**Short Report Prepared by NHRC, Nepal on the Right to Health of the Persons with Disability in Nepal**

1. **Please provide information on existing or planned legislation and policies to ensure the realization of the right to health of persons with disabilities, including current challenges and good practices.**

The Ministry of Women, Children and Social Welfare (MOWCSW) has been designated as the focal ministry responsible for the coordination of all PWD related activities within government and non-government institutions. The GoN has also nominated a first class officer (Joint Secretary) as a focal person for disability in each Ministry. The focal person should ensure that the provisions of the CRPD are implemented by the Ministry. The central and regional offices of the NHRC monitor the human rights violations, register the cases of human rights violations and take necessary actions against those violating PWD human rights.

The beginning of disability policy in Nepal is quite recent. In the following year of International Year of Disabled Persons as proclaimed by the United Nations in 1981, Nepal enacted the Disabled Protection and Welfare Act, 1982 (the "DPW Act") National Policy and Plan of Action on Disability (GoN, 2006). Moreover, it was only after 1992, almost ten years later, the series of different legislations started to emerge such as the Education Act of 1992, Child Rights Acts of 1992 and The Social Welfare Act 1992 established the Social Welfare Council and gave the Government powers to develop special programmes for disabled people that have indirectly helped to bring forward PWD conditions closer to the policy makers. In 1994, the Disabled Protection and Welfare Regulation (the "DPW Regulation") was framed to implement the DPW Act. The Child Protection Act 1992, which was introduced to address issues raised in the UN Convention on the Rights of the Child, states that disabled children cannot be discriminated against and gives a duty that disabled children who cannot be cared for by their family must be provided for in children's homes and receive necessary education.

 The Constitution of Nepal, 2015 guarantees human rights and fundamental freedom to all its citizens. Hence, different measures have been identified to end all forms of discrimination against PWDs. This ensures every citizen the right to live in a clean and healthy environment. The victim shall have the right to obtain compensation, in accordance with law, for any injury caused from environmental pollution or degradation. The Constitution also provisioned that every citizen shall have the right to free basic health services from the State and no one shall be deprived of emergency health services. Every person shall have the right to get information about his or her medical treatment. Every citizen shall have equal access to health services. Furthermore, many new laws are required to support the constitutional provisions for implementation of the constitutional provisions. Now in Nepal, disabled people are entitled to free medical examination all hospitals with more than 50 beds should allocate two beds for the use of disabled people. There should be free treatment for disabled people over the age of 65.

Firstly, the new constitution of Nepal, 2072 (2015) has been promulgated. Various noteworthy rights of persons with disabilities, including the right to political participation, are enshrined in the new constitution. Different issues regarding disability have been incorporated such as the fundamental rights, social justice, state’s obligations, policies and guiding principles. The transformation of the situation of persons with disabilities can be expedited simultaneously with the state transformation process. It has created the light of hope for future development.

The legislature parliament of Nepal has passed the Disability Rights Bill on 6th August 2017. This act, formulated in the leadership of the Ministry of Women, Children and Social Welfare and in close cooperation with the National Federation of the Disabled Nepal (NFDN) through a long process of consultations with DPOs, disability related services providers, other disability rights organizations and relevant government agencies, was in very high demand of persons with disabilities for a long time. National Human Rights Commission, Nepal has also provided some feedbacks. The purpose behind the formulation of this act was amendment of Disabled Protection and Welfare act 1982, stepping ahead for the domestication of UNCRPD and incorporating the disability related provision ensured by the constitution of Nepal 2015. This act has also aims to contribute to the implementation of UNCRPD and disability related constitutional provisions to uplift life of persons with disabilities. The access of persons with disabilities to basic services, human rights, opportunities including health, education and employment are expected to increase in an equal basis significantly with the effective implementation of this act.

