessary budget and infrastructure for the same.

It has been difficult to teach students in their own languages due to lack of sufficient support from the government. According to the assistant DEO of Jhapa district Yubaraj Pandey, the government's policies and programs for mother tongue education remains ineffective due to lack of proper investment of the government. If the government allocates certain amount of the budget for the development of the language of Rajbanshi living in Jhapa, Morang and Sunsari, the mother tongue education of this community can be effective and result-oriented.

The schools are using teaching mate-

**Figure 9: No. of Female Victims by Age-Group (2014)**



rials published by Curriculum Development Center. The text books published in Santhimi, Bhaktapur by Ministry for Education, Sports and Culture are used for education in Rajbanshi language. The experts of the concerned languages were also consulted while designing curriculum. The textbooks of Rajbanshi language are not adequately available in the district. There are no grammar books and dictionary of the Rajbanshi language in the district. There is no braille script and sign language for Children with Disability.

This shows that there is still a long way to go for the success of program on mother tongue education. Though the government policy and constitution has guaranteed the education in mother tongue, the stakeholders found that the implementation level is not satisfactory. Little increase in the number of student admission despite the launch of mother tongue education program shows the shortcomings of the project.

## 12. Reparation to Conflict Victims in Nawalparasi District

INSEC conducted a study on the situation of conflict victims in Nawalparasi district. The study revealed that properties of 49 people were captured during the period of conflict, which was later returned to their owner. A total of 283 people filed applications at the District Administration Office claiming damage of their properties ranging from Rs 30,000 to 3.5 million but none of them have received any relief. According to the DAO, although they have recommended their claim for compensation but the Ministry of Peace and Reconstruction is yet to allocate money for the same. The DAO further says that 15 people who filed application claiming that they were held in arbitrary detention received Rs 25,000. But, as they had directly received the money from the Ministry of Peace and Reconciliation, the DAO does not have exact data on such relief distribution.

INSEC documentation shows that during the conflict period, 215 people were killed in Nawalparasi, 16 were disappeared and six were disabled. According to DAO record, 219 were killed, 16 were disappeared and 60 were injured and disabled. The families of 217 deceased have received relief. Of the 60 reported injured and disabled, 40 received relief ranging from Rs 20,000 to Rs 150,000 depending on the extent of their injuries and disability while 20 are yet to get any relief due to lack of adequate evidence. Likewise, there are 283 records of damage of property and 48 conflict-induced internally displacement. The DAO informed that eight persons have been receiving Rs 7,000 as monthly disability allowance since July this year. Earlier they used to get Rs. 6,200 as a disability allowance. The DAO also informed that six conflict victims- orphaned or needy children- under the age of 18 have been receiving Rs 5,000 monthly. It further says 72 young conflict victims have been receiving scholarship of Rs 10,000, Rs 12,000, Rs 14,000 and Rs 16,000 at primary, secondary and higher secondary school respectively. Likewise, 48 widows have received Rs 25,000 from the DAO.

**Table 5: No. of Female Victims (2014)**

Types of Events	By State		By Non-State	
	Female	Total	Female	Total
Abortion			3	3
Domestic Violence			2496	2496
For Practicing Witchcraft			89	89
Forced Prostitution			2	2
Polygamy			337	337
Pre & Post Partum Service	2	2		
Rape			238	238
Rape Attempt			139	139
Sexual Abuse			93	93
Women Trafficking			125	125
<b>Total</b>	<b>2</b>	<b>2</b>	<b>3522</b>	<b>3522</b>

### 13. Right to Dignified Life

Seven people were killed by the state while 301 people killed by non-state actors in 2014. Five persons were killed by the state and 326 people were killed from non-state actors in 2013. National and international communities expressed concern over the death of two persons in Mahottari district and one person in Kathmandu in police action. Family members claimed that these killings were extra-judicial killings. (See *District-wise information for detailed information about these incidents*)

*Mohammed Serajul Mansuri, 25, of Badiya Banchouri VDC-2 of Mahottari District was killed during a police action on February 6. Police informed that he was killed in cross-fire after he opened fire at a patrolling police force. The family members identified his dead body on February 13 and received the death body. Stating that his brother was murdered after being arrested, Isarafil Mansuri, 35, filed a complaint at the District Police Office on February 13 against Chief of the District Police Office, SP Ram Prasad Shrestha and three other police officers. The victim's relatives informed that they posted the complaint through post office after the police refused to file their complaint. District Police Office registered the incident under accidental homicide without registering the complaint. Stating that the District Police Office denied registering their case, the victims filed petition at the Appellate Court on March 20. The joint bench of Judges of the Supreme Court Purushottam Bhandari and Meghnath Bhattarai ordered the District Police Office to investigate the death of Serajul Noori Ansari, who was allegedly killed in a cross-fire.*

