



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग  
**PERMANENT MISSION OF NEPAL  
TO THE UNITED NATIONS  
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The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR), and with reference to its letter dated 30 April 2021 calling for submissions for the Day of General Discussion "Children's Rights and Alternative Care" on 16 and 17 September 2021, has the honour to enclose herewith submissions from the Government of Nepal.

The Permanent Mission of Nepal to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 09 July 2021  


Office of the High Commissioner for Human Rights (OHCHR)  
Geneva

## Response of the Government of Nepal to UNICEF on Day of General Discussion on Children's Rights and Alternative Care



### a. Background

Nepal has a cultural and traditional value of giving high importance to child care. By culture, the children of Nepal receive care from every adult member of the family. Having children in the family is considered a boon, and the acts of children are perceived as innocent and sincere. The culture of child care in families has been legally strengthened with the constitutional guarantee of child rights, legislative measures, and commitment to UNCRC and other relevant Conventions as well as other cross-cutting policy measures.

The institutional setup for child care can be traced back to 1952 with the establishment of 'Paropakar Orphanage' from citizens' efforts. The National Children Organization in Nepal was founded in 1964 as a government patronage organization that operates 'Bal Mandir' as an orphanage as well as an early school and promotes recreational activities for children residing in the orphanage.

The introduction of the multiparty democratic system in 1990 opened up avenues for the human rights-based approaches in social development interventions, allowing several non-governmental organizations to open and perform child rights promotion initiatives.

Nepal has ratified seven core Human Rights Conventions out of nine such Conventions. Soon after ratifying the UN CRC, the Act Relating to Children, 1992 was promulgated, which recognized the legal provisions for providing alternative care for children in difficult circumstances.

The tendency of orphanage establishment and institutionalized care was heavily practiced during the conflict period of 1996-2009. This was due to the conflict and political instability as well as the significant number of the displaced population in Nepal. Considering the increasing number of institutional care of children and the requirement of the minimum operational standard, the then Central Child Welfare Board, a statutory body of the Government of Nepal, took strong efforts in regulating institutional care as per 'Standards for Operation and Management of Residential Child Care Homes, 2012'. Among others, this effort aimed at preventing unnecessary institutionalization and continuous monitoring of children living in institutional care.



The Constitution of Nepal, 2015 guarantees children's rights as fundamental rights. To enforce the fundamental rights of the children, the Government of Nepal has enacted the Act Related to Children in 2018. The Act explicitly discourages unnecessary separation, provides legal basis for family and community-based alternative care promotion and criminalizes the forced institutionalization of children with even fake documentation.

The GoN has a strong commitment to practicing safe, caring, and appropriate alternative care of children by promoting family-based care for children as well as reducing institutional care. The Ministry of Women, Children, and Senior Citizens (MoWCSC), as an apex executive body on the rights of children, is mandated to promote alternative care, prevent unnecessary separation, and enforce appropriate standards on alternative care. Likewise, National Child Rights Council (NCRC) was established by the Act Relating to Children, 2018 as a semi-autonomous body under the MoWCSC.

The Council is represented by various government agencies and CSOs working in the field of child rights, child protection, child welfare, and juvenile justice. The Council recommends the GoN about the policies and programs to be adopted by the GoN and monitors, evaluates, and reviews the child-related programs undertaken by the GoN and is also responsible to implement and monitor the right of children and alternative care. The provincial governments and local levels are provided legal mandates for practicing alternative care in the principle of necessity and appropriateness through the mobilization of a local child welfare officer, social worker, and psychologist.

#### **b. Legislative measures**

Article 39 (2) of the Constitution has a provision for children's right to appropriate care from family and state as a fundamental right. The Act Relating to Children, 2018 has defined 13 various rights for children that include the right to identity (Sec. 4), right against separation from a family without necessity & right to parental care (Sec. 6), right to protection (Sec. 7), special rights provisions for children with disabilities (Sec. 12). The Act has also made state authorities responsible for considering the best interest of a child in making the decision that affects the life of the child (Sec. 16) and parents, guardians, and caregivers' legal responsibilities towards appropriate care of children (Sec. 17).

The Acts Relating to Children have encouraged diversion for children with juvenile delinquencies to avoid unnecessary institutionalized correction care (Sec. 27, 28, and 29). Section 49 of the Act includes the provision of alternative care, and also



includes that the child welfare authority shall make arrangements for alternative care for the children (orphan) in the following order of priority:

- Relative from the side of the father or mother of the child,
- Family or person willing to provide care to the child,
- Organization that provides/ fosters (family-modeled) care,
- Child care home.