**This act has the following key features**

* It is guided by the rights based approach.
* It is formulated in line with the UNCRPD and the disability related provisions endured in the constitution of Nepal.
* The classification of disability has been amended.
* It prohibits all kinds of discriminations on the basis of disability with the provision of actions and punishment against it.
* It has provision of equal access to education, health, employment, public physical infrastructure, transportation and information & communication service.
* It is developed in accordance with the federal system.
1. **Please provide any information and statistical data (including surveys, censuses, administrative data, literature, reports and studies) related to the exercise of the right to health of persons with disabilities in general, as well as with particular focus in the following areas:**

The National Census 2011 conducted by Government of Nepal reported that 1.94% of the total population of Nepal is living with some kind of disabilities, whereas the National living standard survey report (NLSS) 2011 has claimed it to be 3.6%. However, both figures are quite low as compared to the 15% disability prevalence rate claimed by WHO and World Bank in the World Report on Disability (2011). These figures are in sharp contrast to studies carried out by specific impairment groups - for example a survey carried out in five districts in 1991 stated that 16.6% of children aged over five were deaf while a study by a mental health organization, Aasha Deep (2000), found that 10-12% of the population had experienced some form of mental health difficulties.[[1]](#footnote-1)

The national census found that 2% of the population was disabled (513,321) ([Central Bureau of Statistics, 2012](https://www.sciencedirect.com/science/article/pii/S0266613814000928%22%20%5Cl%20%22bib10)). Physical and sensory disabilities were the most prevalent. Another survey has reported higher incidence of disability, Washington Group on Disability Statistics, found that 29% of married women with children had a mild, moderate or severe impairment ([Institute for Global Health et al., 2013](https://www.sciencedirect.com/science/article/pii/S0266613814000928%22%20%5Cl%20%22bib23)). The low figures referred to in the census may also be indicative of differences in how disability is perceived and captured ([WHO and The World Bank, 2011; Simkhada et al., 2013](https://www.sciencedirect.com/science/article/pii/S0266613814000928%22%20%5Cl%20%22bib55)).

* 1. **Availability of barrier- free general healthcare services and programmes, which take into account all accessibility aspects for persons with disabilities;**

Compared to persons without disabilities, persons with disabilities face additional barriers in accessing primary healthcare services and health promotion activities (Beatty & Dhont, 2001; Beatty et al, 2003; World Health Organisation, 2011). Research shows that persons with disabilities have greater medical vulnerability and a higher prevalence of secondary health conditions than the general population (Kinne et al, 2004; Drainoniet al, 2006; Trani et al, 2011). Therefore, access to primary healthcare services is even more important to persons with disabilities.[[2]](#footnote-2)

In Nepal healthcare providers and persons with disabilities reported similar barriers. Transportation and the attitude of family members and the community are the main environmental barriers. Even with assistive devices, people still depend on their families. Financial barriers are lack of funds for health expenses, problems in generating an income by persons with disabilities themselves, and the low socio-economic status of their families. Personal barriers, which affect help-seeking behaviour in a major way, are most often mentioned in relation to financial and socio-environmental barriers. Low self-esteem of the person with disability determines the family’s attitude and the motivation to seek out healthcare. Lastly, poor public awareness about the needs of persons with disabilities was reported.[[3]](#footnote-3)

Getting access to various services by targeted communities determines the execution of legislations, policies and programs in practice. Some legislations and policies are targeted to improving the living conditions of persons with disabilities through promoting access to various services/facilities. Most of the services/facilities are, however, beyond the reach of targeted groups, especially in rural areas and among economically poor families. Most of the health posts/health clinics are not accessible and do not accept the presence of persons with severe disability, although attempts have been made to make newly established hospitals in national as well as district level accessible (at least having ramps). In the absence of trained human resources and necessary equipment, disability identification and early prevention programs have not been effectively executed, though some of the hospitals are trying to improve. Intellectual disability and multiple disabilities are truly felt difficult to be recognized and timely treated. [[4]](#footnote-4)

* 1. **Access to free or affordable general healthcare services and programmes ; including mental health services, services related to HIV/AIDS and universal health coverage;**

Many persons with disabilities need to use different types of medicine at a regular basis due to their health condition. They may also need regular counselling to reduce the side effect of their disability in the future. Such services are also not available free of cost which NFDN has demanded from the government for the last few years. Most of the people with disabilities, especially in rural areas and among economically poor families, are still living hardship lives with highly insecure access to general health services.

