

**Statement by Professor Olivier De Schutter, United Nations Special Rapporteur on  
extreme poverty and human rights, on his visit to Nepal,  
29 November – 9 December 2021\***

**Kathmandu, 9 December 2021**

## **1. Introduction**

Nepal has made great strides in the fight against poverty in recent decades. Absolute poverty numbers have gone dramatically down and multidimensional poverty rates have been gradually decreasing over time as well. But this impressive reduction in poverty numbers hides an increase in wealth inequality, a stalling in gender development progress, and an undue weight of remittances in alleviating poverty. The lack of comprehensive, disaggregated poverty data hampers progress and monitoring efforts, both by the international community and the Government itself, and it hides the compounded forms of poverty that historically marginalized communities experience in the country, including millions of stateless people who are excluded from figures and from accessing social protection and public services. The Government must develop a serious anti-poverty action plan to address these and other challenges.

Nepal prides itself on its unique diversity, and rightly so. The country's almost 30 million inhabitants belong to at least 125 caste/ethnic groups and speak over 123 languages, scattered across a rich and highly diversified terrain. The 2015 Constitution expresses in its Preamble the vision of "an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of castebased untouchability". Beyond celebrating this diversity however, the Government of Nepal must take a series of concrete steps to ensure that the promises of social justice that it made to its people in the Constitution do not remain dead letter.

In the course of 11 days in Nepal, the Special Rapporteur met with 8 ministries as well as with the Office of the Attorney General.<sup>1</sup> In addition to the Attorney General, he spoke with the Minister of Women, Children and Senior Citizens; the Minister of Urban Development; the Minister of Federal Affairs and General Administration; the Minister of Health and Population; the Minister of Land Management, Cooperatives and Poverty Alleviation; and the Minister of Labour, Employment and Social Security. He also had meetings with the constitutional commissions responsible for the Tharu, for the Indigenous Nationalities, the Madhesi, the Dalit and the Muslim, as well as with the National Human Rights Commission.

The Special Rapporteur traveled to Kathmandu, Surkhet, Nepalganj, Bardiya, Rautahat, Janakpur, and Dhanauji, and met with local, provincial, and federal government officials, international and UN agencies, civil society organizations, and people affected by poverty in urban and rural areas. He visited an informal urban settlement, a disability center, and multiple communities in rural areas. He met with informal settlers at daily risk of eviction in Kathmandu, with landless poor struggling and failing to obtain a land certificate for decades in Jhupra Khola and Dhanauji, and with young women in poverty subjected to various forms of gender-based violence and discrimination in Birendranagar and Janakpur. He met with

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1 The full schedule of his visit can be accessed here: <https://www.srpoverty.org/2021/11/24/preliminary-schedule-of-the-special-rapporteurs-visit-to-nepal-subject-to-change/>

Dalit and Indigenous communities, including with Badi, Madhesi, Tharu, Gandharva, and Musahar communities experiencing multiple forms of destitution as a result of poor access to public services, landlessness, statelessness and lack of legal status, as well as deeply entrenched patriarchal norms and values.

The coalition government led by Prime Minister Deuba took office on 13 July 2021. It has made important commitments to improving wellbeing and human rights across the country. The officials from the recently formed Cabinet are committed to ensuring Nepal does more to continue reducing poverty, address entrenched gender inequality, and put an end to historical discrimination experienced by marginalized communities across its seven provinces. This statement addresses the most important challenges the Government faces and the priority steps it should take to fulfill the rights of the population.

## 2. Situation of poverty and inequality in Nepal

Nepal has made great strides in the fight against poverty in recent decades. The number of poor went down from 42% in 1995 to 12.5% in 2010.<sup>2</sup> The multidimensional poverty rate is now at 17%, a decrease of 12.7% since 2014.<sup>3</sup> Nepali people are justifiably optimistic about their country, including due to improvements in infrastructure and access to healthcare and education,<sup>4</sup> and Nepal was ranked 22<sup>nd</sup> among emerging economies in the Inclusive Development Index of the World Economic Forum.<sup>5</sup>

These poverty measurements should be treated with caution, however. While the national poverty line is used both to convey progress in the fight against poverty and to identify households whose enrolment in the National Health Insurance Program (NHIP) is fully subsidized and who have access to subsidized food items, it remains exceedingly low: it was set in 2010 at NPR 19,262/year/person,<sup>6</sup> and is now set at NPR 22,190 – barely above the deeply problematic International Poverty Line of \$1.90 PPP. Nepal's national poverty line, just as in other countries, is based on the cost of basic needs method, aimed at capturing basic needs in terms of food and non-food items, but this approach is silent on what an appropriate list would be for non-food items, including at what prices.<sup>7</sup> The 2021 Multidimensional Poverty Index report relies on outdated census data and glosses over indicators that have remained unchanged or worsened in the past 8 years.<sup>8</sup> In both cases, intra-household inequalities, critical for assessing poverty among women, are not captured.

Nepal's Human Development Index value has increased greatly and is now at 0.587.<sup>9</sup> Adjusted for inequality however, the HDI is 0.439, indicating a loss of 25.2% due to inequality.<sup>10</sup> Women's HDI is also lower than men's, and is now worryingly experiencing a downward trend since 2017.<sup>11</sup> Geographical disparities remain important: the provinces of Sudurpaschim, Karnali, and Province 2 lag significantly behind the national average.<sup>12</sup>

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2 World Bank, *Poverty & Equity Brief South Asia: Nepal*, October 2020, p. 1

3 Government of Nepal, National Planning Commission, *Nepal Multidimensional Poverty Index: Analysis towards Action*, 2021, p. x

4 Dhiraj Giri et al., *A Survey of the Nepali People in 2020*, 2020, p. 11

5 World Economic Forum, *The Inclusive Development Index 2018: Summary and Data Highlights*, 2018, p.2

6 Government of Nepal, National Planning Commission, *Nepal Multidimensional Poverty Index: Analysis towards Action*, 2018, p. 1

7 Nand Kishor Kumar, Poverty profile and poverty measurement technique of Nepal, *Nepal Journal of Management*, August 2019, Vol. XII, No. 1, p. 7

8 Government of Nepal, National Planning Commission, *Nepal Multidimensional Poverty Index: Analysis towards Action*, 2021

9 Nepal Human Development Report 2020, p. 19

10 Id., p. 17

11 Id., p. 22

12 Id., p. 27

Moreover, a quarter of the decline in poverty can be attributed to migration only. Estimates show that, without remittances, poverty would have in fact increased in Nepal.<sup>13</sup> Remittances in Nepal were 10 times larger than foreign aid and 2.5 larger than total exports only in 2017,<sup>14</sup> suggesting much more needs to be done by the Government to meet its target to reduce the population under multidimensional poverty to 11.5% by 2023-2024.<sup>15</sup>

With the new Nepal Living Standards Survey (NLSS-IV), to be completed in the coming months, Nepal will update its population and consumption estimates, which will be critical to produce more accurate poverty estimates, including disaggregated data across gender, caste, and ethnicity lines. This is crucial, since the lack of official, disaggregated data remains a critical challenge for monitoring poverty in the country.