*Likewise, the family members of Dinesh Adhikari aka Chari claimed the he was killed after arrest in Kathmandu.*

### 14. Right to Health

During the monitoring of Health Services provided by District Public Health

Offices in all 75 districts of the country, IN-SEC found that there was no appointment of gynaecologist in most of the districts. During the visit, there were no doctors as per posting even in accessible districts of Tarai. Like in Sarlahi, there are 25 posts of doctors in the district hospital but there was only one doctor working. There was no gynaecologist as per the posting in Sarlahi district. Similarly, of the 13 posts of staff nurse, five were vacant. The government has introduced Maternal Security Program with the objective of reducing maternal mortality rate but the implementation side of the program is yet to be strengthened. Many women of rural areas have been dying untimely due to lack of pre and post natal services. It is surprising that there are less than 20 per cent doctors in some Tarai districts like Sarlahi, Mahottari, Sunsari and Saptari among others. The study of INSEC concluded that the government should analyse the reasons of having appointment of doctors vacant and should deploy doctors as per posting.

As per the statistics of Department of Health, 16 people died due to diarrhoea last fiscal year. Similarly, 1,085,704 were affected in a diarrhoea outbreak from Mid-April this fiscal year. The statistics further said that 75 people died due to the disease. It seems that the government should make more efforts to provide clean drinking water and conduct awareness raising campaigns. The provision of distributing medicines free of cost through the health facilities did not seem effective. Although, the government announced that it will provide 70 types of medicine free of cost through district hospitals, 40 types of medicines through primary health center and 32 types of medicines through sub-health Post, during the monitoring of INSEC in Arghakhanchi District Hospital, only 15 types of medicines were found being distributed.

### 15. Domestic Violence

Police arrested the husband of a woman, who went to the Police Post to complain



about her husband who regularly battered her. On the second day of his arrest, police made reconcile and the husband was released on the same day. On the third day, husband murdered his wife. In this incident of Kaski, if the police had conducted background check of the victim and also monitored the activities of the perpetrator, the incident could have been avoided and one life could have been saved. The police realized that it is their duty to make reconciliation between them and did not bother to find about root cause of the problem.

One girl committed suicide in Bardiya district after brutal beatings by her father left her mother seriously injured and hospitalized. The girl hanged herself to death with her shawl near her house. These two incidents are representative cases, which present horrible picture of domestic violence in Nepal. The incidents of domestic violence are increasing in Nepal as the incidents of domestic violence, which could attract attempted homicide, are being handled through reconciliation. Serious incidents of violence against women were recorded by INSEC District Representatives during the year as compared to previous years. Nine women were murdered in dowry related incidents during the year. Perpetrators of murder in the

case related with dowry did not come under the legal scrutiny.

*Gita Devi Raut, 20, of Meghnath Gorhanna VDC-7 in Mahottari district was murdered on October 12. Immediately after the incident, her in-laws tried to burn the dead body of the victim in nearby Ratu River. Her Neighbours and people from her maternal home informed police about the incident and police took the dead body into control while they were burning it. The dead body was sent for post mortem. Police arrested her father-in-law Kheharu Raut, 45, sister-in-law Punam Kumari, 19, and Punam's husband Bishweshwor Raut, 22, on October 19. However, they were released on general date as per the order of District Court on November 6. The victim's father Bhumi Raut filed an FIR at the Police Post on October 14 claiming that her in-laws murdered her in connection with dowry related issue. Gita was married with Kherau's son on May 30, 2013 as per Hindu ritual. The victim's husband is in Punjab of India for foreign employment. The case is yet to be decided by the end of the year.*

91 women were killed in 2014 from their own families. 108 women were killed by their families in 2013. 238 women were raped during the year. 89 people were victimized in the name of practising witchcraft, 93 persons faced sexual abuse and 139 women became the victim of attempt to rape.