###  Mental health services

Specialist mental health services are found to be limited to Zonal- or District hospitals. Across the whole country, there are estimated to be around 440 in-patient beds for people with mental illness (combining both governmental, 112 and private hospital facilities, 327); which amounts to 1.5 beds per 100,000 population. No separate in-patient service is available for children with mental illness. Due to the geographical circumstances and lack of reliable transportation, (the capital city Kathmandu or adjoining cities in Indian were often the only options available for people with mental illness living in remote areas. In the public sector, counseling or psychotherapeutic services were found to be difficult to access due to the limited number of clinical psychologists. General counseling services are being provided by trained Para-professional counselors employed by NGOs; however, such services tend to be limited to specific population groups such as; people affected by conflict, survivors of human trafficking, victims of domestic and gender based violence, and refugees. No systematic data was available regarding the treatment of mental health problems by traditional or religious healers; however, those healers are known to be the primary sources of treatment for (mental) health problems in the community. [[5]](#footnote-5)

**Services Related to HIV/AIDS[[6]](#footnote-6)**

The National HIV Strategic Plan for the period 2016 - 2021 is a set of evidence-informed strategies focused on building one consolidated, unified, rights-based and decentralized HIV programme with services that are integrated in the general health services of the country. It builds on lessons learned from implementation of the National AIDS Strategy 2011 - 2016, its mid-term review and the Nepal HIV Investment Plan 2014 - 2016, and it applies recommendations from the AIDS Epidemic Model exercise and other strategic information from studies, surveys and assessments. The National HIV Strategic Plan has been prepared through a wide range of consultations, including the Nepali Government, civil society networks, international partners and service providers, under the leadership of the National Centre for AIDS and STI Control.

Key populations remain the main focus of the National HIV Strategic Plan. In Nepal, these populations include female sex workers, transgender sex workers, male sex workers, clients of sex workers, transgender people, gay men and other men who have sex with men, people who inject drugs, incarcerated people, mobile, migrant and displaced populations, young people and uniformed services. In addition, all pregnant women are the focus of the National HIV Strategic Plan for elimination of vertical transmission.

Innovative service delivery approaches include intensified testing to reach key populations through facility-based outreach and community-led in-reach; linking testing to treatment and retention with smart and innovative referral systems, and case management that will be introduced systematically in public, private and nongovernmental organization operated facilities; and introducing test for triage, initiated through community-led HIV screening. Task-sharing to identify, reach, recommend, test, treat and retain is essential, central and fundamental in the National HIV Strategic Plan. In order for this forward-looking prevention treatment continuum to be successful within a case-finding/case management approach, the capacity and competence of health service providers and trained community laypeople will be updated and made fit for purpose.

**Universal Health Coverage**

The Social Health Security Programme (Operating) Regulations, 2015 is existed in operation. In accordance with this regulation the government will waive Rs 2,500 in insurance premium for households identified as extremely poor. Also, discounts of 75 percent on premium for “poor” households and 50 percent for “marginally poor” households have been offered.[[7]](#footnote-7)
So initiative has also been taken by the Health Ministry to introduce the Social Health Security Act and tabled the draft of the bill on universal health coverage in Parliament. Enactment of the bill would make it mandatory for all Nepali is to purchase a health insurance scheme, which can be used to seek medical treatment free of cost or at a lower cost.