Recent efforts have been placed to develop a poverty database and to provide households found to be below the poverty line with so-called "poverty ID cards".<sup>16</sup> 26 districts have been surveyed since efforts began in September 2012. Yet the Government expressed to the Special Rapporteur that it expects all 77 districts to be completed by the end of 2022, an expectation that was already created for 2021 and was not met by far.<sup>17</sup> Additionally, there have been complaints about misidentification of who is poor and who is not. The "poverty card" overlaps with other cards and certificates and are not a substitute for the Integrated Social Registry that could improve coverage for the full range of social protection schemes. Most importantly, the database itself is not dynamic – there is no mechanism for updating the data as households escape from or fall into poverty. This is especially problematic given the multiple shocks the country has experienced in the last nine years.<sup>18</sup>

Challenges remain at the macroeconomic level as well. Nepal is a largely importing country, with negative trade balances of about USD 11.5 billion in 2019.<sup>19</sup> Despite having opened its economy to foreign direct investment (FDI) in the 1980s and 1990s, largely as a result of structural adjustment programs led by the IMF and the World Bank, its FDI remained negligible in the following years:<sup>20</sup> it was USD 185.6 million, or 0.54% of the GDP in 2019, comparatively lower than countries with similar economic profiles in the region.<sup>21</sup>

This was in part the result of misguided advice. With the World Bank and IMF's suggestion that service and industry sectors be supported and agriculture ignored, agricultural subsidies were removed. Together with China's and India's respective increases in agricultural subsidies, this led to sharp productivity declines. In parallel, exports did not grow as expected but instead declined, and they have been further declining in the past 10 years.<sup>22</sup> The result has been higher debt levels, higher prices, and rise of unemployment. Debt has doubled only between 2015-16 and 2019-2020 and currently at 37.7% of GDP.<sup>23</sup> The lesson

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13 World Bank, *Work-related migration and poverty reduction in Nepal*, 2007; World Bank, *Trends and drivers in poverty reduction in Nepal: a historical perspective*, September 2016; Udaya R. Wagle and Satis Devkota, The impact of foreign remittances on poverty in Nepal: A panel study of household survey data, 1996-2011, *World Development*, 110: pp.38-50, October 2018.

14 World Bank, Nepal country economic memorandum, 2017, p. 3

15 15<sup>th</sup> Plan, p. 634

16 After spending Rs 700 million to identify the poor, Nepal still doesn't have their database, *myRepublica*, April 12, 2020

17 Poor households to get ID card within this fiscal year, *The Rising Nepal*, October 30, 2020

18 Center for Investigative Journalism, *Preying on Poor People's ID*, October 5, 2018

19 World Bank, TCdata360, 2019

20 UNCTAD, *The Least Developed Countries 2000 Report: Structural adjustment, economic growth and the aid-debt service system*, p. 113

21 World Bank, Foreign direct investment, net inflows

22 Ministry of Finance, *Economic Survey 2020/21*, p.89

23 Ministry of Finance, *Debt Report 2019-20*, p. 2-3; Most of Nepal's external debt is held by the World Bank and the Asian Development Bank, p.7.

is clear: economic liberalization, in itself, does not lead to job creation and better job conditions for the population. Instead, a serious anti-poverty action plan containing a sustainable jobs creation strategy should be prioritized.

Worryingly, when the Special Rapporteur inquired about the Government's job creation strategy for the upcoming years, the Government referred to foreign employment and remittances only,<sup>24</sup> suggesting a misguided prioritization of encouraging outmigration as a solution to unemployment, rather than strengthening decent job-creating sectors at home. Large-scale outmigration however is not a sign of strength: it is a symptom of structural problems that the Government must address. Stimulating outmigration and counting on remittances actually prevents the country from reaping the benefits of its investments in education. Remittances moreover fuel consumption that largely enables the growth of low-productivity, low-skilled services, which in turn favors imports and hampers exports.<sup>25</sup>

### **3. Legal and institutional framework**

Nepal has one of the most progressive constitutions in the world. It lists a range of economic and social rights, including the right to education (art. 31), to employment (arts. 33-34), to health (art. 35), to food (art. 36), to housing (art. 37) and to social security (art. 43). Specific provisions address the rights of women (art. 38), of children (art. 39), of Dalit (art. 40), and of senior citizens (art. 41). In accordance with the deadline set forth in article 47, a number of laws have been adopted in 2018 in order to implement the fundamental rights listed in the Constitution.

The Constitution expresses in its Preamble the vision of “an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of castebased untouchability.” The right to “social justice,” as defined in article 42, should guarantee that a number of marginalized groups have the right to “participate in the State bodies on the basis of inclusive principle.” These groups are identified as “the socially backward women, Dalit, indigenous people, indigenous nationalities, Madhesi, Tharu, minorities, persons with disabilities, marginalized communities, Muslims, backward classes, gender and sexual minorities, youths, farmers, labourers, oppressed or citizens of backward regions and indigent Khas Arya.”<sup>26</sup>

Significant obstacles remain in order to move from the constitutional promises to the lived experiences of disadvantaged groups. First, while the legislations implementing the fundamental rights of the Constitution have been adopted, as required, within the three years following the entry into force of the Constitution, these legislations were rushed through the parliamentary approval process, often with no or limited consultation. As a result, many bylaws must still be adopted in order to ensure the rights stated in the Constitution are fully and effectively guaranteed.

Moreover, the legislative process does not include any mechanism to ensure that the bills presented for adoption are screened for their compatibility with the fundamental rights stipulated in the Constitution or in the international human rights treaties to which Nepal is a party. Nor does it include any procedure to assess the impacts on particularly disadvantaged groups, in particular those listed in the Constitution. While a number of constitutional commissions have been set up that could perform this role, these commissions work with limited resources, and neither the Government nor Parliament have committed to even

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24 Meeting with the Ministry of Labor, Employment, and Social Security, December 6, 2021; meeting with the National Planning Commission, December 7, 2021

25 World Bank, Nepal country economic memorandum, 2017, p. 5-6

26 Articles 42(1) and 18(3) of the Constitution.

provide a substantiated answer to their recommendations, let alone to be guided by them. As a result, the impact of these commissions may remain limited in the future.

Secondly, major challenges remain to implement the “inclusive principle,” according to which all groups of society should be adequately represented in State bodies. Full implementation of this principle is essential to improve trust among communities. Indeed, sporadic yet tragic outbursts of violence resulting from inter-caste marriages suggest that, while a mainstream narrative highlights social cohesion and harmony, resistance by dominant groups is strong when historical hierarchies are questioned. Although untouchability was declared illegal more than a decade ago, with the adoption of the 2011 Anti-Caste Discrimination and Untouchability Act, caste-based discrimination persists across the country, with lingering prejudices continuing to cause significant violence within Nepali society.

