

Disability Policy Review – summary

This is a summary of the 96-page detail report, written in Nepalese by Mrs Nirmala Dhital, an independent consultant commissioned to lead the review on Persons with Disability in Nepal with analysis and recommendation on legislations and acts related to disabled women. Article 6 of the UN Convention on the Rights of Persons with Disabilities 2006 mentions the privileges of women with disabilities. Acknowledging that women are victims of multiple discrimination, ensuring their human rights and basic freedoms, and taking all necessary measures for their full development, progress and empowerment. In the past years, the Government of Nepal has formulated and implemented various laws and policies in order to implement the rights guaranteed by the UNCRPD.

Despite the positive steps taken in formulating various laws and policies, its implementation is very challenging. Also, there are not enough special arrangements for women. Laws have been enacted to protect the rights of persons with disabilities, but these legal documents do not cover the risky situation of women with disabilities. The study is expected to help the government and make recommendations on existing laws and policies, as well as on how to address special issues, especially for women with disabilities.

The report consists of eight chapters.

Chapter 1. is introductory and includes Disability background and current status; the objectives of this study which are basically to study the rights of women with disabilities provided by the existing Nepali laws, to make a comparative study between the international document on the rights of persons with disabilities and Nepali laws and policies and to give necessary suggestions for guaranteeing the rights of women with disabilities within existing Nepalese law; there is an overview of methodology, the structure and limitation of the study.

Chapter 2. is an Introduction to International Law on the Rights of Persons with Disabilities that includes:

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1. Concerning the rights of persons with disabilities
2. Universal Declaration of Human Rights, 1948
3. International Covenant on Civil and Political Rights, 1966
4. International Convention on Economic, Social and Cultural Rights, 1966
5. Convention on the Elimination of All Forms of Discrimination against Women, 1979
6. Convention on the Rights of the Child, 1989
7. Convention on the Rights of Persons with Disabilities, 2006
8. Willing Article of the Convention on the Rights of Persons with Disabilities, 2006

Chapter 3. is a review of amendments Nepalese Acts, Rules, Action Plan, and Directive on Rights of Persons with Disabilities: -

1. Rights of Persons with Disabilities Act, 2074<sup>1</sup>
2. Rules on the Rights of Persons with Disabilities, 2077
3. Disability Management (Prevention, Treatment and Rehabilitation) Policy, Strategy and 10 Year Action Plan 2073 (2082)

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<sup>1</sup> Nepalese calender

4. Accessible Physical Infrastructure and Communication Services Directive 2069 for persons with disabilities
5. Identity Card Guideline 2065 (First Amendment 2073) and Rules of Procedure for Persons with Disabilities
6. Disability Inclusive Health Care National Directive, 2019

Chapter 4. outlines the provisions related to the rights of persons with disabilities in the National Act under which following acts were covered: -

1. Constitution of Nepal 2072
2. Right to Safe Motherhood and Reproductive Health Act, 2074
3. Public Health Services Act, 2075
4. Social Security Act, 2075
5. Crime Victims Protection Act 2075
6. Children's Act, 2075
7. Domestic Violence (Fault and Punishment) Act, 2066
8. National Health Policy 2076
9. Health Insurance Act 2074
10. Civil Crimes (Code) Act, 2074
11. Civil Civil (Code) Act, 2074

Chapter 5. is a review on Discriminatory provisions made on the basis of disability in the following rules and regulations: -

1. Prison Rules, 2020
2. Securities Trading Rules, 2050
3. National Debt Regulations, 2059
4. Foreign Employment Regulations, 2064
5. Teacher Service Commission Rules, 2057
6. Cooperative Rules, 2049
7. Safe Abortion Services Procedure, 2060
8. Military Service Rules, 2069
9. Local Body Financial Administration Rules, 2064
10. Check Rules, 2031

Chapter 6. consists of the Acts and Rules to amend in Legal provisions that included

Linguistic discrimination and derogatory language, Disqualification system, Vacancy, removal from office, non-retention, non-appointment, revoking the name, revoking the registration, removing the name from the registration book, revoking the certificate, Arrangement for cancellation of visa, forced abortion, provisions related to proof of law and provision regarding jail terms.

Chapter 7. is an analysis of discriminatory provisions for persons with disabilities in other Acts and suggestions for legal reforms to protect their rights as follows:-

1. Constitution of Nepal 2072
2. Right to Safe Motherhood and Reproductive Health Act 2075
3. Domestic Violence (Misdemeanor) Act 2066 and Rules 2067
4. Civil Crimes (Code) Act 2074
5. Civil Civil (Code) Act 2074
6. Member of the House of Representatives Election Act 2074
7. State Assembly Member Election Act 2074

8. Voter Registration Act 2073
9. Local Level Election Act 2073
10. Evidence Act 2031
11. Children's Act 2074
12. Banks and Financial Institutions Act 2073
13. Vehicle Transport Management Act 2049
14. Real Estate Tax Act 2019

Chapter 8. includes recommendation for Amendments to Acts, Rules and Guidelines on the Rights of Persons with Disabilities. Throughout this study, it is found that Acts do not make clear provision for women with disabilities to enjoy their human rights and basic freedoms. The Act does not address the fact that there may be discrimination between men and women with disabilities. There is no provision to eliminate discrimination against women with disabilities in all matters relating to marriage, family, paternity or maternity and kinship on the same basis as other persons. Few examples of the recommendation made are as follows: -

1. Rights of Persons with Disabilities Act 2074 does not define "discrimination on the basis of disability" in the definition section. The terminology is mentioned in the explanation of the rights of persons with disabilities. However, in the explanation of Article 8, it is mentioned that "refusal of appropriate suitability also indicates discrimination" but no suitable suitability has been defined. Article 2 of the Convention on the Rights of Persons with Disabilities 2006 states that "appropriate adaptation" shall be provided to persons with disabilities without any disproportionate or unreasonable burden in certain circumstances to ensure the exercise or exercise of all human rights and fundamental freedoms in equal rights with other persons. Defined that improvement or adaptation should be remembered. This Act should also define "appropriate suitability"
2. Also, Article 8 mentions the provision of the right against discrimination, but it does not mention the possible discrimination between "men and women". Article 8 should mention that there should be no discrimination between men and women with disabilities. Although the basic principles mentioned in Article 3 of the Convention on the Rights of Persons with Disabilities 2006 clearly state this, it is not mentioned in this Act.
3. Rules on the Rights of Persons with Disabilities, 2077 seems to have been made with a view to ensuring the rights of persons with severe and complete disability and focusing only on the issue of complete and severe disability. As a result, there is a possibility of questioning or reduction in the service facilities already available to persons with disabilities. Therefore, this regulation needs to be reconsidered. Similarly, the provision of community services, social security, free education, sports, tax exemptions, concessions, etc. to be provided to persons with disabilities should be reconsidered in accordance with the spirit of the Act. At the same time, it seems necessary to amend the provisions that are in question to give continuity to the services that are already being received.