However, in a laudable move, Government of Nepal in the Constitution of Nepal 2015 addressed health as a fundamental right. The article 35 of Constitution of Nepal ensures that every citizen shall have 1) right to free basic health services from the state, and no one shall be deprived of emergency health services, 2) right to get information about his or her medical treatment, 3) right to equal access to health services and 4) right of access to clean drinking water and sanitation. The National Health Policy 2014 also ensures fundamental right to health via UHC by ensuring access to quality basic health services free of cost. The National Health Sector Strategy (NHSS) 2015-2020 of Nepal articulates nation’s commitment towards achieving UHC which stands on four strategic principles: Equitable access to health services, Quality health services, Health systems reform and Multi-sectoral approach.[[8]](#footnote-8)

National Health Policy 2014 clearly states in policy no 1 that to make available in an effective manner the quality health services, established as a fundamental right, ensuring easy access within the reach of all citizens (universal health coverage) and provision of basic health services at free of cost. For the implementation of the policy 1, following strategies will be adopted to make available an effective manner the quality health services. Basic health will be provided at free of cost by making acts relating to basic health service. As Nepal is the signatory of international convention on Rights of Persons with Disabilities, all necessary health services needed for people who are blinds, visually impaired, hearing impaired as well as mentally, cognitively and physically disabled will be included in urgent health service category.

2.3 **Access to free or affordable disability –specific healthcare services and programmes; and**

Living conditions among people with disability in Nepal: A National Representative Study was carried out in 59 districts and as many as 4,000 households were sampled. The report shows the substantial gap in access to health services among individuals with disability. This report also addresses some of the key issues availability, affordability, and accessibility of healthcare services of persons with disabilities. First, healthcare workers are not trained to deal with cases of person with disabilities. For instance, majority of health institutions still don't have a medical test facility to diagnose autism.  Similarly, our health institutions are not disabled-friendly.  Local level health institutions are incapable of identifying intellectual and other type of disabilities, denying persons with disabilities of timely treatment.  Inaccessible working places, poor access to educational opportunities, inadequate skills development and vocational training, negative stereotypes regarding the persons with disability and their capacity, are some of the obvious barriers to livelihood opportunities for persons with disabilities, the report says.

After the initiation of the free essential healthcare services program in 2007, the government has gradually increased its coverage so as to provide free basic healthcare and a limited number of essential medicines. Providing free essential medicines is the first step, but there is much to do to improve coverage and quality use of essential medicines. The Nepal Government has approved the Ministry of Health and Population’s (MoHP) decision to increase the number of free essential medicines from 40 to 70 by. Unfortunately, the persons with disability say that only one specific medicine used by the persons with disability is available in the government list.

* 1. **Access to free or affordable health- related habilitation and rehabilitation goods and services, including early identification and intervention.**

In addition to providing regular partial grant to encourage institutions carrying out community based rehabilitation program for people with disability, institutional strengthening programs are also being operated by the Ministry for Women, Children and Social Welfare. Local bodies, NGOs and other institutions have been encouraged to carry out rehabilitation (CBR) programs. Similarly, institutions like Nepal Blind Welfare Association, Nepal Association of Blind, Disabled Association Jorpati, Children's Hospital and Rehabilitation Center, Welfare Association for Mentally Retarded, Cerebral Palsy Self-dependence group, ING, Anandavan Hospital, Leprosy Eradication Association, KOSHISH etc. are found to be operating programs in various districts with the assistance of international non-governmental organizations and development partner organizations. Similarly, National Federation of Deaf and Hard of Hearing and Ashadeep Rehabilitation Centers in the area of mental diseases are seen to be operational. Until now, although rehabilitation (CBR) programs are being carried out by various associations and organizations in more than 48 districts. [[9]](#footnote-9)

Private initiatives on person with disabilities medical rehabilitation complement government services. Provisions are made to have at least two beds reserved for persons with disabilities in district hospitals. In order to make sure that this provision is being followed, NGOs have made visits and sent persons with disabilities to hospitals for treatment. Medical rehabilitation is provided by governmental health services, along with other initiatives, such as the Hospital and Rehabilitation Center for Disabled Children (HRDC).