*Dalit*, who occupy the lowest *varna* of the caste system and constitute at least 13.6% of the total population, are particularly affected by such violence and discrimination. A report on the perception of harmful practices found that 97% of respondents considered that discrimination based on caste occurs in their community, with nearly half of respondents stating that *Dalit* would not be allowed into the house of non-*Dalit* in their communities.<sup>27</sup> Moreover, more than half of *Dalit* respondents reported having experienced caste-based discrimination within the past year, which included being denied entry into the home of “higher-caste” families, or being denied access to using communal water sources or village temples.<sup>28</sup>

Discrimination is the single most important factor explaining why the *Dalit* are disproportionately affected by poverty: around 42% of *Dalit* live below the poverty line (43.6% of Hill *Dalit* and 38.2% of Terai *Dalit*),<sup>29</sup> whereas the national poverty rate is 25.2%.<sup>30</sup> While the immediate causes of this gap are limited employment opportunities due to occupation specialization preventing *Dalits* from accessing well-paid jobs, as well as lack of access to (quality) education and land that perpetuates poverty from one generation of *Dalits* to the next, the persistence of social discrimination is the overarching factor explaining this situation.<sup>31</sup>

In order to implement the “inclusive principle,” a reservations policy has been put in place since 2007, providing that 45% of positions in the federal civil service should go to specific disadvantaged groups as now identified in the Constitution. This policy was effective to some extent: women’s representation in civil service, for instance, increased from 11% in 2007 to more than 20% a decade later, a remarkable achievement in such a short period of time.<sup>32</sup> However, progress was slower for other groups. *Dalit* representation in the civil service was below 1% prior to the introduction of the reservations policy, but it remained around 2% by 2018, which remains significantly below the aims set by the policy.<sup>33</sup>

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27 United Nations Nepal, *Harmful practices in Nepal: Report on community perceptions*, January 2020, p. 8

28 *Id.*, p. 9

29 Asian Development Bank, *Country Poverty Analysis (Detailed) – Nepal*, (n.d.), p. 11

30 Dalit NGO Federation, Nepal National Dalit Social Welfare Organization, SAMATA Foundation, Jagaran Media Center, Rastriya Dalit Network, Madeshi Dalit Bikash Mahasangh, Feminist Dalit Organization, *Nepal’s Civil Society Alternative Report to the UN Committee on the Elimination of All Forms of Racial Discrimination*, February 2018, p. 15

31 Krishna Khanal, et al., *Dalit representation in national politics of Nepal*, Nepal National Dalit Social Welfare Organisation, 2012, p.12

32 Ramesh Sunam and Krishna Shrestha, “Failing the most excluded: a critical analysis of Nepal’s affirmative action policy,” 2019, *Contributions to Nepalese Studies*, 46(2)(2019): 283-305

33 R. Sunam, *Samabeshitako Bahas [Debating Social Inclusion]* (Kathmandu: Samata Foundation, 2018).

According to the 1993 Civil Service Act as amended, 45% of total seats of the civil service workforce are to be filled through open competition by eligible candidates from “disadvantaged groups”: women (33%), *Adivasi Janajatis* (27%), Madhesis (22%), Dalits (9%), persons with disabilities (5%) and persons from remote regions (4%).

The directive order adopted on 1 August 2021 by a Supreme Court joint bench of Justices Bishwambhar Prasad Shrestha and Anand Mohan Bhattarai now presents the Government with a new challenge. The Justices essentially ruled that the reservation system should be focused on needs and not on ethnicity: socio-economic status rather than an individual's caste or ethnic identity, the judgment states, should be considered when allocating reservations. The Court also ruled that an individual could only benefit once in a lifetime from the reservations system.

The proper answer to the judgment, in the view of the Special Rapporteur, is not to abandon the reservations policy and replace it by a system that focuses on socio-economic status only, but to improve it in three ways. First, intersectionality should be properly considered. In order to avoid, for instance, that all the positions set aside for Madhesi be captured by men, or that all positions set aside for women be captured by non-*Dalit* women, the reservations policy could take into account the intersection of caste, ethnicity, sex, and disability – defining, for instance, the appropriate representation of Madhesi Dalit women with a disability among the reserved positions.

Secondly, an additional set aside, separate from the current 45% reserved allocations, could be provided for candidates from a low socio-economic background. This would be consistent with the reference of the Constitution to the prohibition of discrimination on grounds of economic condition as well as to the “indigent Khas Arya” as part of the disadvantaged groups; and it would alleviate any fear that the current policy will disproportionately favour those who, within certain groups, are the best positioned to seize the opportunities arising from the policy.

Thirdly, however much the reservations policy can improve the representation of certain disadvantaged groups in civil service and ensure that the composition of the administrative reflects the diversity within the population, such a policy should not be seen as a substitute for investing resources into improving the ability of the members of such groups to compete on an open basis with others. The *Dalit* in particular, but also women and Indigenous Nationalities, as well as the Madhesi, should benefit from improved opportunities in education and in private employment, and they should be effectively protected from discrimination. Inspiration could be found in the Dalit Empowerment Act adopted in Province n°2, which goes beyond the 2011 Anti-Caste Discrimination and Untouchability Act precisely with that objective in mind.

#### **4. Access to land**

Land is considered a key asset in Nepal's agrarian society. A productive asset and source of power, identity, and dignity, owning land offers opportunities for food production and revenue generation. It provides the necessary collateral for contracting loans. It facilitates the acquisition of citizenship certificates, opening the way for access to many public services.

Conversely, landlessness is both a consequence and a cause of poverty in Nepal. Landless households cannot obtain loans from banks, which require land as collateral for credit. Without access to formal financial institutions, poor families are forced to seek access to credit from landowners to pay for dowries, for weddings, for medical expenses or for costs related to migration.<sup>34</sup> This leads them to deepen their indebtedness, increasing their dependency on their landowners, and perpetuating exploitative arrangements akin to bonded labor.

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34 Dominique Calañas, Lorenzo Urbinati, Ahmed Adam *et al.* *Tied Hands: Fact Finding Mission Report on Harawa-Charawa: Debt, Poverty and Climate Change in Dhanusha, Nepal*. Forum Asia and CSRC Nepal, April 2021, p.28

Historical injustices related to land ownership and its unequal distribution make this a highly political topic, which the Special Rapporteur examined when visiting landless communities across three provinces. Several challenges were identified, including difficulties faced in acquiring ownership over land, the consequences of landlessness, the continued existence of bonded labor, and the incomplete rehabilitation of formerly bonded laborers.