INSEC District Representatives of 75 districts monitored the Women and Children Service Centres of District Police Office. INSEC documented that most of the incidents registered at the Children Office were settled through reconciliation. Police informed that they have to prioritize for reconciliation in most of the cases as per Domestic Violence (Crime and Punishment) Act. Taking advantage of the provision of the Act, the trend of making reconciliation even in serious cases of domestic violence as per the section of the Domestic Violence (Crime and Punishment) Act was observed.

**Table 6: No. of Rape Victims in 2014 (Top 10 Districts)**

Women		Girls	
District	Victims	District	Victims
Kathmandu	18	Kathmandu	34
Bardiya	11	Morang	27
Kaski	10	Kaski	23
KavrePalanchowk	10	Banke	17
Makwanpur	10	Bardiya	17
Baglung	8	Nawalparasi	17
Illam	7	Sunsari	17
Sindhuli	7	Makwanpur	16
Sunsari	7	Chitwan	15
Chitwan	6	KavrePalanchowk	15

Sumitra Sunuwar, 40, of Tripurakot VDC-6 in Dolpa district was severely beaten by her husband Tek Bahadur Sunar, 46, on March 17 for not abiding by his order. The victim, who received deep injuries in thigh and head, underwent treatment at a health clinic in Tripurakot. Based on the complaint filed at the Tripurakot police post, the police brought both the sides in the police post and mediated reconciliation between both the sides. The Police did not feel necessary to book the offender as per existing law of the country.

Some incidents of complainants turning hostile, victims getting out of contact from Police Post after filing complaint among others were reported during the period. As there is no access to safe house for violence-affected women, the victims were forced to make reconciliation. Although safe houses were created in 17 districts of the country, women of other parts of the country are yet to benefit from the service. The government has the provision of keeping women at the safe house upto 35 days and there is no plan where they will go after they leave the safe house; so they are forced to compromise with the perpetrators.

INSEC through Nepal Human Rights Yearbook and other reports has been demanding for amendments in the Domestic Violence (Crime and Punishment) Act as the law is impractical and cannot address the issue of domestic violence. The incidents of domestic violence, which may fall under the category of attempt to murder charges, are being resolved through reconciliation. Although, it is said that the Government of Nepal with active support from National Women's Commission has drafted the process of amending the Domestic Violence (Crime and Punishment) Act and criminalize it, the government is yet to start discussion regarding the new Act with stakeholders. It is expected that the move will contribute to reduce domestic violence.

## 16. Child Rights

Children, who are considered as future of the country, are insecure in the present. Child labour, child trafficking and sexual violence are some of the issues related to child rights. Similarly, statistics show that Nepali children's rights are being denied as they are deprived from health and education related opportunities. INSEC District representatives monitored the government-run primary schools in different parts of the country. Most of the school buildings are not child-friendly and did not have appropriate toilet for the girls. District Education Offices informed that there are very few disabled-friendly schools. *The guardians said that it was normal for the teachers to remain absent in the schools.*

Some of the schools, even though without any students, still have the teachers' postings. District Education Office, Kathmandu says that in at least 20 schools, there are no students. In almost all districts, the students faced shortage of text books at the beginning of the every academic year and in some districts, the shortage continues throughout the year.

There has been an increase in the number of child victims of trafficking, abduction and sexual violence. Child as young as 2-year-old girl was documented as a victim in such incident. In many incidents of sexual violence, even the perpetrators were minors.

The family of a 2-year-old girl filed a complaint against a 13-year-old boy at Belbari Area Police Office accusing the boy of raping the girl when she was alone at home on May 24. Medical checkup of the girl was conducted at Koshi Zonal Hospital, Biratnagar on May 26. The accused was detained on the day of complaint. He was released on general date on June 9.

A 6-year-old girl was raped by her 14-year-old relative as there was no one was at home on June 8. He was arrested by Belbari Area Police Office. Medical checkup of

the girl was conducted at BP Koirala Institute of Health Sciences in Dharan on June 8. District Court released the boy on general date on June 30.

An 8-year-old girl working as a domestic helper in the house of Uttam Basnet, 31, and wife Durga Rai, both APF Inspectors posted at Eastern Division Headquarters was rescued by the initiation of Child Rights Awareness Group (CRAG) on November 25 and handed over to her parents. Members of the CRAG had found her in the house of inspector with bruises over her body after she did not come to her school, Pakali High School for three days. The group lodged a complaint at Area Police Office, Pakali on November 24. The complaint stated that the girl was tortured by the accused and his wife on many occasions. The victim told the INSEC representative that she was assaulted by the accused on various occasions. The CRAG was initiated by INSEC. The girl was handed over to her mother Sharmila in the presence of District Child Welfare Committee coordinator Ramesh Tamrakar, Women and Children Office's Child Protection Officer Purna Maya Rai and the media persons, Inspector Bishnubar Singh said. The case was settled with an agreement to bear treatment by paying Rs 7,000 to the mother for the girl's treatment and stationery. Besides this, the trend of children becoming the victims of violence has not abated.