**For the rehabilitation of persons with disability prosthesis and orthotics are used. T**he use of artificial limbs (prostheses) is to enhance the function and lifestyle of persons with limb loss. This must be a unique combination of appropriate materials, alignment, design, and construction to match the functional needs of the individual. Lower limb prostheses might address stability in standing and walking, shock absorption, energy storage and return, cosmetic appearance, and even extraordinary functional needs associated with running, jumping, and other athletic activities. Upper limb prostheses might address reaching and grasping, specific occupational challenges such as hammering, painting, or weight lifting, and activities of daily living such as eating, writing, and dressing. The term "prosthesis" refers to an external assistive device applied to replace an absent limb. However, the majority of the persons with disabilities in Nepal do not have access to assistive devices, education, vocational skills, health services, community-based rehabilitation, and income-generating programs.

**Orthotics** involves precision and creativity in the design and fabrication of external braces (orthoses) as part of a patient’s treatment process. The orthosis acts to control weakened or deformed regions of the body of a physically challenged person. Orthoses may be used on various areas of the body including the upper and lower limbs, cranium, or spine. Common orthotic interventions include spinal orthoses for scoliosis, HALOs used in life-threatening neck injuries, and ankle foot orthoses used in the rehabilitation of children with cerebral palsy.

The prosthetic orthotic service providers in Nepal as listed above can be classified on the basis of ownership:

Nepal Army Rehabilitation Center, National Disabled Fund, Limb Care Nepal Pvt Ltd, Orthopedica, Mobility Nepal Pvt. Ltd, Orthocare, Anandaban leprosy Hospital, CBR Biratnagar, Green Pasteur Hospital and Rehabilitation Center, Hospital and Rehabilitation center for disabled Children, BPKIHS rehabilitation center Dharan Semi Government, Prerana Sarlahi, Nepalgunj Medical College and Teaching Hospital Nepalgunj Nepal National Social Welfare Association.[[10]](#footnote-10)

It shows the involvement of NGO and private sector in this field is more than others.  The involvement of government sector is nominal.

**Assistive devices**

Relatively few individuals with disability have an assistive device. Assistive devices are more common among males than females and among urban as compared to rural based individuals with disability. While we can expect that the need for assistive devices increase with increasing severity of disability, an interesting thing is that the use of assistive devices drops with increasing severity of disability. This indicates that severely disabled are not properly serviced in Nepal. While there appears to be some diversity in the supply of devices, that private sources dominate and that maintenance is largely left to the owners of the devices or their families. There is limited involvement from the authorities in supply and service delivery.

1. **Please provide information on discrimination against persons with disabilities in the provision of healthcare, health insurance and/or life insurance by public or private service providers**.

The Health Insurance Act, 2017 requires every Nepali citizen to get his/her health insured. Section 3 of the act makes all parents and guardians responsible for insuring the health of their newborn, children, senior citizens and persons with disabilities. All persons taking asylum in old age homes, children’s homes and orphanages shall also be brought under health insurance coverage by the concerned organisations. Under the health insurance programme, the insured shall enjoy services like nutrition, yoga, psycho-social counselling, vaccination, family planning, safe motherhood, out-patient and emergency health service, operation, medicines, curative and preventive services, rehabilitation and ambulance service, among others. It is under verification and monitoring of NHRC that the premium of insurance is demanded higher than that of the normal person who wants to be insured for more than NRs 200,000.

The insured may file a complaint at the Board if he/she thinks that the health institution refused to provide service or did not deliver quality service as per the laws. If the health institution is found guilty during investigation into the complaint, the board may impose of fine of up to Rs 25,000 on it while issuing order to it to pay a compensation equivalent thereto.