Several challenges remain. First, the promises of the Constitution related to land redistribution remain unfulfilled. Article 40(5) of the Constitution provides that the landless Dalit shall be provided land, and Article 51(j)(6) directs the States to identify "the freed bonded labours, Kamlari, Harawa, Charawa, tillers, landless, squatters" and to "rehabilitate them by providing housing, housing plot for residence and cultivable land or employment for their livelihoods". This follows the references to land reform made in sections 3.7 and 3.10 of the 2006 Comprehensive Peace Agreement, and it should be facilitated by the setting of a ceiling on landholdings by the Fifth Amendment to the 1964 Lands Act. The Lands (Seventh Amendment) Act was adopted in 2018, implementing Article 40(5) of the Constitution, and a Bill was recently approved in Parliament for an Eighth amendment to the Lands Act implementing Article 51(j)(6). Yet, fifteen years after the Comprehensive Peace Agreement, redistribution remains very modest<sup>35</sup>, and inequalities in access to land remain important: 75% of Hill *Dalit* and 80% of Terai *Dalit* are functionally landless, meaning that they either own no land or own only plots of land of a negligible size, i.e., less than 0.5 ha.<sup>36</sup>

In both rural and urban areas, this situation leads people in poverty to occupy unregistered land in informal settlements. According to UN Habitat, just under one half (49.3%) of the urban population in Nepal lived under inadequate housing conditions in 2018. Moreover, although some municipalities do provide basic services in informal settlements, this population generally lacks access to improved water and sanitation, to electricity, and to sewage and garbage collection services<sup>37</sup>. They also have no security of tenure.<sup>38</sup> Although the 2018 Right to Housing Act theoretically protects the fundamental right to housing for all Nepali citizens, communities that the Special Rapporteur met in the course of his mission expressed a constant fear of the looming threat of eviction. While the abovementioned Act recognizes the right to appropriate housing, it also provides, under Article 5, that any citizen may be evicted for his or her home for "public purpose".<sup>39</sup> The Special Rapporteur remains unconvinced by the reasons provided by officials to justify the displacement of communities from the settlements they occupy.

The Special Rapporteur was assured by Government officials that according to Article 5(2) of the Act, communities at risk of eviction would be provided with alternative housing options. But these officials also deplored the lack of cooperation of certain communities. Following Article 5(4)(a) of the Act, which requires that consultation be held with citizens prior to eviction, the Special Rapporteur recommends the Government to observe the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement and general comments No. 4 (1991) and No. 7 (1997) of the Committee on Economic, Social and Cultural Rights by laying down more stringent criteria for eviction than is currently provided for under the Act, and by providing procedural guarantees for evictions, including full consultation and participation of affected communities through public hearings, as well as

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35 The process of rehabilitation of free bonded laborers has been partially carried out, but civil society organisations estimate that 25,000 *haliya* are still waiting to be rehabilitated. *Charuwa* and *haruwa* bonded laborers have not been rehabilitated thus far.

36 Liz Alden, Devendra Chapagain, Shiva Sharma, *Land Reform in Nepal: Where is it coming from and where is it going? The findings of a scoping study on land reform for DFID Nepal*, November 2008.

37 Meeting with Ministry for Urban Development, 7 December 2021.

38 UN Habitat, *Population living in slums (% of urban population)*, last accessed December 8, 2021

39 <https://www.lawcommission.gov.np/en/archives/category/documents/prevailing-law/statutes-acts/the-right-to-housing-act-2075-2018>



the mediation, arbitration or adjudication by an independent body having constitutional authority in case agreements about proposed alternatives cannot be reached.

Secondly, in order to acquire a land ownership certificate based on the occupation of land, one must provide a citizenship certificate. This in turn requires that one provides either one's father's (or husband's) citizenship certificate, or proof of permanent residency, amounting to showing land or a house in one's name or in the name of a family member. Without land or male relatives with citizenship, individuals become trapped in a vicious cycle: they are unable to obtain a legal identity and therefore cannot buy land in their name, which, in turn, they need to obtain citizenship.

Lack of access to land in turn explains the persistence of bonded labor in Nepal, despite it having been declared illegal under the 2002 Kamaiya Labor (Prohibition) Act. While the various forms of bonded labor (*kamaiya*, *haliya*, *charuwa*, and *haruwa*) differ with regards to the nature of the tasks carried out or the laborer's identity, they are similar in that they result from a landlord lending money to a tenant, who pays it off through his labor. The amount of labor does not suffice to repay the debt, and coupled with exorbitant interest rates and the inability for the laborer to face exceptional expenses such as those linked to weddings or health treatment, the laborer's debt is passed on to the following generations, until it is repaid.<sup>40</sup>

The lack of protection in practice of land users, despite the guarantees of the 1964 Lands Act, particularly affects the indigenous people (*Janajati Adivasi*). National parks and other "protected areas" in Nepal cover almost one-fourth of the country. Most of these areas have been established on the ancestral land of indigenous populations, many of whom were evicted and have since remained landless. By some estimates, in 2015 about 65% of the ancestral lands formerly belonging to indigenous peoples has been replaced with national parks and reserves,<sup>41</sup> forcing many Janajati to relocate elsewhere.

## 5. Employment

Beyond the need to create more jobs to provide perspectives to the youth, Nepal faces three major challenges in the area of employment. First, 84.6% of the Nepali labor force are informal workers, with an overrepresentation of women: while 81% of employed men work informally, the proportion rises to 91% in the case of women workers.<sup>42</sup> Informality is closely related to the level educational attainment in Nepal: in the non-agricultural jobs, 92.9% of workers who received only an early childhood education are working in the informal sector, compared with 8.4% of those with a tertiary education, or 23.9% of workers with a secondary education.<sup>43</sup> Informal workers are excluded from social insurance mechanisms, nor are they in practice protected by labour legislation.

The problem of effective enforcement of labour legislation is a second challenge, which is not limited to informal workers. There are 11 labor inspectors to cover the entire country, when the ILO recommends 1 inspector per 40,000 workers in Least Developed Countries, or about 275 in the case of Nepal; once Nepal graduates from LDC status, this number should

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40 Dominique Calañas, Lorenzo Urbinati, Ahmed Adam *et al.* *Tied Hands: Fact Finding Mission Report on Harawa-Charawa: Debt, Poverty and Climate Change in Dhanusha, Nepal*. Forum Asia and CSRC Nepal, April 2021, p.22

41 Cultural Survival, *Observations on the Human Rights Situation of Indigenous People in Nepal in Light of the UN Declaration on the Rights of Indigenous Peoples*, March 2015

42 Central Bureau of Statistics, Government of Nepal, *Report on the Nepal Labour Force Survey 2017/18*, 2019, p.29

43 Central Bureau of Statistics, Government of Nepal, *Report on the Nepal Labour Force Survey 2017/18*, 2019, p.26



be doubled.<sup>44</sup> Against this background, it is troubling that the budget allocation for labor inspections within the Ministry of Labor, Employment, and Social Security (MOLESS) had in fact decreased between 2019 and 2020, even though more inspections were conducted during this period.<sup>45</sup>

The third challenge concerns the setting of the minimum wage. Nepal's minimum wage was recently increased to NPR 15,000 and its coverage extended to informal workers. Nepal is already a signatory to Minimum Wage Convention No. 131, and a tripartite minimum wage fixation committee is in place at MOLESS. However, there is no permanent technical secretariat to collect and provide evidence to the committee, and there is no agreed basis or method for minimum wage fixation and adjustment. In accordance with its obligations under the International Covenant on Economic, Social and Cultural Rights, the level of the minimum wage should be determined "by reference to outside factors such as the cost of living and other prevailing economic and social conditions", and it must ensure that the worker and his or her family have access to "social security, health care, education and an adequate standard of living, including food, water and sanitation, housing, clothing and additional expenses such as commuting costs".<sup>46</sup> Addressing these issues would help ensure equitable fixation of minimum wage and a smoother implementation of any negotiated agreed increases.