### 17. All Forms of Racial Discrimination

It has already been three years since the government promulgated Castebased Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011) but the implementation side of the Act is not effective. As per the Act, any person involved in such offense might face jail from three months up to three years or fine from Rs 1,000 to Rs 25,000 or both. Similarly, the Act has the provision of providing compensation up to Rs 100,000 to the victims. However, during the monitoring of INSEC

District Representatives, it was noticed that action was not taken to the maximum extent. Most of the incidents were settled in the village or at the police office through reconciliation. Similarly, action was taken in some cases as per Public Offence Act rather than as per appropriate legal provision. Racial discrimination exists even in the law enforcing agencies.

*Police Personnel Yuvaraj Ghimire, 30, of Biratnagar Sub-metropolis-19 who was working in Temporary Police Post Danda-bazar filed a complaint at the District Police Post Dhankuta on June 13 claiming that he was discriminated on the basis of his caste. In his petition, he mentioned that in-charge of the post Navaraj Karki discriminated him for being so-called lower caste person and did not allow him to prepare meal. He further claimed that Karki did not allow him to take food in a separate place and did not allow him to go to kitchen for second serving and take additional food with others. He demanded action against them. After receiving the complaint, the District Police Office formed a three-member committee headed by Inspector of Area Police Office Rajarani Surendra Prakash Shrestha to investigate the incident and submit report to the office. SP Ishwori Prasad Chapagain of District Police Office informed that they have sent the report of the investigation committee to Koshi Zonal Police Office Dharan for necessary action. After the incident, both the alleged victim and perpetrator are called back to District Police Office. SP Pradip Kumar Shrestha informed that he did not have any information about any action taken into the case by the end of the year.*

INSEC documented 88 victims of caste-based discrimination by the end of the year while last year, there were 101 victims of caste-based discrimination.

### 18. Conclusion

Although, all the political parties have expressed their commitment to pro-



mulgate new constitution in their election manifestos, they have failed to reach a consensus on contentious issues of the new constitution. Political parties have prioritized the issue of human rights in their manifestos but they remained passive for its implementation. Failure on the part of political parties for accepting the decision of the CA created political deadlock in the country and it also put the issue of drafting new constitution into shadow. The CA failed to assure Nepali people that the constitution drafting process is moving ahead effectively. The extreme nature of expressing dissatisfaction has raised suspicion on how it could resolve a problem. People expressed their genuine interest for new constitution through their active participation in the CA election but the political parties failed to meet people's aspiration. Nepali people, who were expecting that the country will move towards positive direction with the new constitution, were kept in illusion. The main responsibility of the political parties is to draft the democratic constitution at the earliest. For this, there should be development of mutual understanding between them.

The efforts put by the government for rehabilitation of the freed Kamaiyas and Haliyas were found unsuccessful. The projects are not result-oriented because there has been no assessment of the need of the stakeholders and their participation.

Government has expressed its commitments to meet its obligation to protect, promote and fulfil human rights by implementing the Human Rights Action Plan. Monitoring of the Plan's implementation aspects from civil society is equally important.

Both government and civil society should take initiation for this.

## 19. Recommendations

### 1. For members of the CA, who are drafting new constitution

- a. Promulgate the new constitution while promoting mutual understanding

### 2. For Government of Nepal

- a. Immediately ratify the Rome Statute of the International Criminal Court
- b. Ratify Optional Protocol of the Convention against Torture.
- c. Ratify the Optional Protocol of the International Covenant on Civil and Political Rights and Convention on the Rights of the Child.
- d. Ratify International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- e. Amend the laws related with domestic violence and put it under criminal cases. Similarly, form law to discourage suicide and take legal action against those, who force or abet to commit suicide.
- f. Implement the recommendations given to Nepal during the Universal Periodic Review of Nepal.

### 3. For Civil Society

As the efforts of the state to establish Rule of Law could never be sufficient, play important role to sensitize general people about their duty.

**Bijay Raj Gautam**  
Executive Director