1. **Please provide information on the observance of the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.**

In Nepal, the Nepal Medical Council has so far no such guidelines regarding informed consent. Legally in Nepal it has been mentioned that “consent has to be obtained for treatment or operation by certified physician and in case there is no one to give consent and if the certified physician feels that it is for the benefit of the patient, he or she can proceed without consent.” (Mulki Ain – Ilaj Garne Ko Mahal).

The other legal document in Nepal is Consumer Protection Act. It also does not clarify about the medical services which are given in mutual trust and faith. It says “consumer has right to be protected from any harm in health, body or wealth from any distribution or selling of consumable items or services.

The Nepal Medical Council has in accordance with the Nepal Medical Council Act 1964, passed a medical Code of Ethics, which all doctors registered under it, are to abide by and has stated that a physician must seek an informed written consent prior to performing a diagnostic or treatment procedure. Consent should be taken from the patient if s/he is above sixteen years, but in the case of minors or unconscious patients, consent from guardian can be taken. If there is an emergency and nobody is available to sign consent on behalf of patient, it is the responsibility of the physician to start the treatment. It is obligatory for the physician to explain the nature of the procedure and the expected result. But no documents have stated the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.

**People with mental health difficulties:**

* Disabled persons (protection and welfare) Act 2039(1981) states that special arrangements should be made for the people with a mental disorder while they are being treated either at a hospital or at home.
* It also says that no disabled persons suffering from mental disease, save those against whom proceedings are already being taken or who have been punished in a criminal offence under the prevailing law, they shall be kept in jail.
1. **Please describe to what extent and how are persons with disabilities and their representative organizations involved in the design, planning, implementation and evaluation of health policies, programmes and services.**

The legislative parliament has passed the Disability Rights Bill on 6th August 2017. This act, formulated in the leadership of the Ministry of Women, Children and Social Welfare and in close cooperation with the National Federation of the Disabled Nepal (NFDN) through a long process of consultations with DPOs, disability related services providers, other disability rights organizations and relevant government agencies. NHRC has also forwarded its recommendation to the bill.

While formulating this legislation the government has not only made engagement to the local representative organizations but also other partners particularly DPOD-Denmark, My Rights and FFO-Norway for supporting financially to run the various consultations and interactions during the time of formulation.

1. Arne H. Eide, Shailes Neupane, Karl‐Gerhard Hem (2016), Living conditions among people with disability in Nepal. [↑](#footnote-ref-1)
2. Disability Inclusion in Primary Health Care in Nepal: An Explorative Study of Perceived Barriers to Access Governmental Health Services, Suzanne Van Hees, Huib Cornielje , Prakash Wagle. [↑](#footnote-ref-2)
3. Ibid [↑](#footnote-ref-3)
4. Living conditions among people with disability in Nepal: A National Representative Study : 2016. [↑](#footnote-ref-4)
5. #  Mental health care in Nepal: current situation and challenges for development of a district mental health care plan: 2015.

 [↑](#footnote-ref-5)
6. Nepal HIV Strategic Plan 2016-2021: Ending the AIDS epidemic as a public health threat, by 2030, Government of Nepal Ministry of Health National Centre for AIDS and STD Control. [↑](#footnote-ref-6)
7. <http://kathmandupost.ekantipur.com/news/2016-12-08/universal-health-coverage.html> [↑](#footnote-ref-7)
8. **Journal of Pharmacy Practice and Community Medicine,**2016; 2(4):104-106, Nepal’s quest for Universal Health Coverage Shiva Raj Mishra, Pratik Khanal, Meghnath Dhimal. [↑](#footnote-ref-8)
9. National policy and Plan of Action on disability 2006, Nepal Government, Ministry of Women, Children and Social Welfare, Kathmandu. [↑](#footnote-ref-9)
10. Amit Ratna Bajracharya, Certified Prosthtist Orthotist and Coordinator to Prosthetics Orthotics Society Nepal [↑](#footnote-ref-10)