## 6. Specific groups

### a. Women

Women in Nepal exhibit higher rates of poverty and illiteracy, and lower land ownership rates and participation in the labor force. First, approximately 250,000 women in Nepal work as domestic workers, where they are not covered under the labor inspection system nor the social security system,<sup>47</sup> and where minimum wage does not apply. Second, according to the Central Bureau of Statistics, women earn 29.45% less than their male counterparts on average.<sup>48</sup> Using hourly wages, an ILO report calculates the average gender pay gap at 28.9%, nearly the double of the global average (15.6%).<sup>49</sup> Third, despite being overrepresented in the agricultural sector, only 19.7% of homes or homes and land are owned by women.<sup>50</sup> Last, in 2018/19, the female employment to population ratio (EPR) was 22.9 percent, which was 25.4 percentage points lower than the male EPR, although obviously this does not take account the unremunerated and unrecognized work performed by women within the household.<sup>51</sup> Problematically, as of December 2020, only 41.8% of indicators needed to monitor Nepal's SDGs commitments related to gender were available, with gaps in key areas including unpaid care, domestic work, and information and communications technology.<sup>52</sup>

Beyond the inequalities that are present in accessing land and the labor market, Nepali women are disadvantaged with respect to men in many spheres of life, suffering the consequences of a historically patriarchal society. In many families, the traditional thinking according to which a woman's place is in the home persists – based on these values, a

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44 ILO, *International Labour Standards on Labour inspection*

45 US Bureau of International Labor Affairs, *Findings on the worst forms of child labor: Nepal, 2020*, p. 5

46 [E/C.12/GC/23, para. 18.](#)

47 *Domestic Workers, Risk and Social Protection in Nepal. Policy Brief.* WIEGO, October 2020, p. 2

48 Setopati, "Nepal's labor market features gender-based wage discrimination"

49 International Labour Organization, *Global Wage Report: What lies behind gender wage gaps*, 2018, p. 24

50 Central Bureau of Statistics, "Nepal in Figures," 2021

51 Government of Nepal National Planning Commission, *National Review of Sustainable Development Goals*, June 2020, p. 37

52 "Country Fact Sheet | UN Women Data Hub - Nepal," UN Women, last accessed December 8, 2021

woman's duty is to shoulder household chores such as child rearing and taking care of the elderly. This explains why boys are favored over girls in education: results from Nepal's Annual Household Survey (2016-7) show that while 18.1% of boys have never attended school, this proportion is 34.5% for girls. The gap is particularly wide for families in poverty: as poverty increases, a woman's chance of going to school decreases.<sup>53</sup> In the same way that girls are disproportionately deprived of their right to education, they are also overrepresented in child labor: 17% of girls and 14% of boys between 5-17 are likely to be involved in work.<sup>54</sup>

This discrimination has dramatic consequences: according to the 2011 Census, only 57.4% of women were literate, compared with 75.1% of men.<sup>55</sup> Moreover, while marriage before 20 years of age is illegal, 37% of girls marry before they turn eighteen, and one in ten girls is married before age fifteen.<sup>56</sup> This further impacts on their chances of being educated; indeed, the main reason for girls between ages 15 to 19 dropping out of school is marriage, according to a survey conducted by the Ministry of Health and Population in 2011.<sup>57</sup> Early marriage often leads to early childbearing. Many women that the Special Rapporteur met with during his mission had several children by the time they reached the legal age for marriage, resulting in difficulties with registering the births of their children. This is confirmed by the data: about 17% of women aged 15 to 19 either had children or were pregnant in 2016.<sup>58</sup>

Many Government officials the Special Rapporteur met were deeply committed to gender equality. The urgency of guaranteeing women's rights remains however under-estimated, including by officials more interested in highlighting Nepal's progress in this area than addressing the silent crisis: in Nepal, suicide has been the leading cause of death among women.<sup>59</sup>

Other worrying figures and testimonies indicate that improving the welfare of women must be prioritized by the Government. For example, among women belonging to the lowest wealth quintile, 90.1% report having at least one problem in accessing healthcare. Among the biggest problems are the fear of going to a healthcare provider unaccompanied (76.8%), the distance to the health facility (74.5%), and the lack of money (72.1%).<sup>60</sup>

## **b. Children**

Child labour persists in Nepal. Prior to the COVID-19 pandemic, data showed a reduction in the proportion of children working in Nepal, with a decrease between 2008 and 2018 from 1.6 million to 1.1 million for a population of 7 million. However, the number is likely to have increased again since that data was collected.<sup>61</sup>

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53 Sushan Acharya, *Gender, Jobs and Education: Prospects and Realities in Nepal*, United Nations Educational, Scientific and Cultural Organization (UNESCO), 2015, p. 40

54 ILO and Central Bureau of Statistics, *Nepal Child Labour Report 2021*, 2021, p. 22

55 Central Bureau of Statistics, "Nepal in Figures," 2021

56 *Our time to sing and play: child marriage in Nepal*. Human Rights Watch, 2016

57 Sushan Acharya, *Gender, Jobs and Education: Prospects and Realities in Nepal*, United Nations Educational, Scientific and Cultural Organization (UNESCO), 2015, p. 43

58 World Bank, "Teenage mothers (% of women ages 15-19 who have children or are currently pregnant)", last accessed on 8 December 2021

59 *Nepal: Maternal mortality and morbidity survey: Summary of preliminary findings*. USAID, DFID, SSMP Nepal, 2008-9

60 Ministry of Health and Population (MOHP) [Nepal], New ERA, and ICF International Inc. 2012. *Nepal Demographic and Health Survey 2011*. Kathmandu, Nepal: Ministry of Health and Population, New ERA, and ICF International, Calverton, Maryland, p. 144

61 *I must work to eat: Covid-19, Poverty, and Child Labour in Ghana, Nepal and Uganda*. Human Rights Watch, Friends of the Nation, and ISER, 2021

The prevalence of child labor is particularly high in rural areas, where more than one fifth (20.4%) of children are involved in work. During the Special Rapporteur's visit, he met with communities who are semi-bonded agricultural laborers. In these families, it was not uncommon for children to engage in work such as looking after cattle and goats, cutting grass for fodder, or performing household chores for the landlord under the *charuwa* system from age ten.