Section 54 of the Act provides that family reunion shall be made if the parents or guardians of the children staying in children's homes are traced and it is in the best interests of the children to do so. Section 55 under 'liability relating to rehabilitation and social reintegration' states that it shall be the liability of the concerned children's home or child correction home to assist the child welfare authority in the rehabilitation and social reintegration of the children staying at that children's home or child correction home. The Act further provides that the children who are currently in institutional care shall be reintegrated with their families if it is in their best interest.

To effectively implement the provision of alternative care, the GoN is in the process of enacting the Regulation Relating to Children, 2021.

### **c. Policy measures**

The National Child Policy, 2012, considers institutional care as a last resort of child care (point 8.15) and urges the government to maintain the record of orphan children who do not have both parents or even if have any one parent but are unable to take care of the child, or unaccompanied or abandoned children (point 8.14). It also adopted measures to find out the whereabouts of the family of the abandoned and helpless children through local authorities and government as well as a non-governmental organization. The child is reunited with his/her own family upon finding out (point 8.16).

The policy has also taken measures to address the problems of children living in the street. For example, there are measures including maintaining a record of street children, rescue them and rehabilitate in the transit center, and reunite with their family whose parent(s) or family is traced out, family support, psychosocial counseling, socialization, etc. (point 8.17).

The Standards for Operation and Management of Residential Child Care Homes, 2012 reiterates the preference for family-based care arrangements and requires a child-friendly environment in the Child Care Homes. The National Child Policy,



2012 is in the process of amendment. Multi stakeholder's level consultation is ongoing in this regard.

#### **d. Situation of alternative care of orphan or children at-risk**

According to the NCRC, a total of 489 child care homes (orphanage/institutional residential children's homes - CCHs) were in operation in the fiscal year 2020/2021, with a total of 11,350 children residing. Normally, orphan children or children at-risk, are placed in institutional care by the relatives of the child and/or social workers with due administrative process in practice, however, some institutional care are found keeping children without proper assessment despite following the complete process and requirements.

It is estimated that about one-third of children residing in the CCHs may be orphans and one-fourth of children may be abandoned. Based on the legal and policy measures as well as considering this estimation, National Child Rights Council has been monitoring the CCHs, and rescuing children from those CCHs who were not maintaining the minimum standards as required by the law.

The children who are deprived of proper family care have been taken care of through various institutional facilities. Besides CCHs, there are rehabilitation centers that temporarily protect children at risk. These centers reunite children to their families as soon as the family is traced out.

The MoWCSC, as well as NCRC, has been screening children having both parents and single parents and also managing to send them to their family for protecting children from separation from their family/parent(s) and promoting family reunification.

In FY 2020/21, a total of 57 children (31 boys and 26 girls) have been rescued from five residential care homes till May 15, 2021. Of which 36 children have already been reunited with their families, whereas the rest 21 children have temporarily resided in the institutional care facilities. These children will be reunited with their families once their own family is traced out. NCRC rescues children from residential institutional care if the institutional care facility has not properly followed the Standards for Operation and Management of Residential Child Care Homes, 2012, and not made any improvement based on suggestions provided in the previous monitoring visit.

The NCRC has selected 28 temporary protection service centers among the institutional child care homes and rehabilitation centers to manage the alternative care of children rescued from the street (children living in the street), children found

unaccompanied, helpless, and at-risk children rescued from the CCH, and referred from other authorities. The children brought and referred to these centers are reunited with their families as soon as the family is traced out. Until the family is traced out, the children are kept in the centers as well as sent to the rehabilitation centers.

This model was started in July 2020 and it has been one of the best practices to manage the cases of children who need alternative care services. The families reunited with the rescued children are also provided with family support to ease the concerns of child protection and development, including family's subsistence. At the same time, this has also been acknowledged as one of the innovative practices for family strengthening of children at-risk, quality alternative care, family reintegration, the transition from alternative care into independent living and deinstitutionalization processes of rescued children.

There are some key measures taken to address the situation of rescued children. For instance, as soon the children are rescued from the street, other public places and received from referred cases, the situation of children is screened quickly if they are drug addicts, physically and mentally fit, and fine or not, including whereabouts of the family. Based on the situation screened, the children are sent/referred to either in drug rehabilitation centers or temporary protection service centers.

The specific children are treated with specific therapeutic support, medical support, socialization support. As soon the children come to the normal situation, they are reunited with their family for those whose family is traced out, and others are referred to rehabilitation centers or institutional care homes. After regular observation, if it is found that it is appropriate to give skill training to any particular children, then they are provided with suitable skill training, followed by support for employment/income generation activities.

There are 18 Child Helplines across the country that also handle the cases of alternative care of children in need. During the COVID-19 pandemic, some children residing in institutional care were sent to their families by the institution.

Young children of incarcerated parent(s) have to stay in jail with their parent(s) if there is no one to take care of them in the family or kinship. In FY 2020/2021, there has been a total of 286 such children in different prisons across the country. Institutions such as PA Nepal, Early Child Development Center (ECDC), Victims Service Association (VSA) and Prisoner Assistance Mission (PAM) have been rehabilitating the children of incarcerated parents until the convicted period by the Court completed or traced out kinship to care for the children.