Child labor is the result of poverty. When household wealth increases, the probability of child labor decreases. In the lowest quintile of the wealth index, one fourth of children are working compared to only 5% in the top quintile. The data also shows that more than one fifth of children who work are living in a household whose head is unemployed.<sup>62</sup>

Combatting poverty and improving the employment prospects of adults are therefore crucial for preventing child labor in Nepal. At the same time, access to education should be improved. While Article 31 of the Constitution [guarantees free education](#) up to the secondary level, the Special Rapporteur met parents and children reported being charged illegal fees collected as "donations" and struggling to cover various costs related to school uniforms, school bags, stationary, or other supplies. In nearly all communities visited by the Special Rapporteur, these costs were prohibitive for the poorest families, who were forced to pull their children out from school.

Beyond these hidden costs, several additional factors prevent children from receiving an education. The distance and time needed to reach school from the child's home may be prohibitive. On average, it takes children 19 minutes to reach primary schools and 38 minutes for secondary school, which is in line with Government's standards.<sup>63</sup> However, Nepal has a very diverse geography, and in some very remote areas it takes children up to 5 hours to reach basic schools.<sup>64</sup> The quality of education is also highly uneven. When children learn little in the classroom, the incentives for their parents to send them to school and forego their support through childcare, household chores or labor are inevitably reduced. According to NLSS-III (2011), nearly one quarter of children dropped out of school because they were making insufficient academic progress.

Finally, attendance at school by girls and young women is hindered by gender-based discrimination and child marriage. Girls are more likely than boys to be out of school, and this is particularly true in the most disadvantaged ethnic/caste groups.<sup>65</sup> The mean years of schooling for girls is 4.3 years, while for boys it is 5.8; moreover, while 44.2% of males have at least some secondary education, that proportion is only 29.3% for women.<sup>66</sup>

Gender insensitivity in school and classroom practices may deter girls from continuing their education: sexual abuse and harassment by teachers and male students, bullying by male students and other negative attitudes towards female students are all factors that may lead girls to leave school early.<sup>67</sup> In a meeting with young *Dalit* women, the Special Rapporteur was told that despite their desire to continue their education, societal pressure led them to be married before the legal age of 20, in some cases causing them to drop out of school or preventing them from pursuing tertiary education. These testimonies are consistent with the

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62 ILO and Central Bureau of Statistics, *Nepal Child Labour Report 2021*, 2021, p. 24

63 Tribhuvan University, *State of Social Inclusion in Nepal: Caste, Ethnicity and Gender - Evidence from Nepal Social Inclusion Survey*, 2018

64 Tribhuvan University, *State of Social Inclusion in Nepal: Caste, Ethnicity and Gender - Evidence from Nepal Social Inclusion Survey*, 2018

65 UNICEF, *Global Initiative on Out-of-School Children: Nepal country study*. July 2016, p. 24

66 United Nations Development Programme (UNDP), "Human Development Reports – Nepal", last accessed December 8, 2021

67 Sushan Acharya, *Gender, Jobs and Education: Prospects and Realities in Nepal*, United Nations Educational, Scientific and Cultural Organization (UNESCO), 2015, p. 43

data that shows that the main reason for girls between ages 15 to 19 dropping out of school is marriage, according to a survey conducted by the Ministry of Health and Population in 2011.<sup>68</sup>

When children drop out of school early or do not attend altogether, instead caring for younger siblings, helping with household chores, or working to complement the household's revenue, they miss out on acquiring crucial skills for future employment. In the communities visited by the Special Rapporteur, men and women overwhelmingly formulated requests for programs allowing them to learn skills and improving their employment prospects. Short of such skills, many persons that the Special Rapporteur spoke with worked as daily wage laborers in agriculture or other physically demanding or hazardous jobs. Many families spoke of the difficulties of not having stable employment or regular revenues. Unfortunately, only approximately 13% of the population aged 16 years and above have received some form of vocational training, according to a 2018 survey.<sup>69</sup> Moreover, where vocational training does reach communities, women and marginalized groups like *Dalit* or Madhesi are underrepresented in such programs.<sup>70</sup>

### **c. Migrants and refugees**

The limited employment opportunities available to individuals with low educational attainment are a key driver of migration. According to media reports from 2018, in pre-pandemic times 1,600 Nepalis —overwhelmingly young males— left the country each day to work abroad.<sup>71</sup> This is unsurprising, given that nearly 70% of jobseekers in Nepal were young people aged between 15 and 34 years. While remittances provided by these migrant workers have contributed significantly to Nepal's GDP and poverty reduction, the high numbers of Nepalis emigrating is a powerful indicator of the country's problems in providing employment prospects to young jobseekers.

Emigration in Nepal is primarily a male phenomenon, with a median age of 29.<sup>72</sup> A majority of outmigrants took up temporary, unskilled jobs in their country of destination. In many cases, the (recruitment and other) costs of migration are covered through loans, contracted informally from acquaintances or village moneylenders at very high rates of interest, potentially leading to debt bondage.<sup>73</sup>

While Nepal is to be commended for its cooperation with UNHCR in ensuring the resettlement of refugees from Tibet and from Bhutan, the refugees still do not enjoy the range of social rights they are entitled to under international law. The Special Rapporteur refers the Government to the Statement of the Committee on Economic, Social and Cultural Rights "Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights".<sup>74</sup> He encourages the Government to reexamine the status of refugees in Nepal in line with its international obligations: non-ratification of the Convention on the Status of Refugees does not exempt it from complying with the International Covenant on Economic, Social and Cultural Rights.

### **d. Persons with disabilities**

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68 Id.

69 Tribhuvan University, *State of Social Inclusion in Nepal: Caste, Ethnicity and Gender - Evidence from Nepal Social Inclusion Survey*, 2018, p. 45

70 Id.

71 "The plight of Nepal's migrant workers," *Al-Jazeera*, February 5, 2018

72 Government of Nepal, Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report, 2020*, p. 31

73 *Turning people into profits: abusive recruitment, trafficking and forced labour of Nepali migrant workers*, Amnesty International, 2017

74 E/C.12/2017/1.

Using data from monetary and multidimensional poverty levels among people with and without disabilities, a research study found that “people with disabilities [58.1%] were more likely to be deprived compared to people without disabilities [25.8%] in most of the indicators used in the MPI.”<sup>75</sup> In a study on Nepal’s Tanahun district of Province 4, this difference in multidimensional poverty levels among people with and without disabilities was statistically significant for 9 of 13 indicators, namely work, voting, decision-making, sanitation, violence, food security, healthcare spending, flooring, and assets.<sup>76</sup>

Persons with disabilities face significant hurdles in escaping from poverty. One reason for this is the poor reliability of data on persons with disabilities. The official 2011 census reports a 1.94% disability rate, but civil society organizations suggest that the actual number is much higher due to “a lack of understanding on how to define disability [and therefore be officially recognized as having one]” as well as socio-cultural norms and various socio-economic factors.<sup>77</sup> The unavailability of reliable data concerning the number of persons with disabilities in Nepal results in a lack of adapted programs for this group of people, with few policies in place that seek to protect this group from poverty.