The GoN declared to be the guardian of the orphan children. So, the MoWCSC through NCRC has started providing protection support (cash transfer) to orphan children living with their relatives. Similarly, the Bagmati Province government has also initiated programs to support orphan children across the province. Some local levels have also been providing such support. NCRC has been initiating efforts to manage alternative care for such children.

In course of implementation of the alternative care provisions of the law, the deinstitutionalization process has been initiated. It is hoped that deinstitutionalization will be systematized within a couple of years. The NCRC provides financial support to the alternative care mechanism based on a per-child basis while it recommends to the particular institution for the purpose of care, protection, or treatment of the child who is found separated, unaccompanied, and vulnerable and rescued accordingly.

The GoN has made headway for addressing the issue of street children in Nepal by adopting legal, policy, and program measures. These measures have made the state responsible for providing information, records, the rescue of street children, family support and reintegration, and psychosocial counselling. The National Child Policy, 2012, has provisioned a number of activities to be taken for the management of street children ranging from information management to rescue, protection management in temporary protection centers including reintegration and family support.

The GoN, MoWCSC has issued "Street Children Rescue, Protection and Management Guidelines, 2015" in order to rescue, counseling, protection, socialization, family and community reintegration of street children with the mutual collaboration and coordination among three tiers of government mechanism, NGOs especially child care homes. As per the guidelines, under the leadership of MoWCSC, coordination, and facilitation by NCRC and support from Nepal Police, the rescue and management of street children in the Kathmandu Valley with the slogan, 'no children require to live in street' was rapidly initiated since 2016. Currently, the NCRC is actively pursuing such activities under the national campaign to declare Nepal as a street children-free nation.

As of 'State of Children in Nepal, 2020' published by NCRC, a total of 574 children were rescued from the street across the country. The rescued children are sent to temporary protection service centers first and then referred to socialization centers. They are also provided with suitable skill training based on the interest and nature of the children. The children are reunited with their family as soon as the family is traced out and the child is fit to send back home. Even though the family is traced



out, the child is kept in temporary shelter service centers/socialization centers until the child is observed to be fit to go back home. After providing skill training, the needy children are engaged in income-generating activities for their better life options.

The causes of separation/abandonment of children are generally understood as follows:

- Broken family - second and more marriage of father and/or mother by which the child is neglected in the family from all basic needs and affection.
- Corporal and mental torture by drunkard father and/or mother.
- Loss of hope and frustration in the family, hand to mouth problems, lack of education and other opportunities,
- Poverty and its association with broken families.
- Leaving home with accompanying peers.
- The family itself sends the child to another city for better education and opportunities knowingly or unknowingly in the best interest of the child for a better-foreseen situation.

Nepal has been addressing the issue of refugees for about six decades and Bhutanese refugees for the past three decades. National Child Policy, 2012 (8.12) includes those provisions for the right of the identity of refugees and internally displaced children for any reason. According to the Ministry of Home Affairs, the total number of Bhutanese refugee children was 2,262 in FY 2017/18 and 2,091 (1003 girls and 1088 boys) in FY 2019/20. These children are living with their parents in refugee camps. They have been providing basic services and facilities.

#### **e. Alternative Care of Children During Covid-19**

The MoWCSC has formed a COVID-19 immediate response to a steering committee under the chairmanship of the Minister. This committee included related ministers from the province Government and children's focal persons from different agencies. In this regard, NCRC has developed a plan of action to respond to the effect of the COVID-19 pandemic on children. The Ministry has decided to collect data on the children who have become orphans due to this pandemic. The intervention measures are being initiated, COVID-19 Pandemic Child Protection Volunteer Groups have been formed and oriented to handle and support the cases of children infected by a coronavirus. The government has taken guardianship of those children.





The NCRC as well as other (sanitary items, masks, foods, medicines etc.) have been providing essential support centres, and temporary protection centres. Weekly information about the pandemic and children has been making public. Public isolation and quarantine centres have been made child-friendly. Youth volunteers across the country have been active to respond the problems of children affected by the COVID- 19 pandemic situation

**f. Conclusion**

From the experience of Nepal in promoting the implementation of alternative care, we have learned that localized child protection mechanisms and systems are essentials to practice alternative child care. The social protection schemes for children (targeted for children in difficulties) and also social security schemes that support children's wellbeing are one of the measures for preventing unnecessary separation of children. In a context of developing and least developed countries, where child separation happens largely among ultra-poor and broken families, the continuity of child care homes requires with new and right-based standards as well as a strong regulatory system. At the same time, family and community-based care can be promoted with a decentralized child rights system.