Another reason is discrimination, often linked to prejudice based on superstition. While the 2017 Rights of Persons with Disabilities Act is guided by a rights-based approach in line with the Convention on the Rights of Persons with Disabilities (CRPD), and prohibits discrimination on grounds of disability, it requires further implementation, in particular to define more precisely the requirement of reasonable accommodation of persons with disabilities. Its classification of various disabilities should also be made more consistent with the CRPD.

A number of recommendations emerged from the dialogues the Special Rapporteur held with persons with disabilities. The Disability Allowance scheme relies on the disability cards, which municipalities attribute depending on the severity of the disability: while holders of the “red” and “blue” cards (profound and severe disability respectively) receive allowances (people with profound and severe disabilities receive respectively 2,000 NRS and 600 NRS per month), holders of the “yellow” and “white” cards are recognized certain advantages in access to employment and training. The system could be improved by clarifying the conditions under which grievance redress mechanisms can be filed when such cards are not provided (or a disability misclassified), and providing information that is disability-friendly, particularly on the official websites. The Special Rapporteur was also told that universal design was far from being effectively implemented even in official buildings and in public transport, and that significantly more resources should be invested in order to support schools’ efforts to provide inclusive education.

## **7. Social protection**

### **a. The general framework**

Social protection in Nepal consists of 76 programs implemented by 11 different ministries. Political expediency and budgetary considerations, rather than a strategic vision on the role of social protection in combating poverty and the obligation to guarantee the right of each

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<sup>75</sup> [Lena Morgon Banks et al., “Does Disability Increase the Risk of Poverty ‘in All Its Forms’? Comparing Monetary and Multidimensional Poverty in Vietnam and Nepal,” \*Oxford Development Studies\* 0 \(October 7, 2021\): 1–15, <https://doi.org/10.1080/13600818.2021.1985988>.](#)

<sup>76</sup> Id.

<sup>77</sup> Mukti Thapaliya, “A Report on Disability in Nepal 2016” (Sydney, Australia: Australian Himalayan Foundation (AHF), 2016), p. 5

individual to basic income security in a life-cycle approach, have guided the design of most schemes. The current patchwork of programs inevitably leads to inefficiencies, overlaps, and gaps. The Government should therefore prioritize endorsing and adopting the National Integrated Social Protection Framework to ensure coherence, assess the gaps, and plan to fill them out in the coming years.

Streamlining the existing patchwork of schemes would present several advantages, including clarifying the respective roles of the federal, provincial, and local levels of government in the delivery of social protection; ensuring that the schemes rely on a single database (the Integrated Social Registry) to expand coverage and, where necessary, to ensure appropriate targeting; and improving the quality of the information provided to the intended beneficiaries. Indeed, coherence and complementarity between social protection programs is key for their success.

As progress is made towards and Integrated Social Protection Framework, an intersectional analysis of vulnerabilities must lead to making certain schemes compatible, for instance, Disability, Single Woman and Widow allowance, Child Grant, and Social Security, in order to protect those experiencing multidimensional poverty.

Only a serious reorganization of its social protection system as a whole will ensure Nepal can achieve its target of 60% coverage, as stated in the Government's 15<sup>th</sup> Five-Year Plan (2020-2024). Indeed, according to the ILO, Nepal's effective coverage —i.e. percentage of the population covered by at least one social protection benefit— stands only at 17%, significantly lower than other comparable countries of the region.<sup>78</sup> The reasons behind this low percentage are variegated but several can be highlighted here: lack of citizenship; lack of other necessary documents such as birth, death, disability, or divorce certificates; lack of information provided in local languages; timely benefit payments; and incompatibilities across benefits aimed at covering different situations of vulnerability.

#### *i. Lack of citizenship and other documents*

Poor, socially marginalized, and remote communities are often excluded from social assistance programs because of a lack of citizenship documentation, including Nepal's most important programs: the Old Age Allowance (OAA), the Single Women and Widows' Allowance, and the Child Grant. For instance, naturalized women married to foreign husbands can lose their Nepali citizenship; families who move regularly between Nepal and India for work can result in women and children often lacking the necessary documentation; and births are sometimes unregistered as a result of stigma related to having an "unidentified father".

Women who are abused by their husbands and leave the household, or whose husbands have migrated to never return, could lack divorce papers and therefore be excluded from the Single Women Allowance. Some women may find themselves stateless because the husband refused to seek a citizenship certificate for them (a situation the Special Rapporteur witnessed himself). Lack of citizenship certificate in turn means the child's birth cannot be registered, resulting in the denial of the child allowance. While no official statistics on the prevalence of this phenomenon currently exist, such circumstances can lead to situations of extreme, compounded vulnerability with no recourse to social protection.

While a 2015 study projected that the number of people without citizenship certificates would be 6.7 million by 2021,<sup>79</sup> the Special Rapporteur was told by the Ministry of Health and

78 International Labour Organization, "World Social Protection Data Dashboard," (last accessed October 29, 2021)

79 Sabin Shrestha and Subin Mulmi, *Acquisition of Citizenship Certificate in Nepal: Estimation and Projection*, Forum for Women, Law & Development, December 2015, p.12



Population that this is the case for 5.4 million residents of Nepal. Women may represent 82% of those without citizenship certificates or stateless.<sup>80</sup> The Special Rapporteur strongly encourages the Government to prioritize facilitating the acquisition of citizenship documents so as to make social protection more effective.

*ii. Lack of information*

Many communities, especially in remote areas, lack information about social protection programs, largely due to a lack of outreach by local administrations and of information often not being provided in local languages. In the same way that “enrollment assistants” exist to facilitate registration in the health insurance system (1 enrolment assistant per ward for up to 1,000 households),<sup>81</sup> social workers should be deployed at the local level to ensure outreach to more remote communities and information can be adapted to local communities.

*iii. Hidden costs to obtaining access to social protection*

The Special Rapporteur was informed by several communities that payments were collected by civil servants at the local level for services that should be free of charge, including for education (see above), birth registration, and delivery of caste certificates. A survey report by the Nepali Commission for Investigation of Abuse of Authority shows that more than half of survey respondents considered corruption at the local level to have stayed the same or increased since local elections.<sup>82</sup> Another report identified land revenue offices and rural municipalities as the most corrupt entities: 84% of people surveyed in Nepal thought government corruption is a big problem, and 12% of public service users paid a bribe in the previous 12 months.<sup>83</sup>

## **b. Ensuring budgetary equity**

Social protection represents about 4% of Nepal's GDP and 11% of its public budget. Within social protection, the Social Security Allowance (SSA) makes up 43% of total social protection budget,<sup>84</sup> and 21% of the total social protection budget goes solely to Old Age Allowance (OAA).<sup>85</sup> This stands in stark contrast with national schemes benefitting children and adolescents – 10% of the SSA budget and about 4.3% of the total social protection budget.<sup>86</sup> This bias towards the elderly is likely to increase with the growing size of the elderly population: people over 60 made up 5.7% of the population in 2000 but are likely to increase to 13% by 2040.<sup>87</sup> While protecting the elderly should no doubt be a priority of the Government, it appears that other vulnerable groups, in particular children, may have been overlooked in terms of both budgetary, coverage, and implementational priorities of the Government.<sup>88</sup>

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80 Dhiraj Giri et al., *A Survey of the Nepali People in 2020*, 2020, p. 238

81 International Labour Organization, *Extending Social Security to Workers in The Informal Economy: Lessons from International Experience*, 2021, p.107

82 Corruption thriving at the local level, surveys by anti-graft body show, *The Kathmandu Post*, January 15, 2020

83 “Transparency International Nepal Profile,” Transparency International, last accessed December 8, 2021

84 Carolina Bloch, *Social Spending in South Asia—An Overview of Government Expenditure on Health, Education and Social assistance*, UNICEF, 2020, p.12

85 World Bank, *Social Protection: Review of Public Expenditure and Assessment of Social Assistance Programs*, 2021, p.21

86 Id.

87 Bandita Sijapati, “The Quest for Achieving Universal Social Protection in Nepal: Challenges and Opportunities,” *Indian Journal of Human Development* 11(1), 2017:17–36, p.4.

88 Studies further note that investment in children is important not only from a human rights perspective, but also from an economic standpoint. Programs targeted towards children such as school feeding programs generate downstream economic value over four times more than the cost of the program over the lifetime of a beneficiary child. See: Rachana Manandhar Shrestha et al., “Home-grown School Feeding: Assessment of a Pilot Program in Nepal.” *BMC public health* 20(1), 2020:1-15, p. 2



Recently, the Government has also promoted voluntary renunciation of SSA benefits and honorific recognition by the local government of those who renounce their benefits in order to offset some budgetary burden; this practice however risks stigmatizing welfare.<sup>89</sup> Studies need to be conducted on these efforts to minimize and prevent take-up rates among the poor from decreasing.

### **c. Social Security Fund (SSF)**

Enrollment in the contributory social security system aims to become mandatory, a clear marker of its rights-based character. But a 31% flat contribution (with 20% coming from the employer and 11% from the employee) is a regressive feature that deters enrollment by poor and low-income workers. A clear plan for how to include informal workers in the contributory social protection system should be developed in line with ILO Recommendation No. 204 concerning the Transition from the Informal to the Formal Economy, which at the time of the Special Rapporteur's mission could not be articulated by the Government.<sup>90</sup> A key component of the strategy should be to provide the right incentives for formalization of work and enrolment in the SSF, and to provide appropriate information to workers about the advantages from such enrolment.

Lack of clear communication with businesses and stakeholders on how the Government plans to invest the Fund is also leading to skepticism among the business community.<sup>91</sup> Furthermore, there is lack of clarity over how and why businesses already making use of other pension funds, such as the Government-owned Employees Provident Fund are to migrate to the new Fund.<sup>92</sup> It will be important for the Government to monitor and incentivize enrolment in the SSF as well as exercise transparency in how funds are used.

### **d. Prime Minister Employment Program (PMEP)**

The PMEP guarantees 100 days of employment or unemployment benefits equivalent to 50 days' worth of employment. This program has considerable potential. In addition to its ability to provide income security to unemployed individuals, it can help beneficiaries to acquire new skills and allow infrastructures improvement; it can also accelerate access to employment for women and challenge gender roles.<sup>93</sup>

But the potential is not fully tapped. In the past three years, about 250,000 workers have received employment through the program, but the average number of days was 18, well under the guaranteed minimum of 100. Many candidates who registered were not offered jobs, either because of a lack of resources, or because of the mismatch between their qualifications and the nature of the work proposed.<sup>94</sup> Moreover, despite the fact that the PMEP guarantees unemployment benefits equivalent up to 50 days' worth of employment to those who are unable to get work under PMEP, so far there is no evidence that citizens are receiving this benefit, including any mention of it in the NPC review of the program.<sup>95</sup>

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89 Government mulls options to ease growing burden of social security allowances, *Kathmandu Post*, August 26, 2021

90 Meeting with the Ministry of Labor, Employment, and Social Security, December 6, 2021

91 Nepalis insecure about new Social Security Fund, *Nepali Times*, July 18, 2021 ; Govt, not employers, responsible for employees, *Nepali Times*, November 30, 2018

92 Achyut Wagle, "Making a mess of social security", *The Kathmandu Post*, July 5, 2021

93 See O. De Schutter, *Gender Equality and Food Security* (FAO and Asian Development Bank, 2012), pp. 55-59.

94 National Planning Commission, Government of Nepal, प्रधानमन्त्री रोजगार कार्यक्रम-आन्तरिक मूल्यांकन प्रतवेदन 2021, p. 8

95 Ramu Sapkota and Upasan Khadka, "Missing the plot in Nepal's job scheme," *Nepali Times*, May 1, 2021

The PMEPP can be further improved. In order to ensure the kind of employment proposed corresponds to local needs, local governments should be encouraged to identify themselves the projects on which to apply the PMEPP, and to use part of the funds available to acquire equipment. Candidates registered in one municipality should be considered by other municipalities from the same district, in order to reduce the risks of mismatches between the qualifications of the candidates and the jobs proposed. The program should include a training, or skills acquisition, component. Finally, women should be encouraged to apply, both by reaching out to women and by providing for childcare services. The program should be used, finally, as an opportunity to challenge gender roles.

## **8. Final considerations**

The Special Rapporteur commends Nepal for the impressive progress it has made in recent years in the fight against poverty and, more generally, in the improvement of its socio-economic indicators. Gaps remain, however. Women are still lagging behind on a number of indicators. Though banned, caste-based and ethnicity-based discrimination remain a reality in social life, and it is a major factor explaining the perpetuation of poverty. Land issues remain unresolved, despite the efforts to accelerate the rehabilitation of former bonded laborers and to ensure landless *Dalit* benefit from land redistribution. While a number of social protection schemes should provide basic income security in a life-cycle perspective, effective access to such protection remains barred by the lack of proper documentation (in particular of citizenship certificated and birth certificates), as well as by a lack of coordination between the existing schemes.

None of the obstacles identified above is insuperable. The Special Rapporteur looks forward to his continued collaboration with the Government of Nepal. He expresses the hope that the above findings and recommendation can guide the efforts of the country in order to reach Sustainable Development Goals 1 and 10 and to further reduce multidimensional poverty.

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