|  |  |  |
| --- | --- | --- |
|  |  | CRPD/C/NPL/CO/1 |
|  | **Advance Unedited Version** | Distr.: General1 March 2018Original: EnglishEnglish, Russian and Spanish only |

**Committee on the Rights of Persons with Disabilities**

 Concluding Observations in relation to the initial report of Nepal[[1]](#footnote-2)\*

1. Introduction
2. The Committee considered the initial report of Nepal (CRPD/C/NPL/1) at its 367th and 368th meetings (CRPD/C/SR.367 and CRPD/C/SR.368), held on 19 and 20 February 2018, respectively, and adopted the following concluding observations at its 382nd meeting (CRPD/C/SR.382), held on 1 March 2018.
3. The Committee welcomes the initial report of Nepal, in which the State party endeavoured to prepare the report in accordance with the Committee’s reporting guidelines, and commends the State party for the written replies (CRPD/NPL/Q/1/Add.1) to the list of issues prepared by the Committee.
4. The Committee appreciates the constructive dialogue with the State party’s high level delegation, which included representatives of relevant Government ministries and departments. The Committee commends the delegation’s frank responses to the questions that were posed by members of the Committee.
5. Positive aspects
6. The Committee commends the people of Nepal in enduring a decade-long armed conflict, bringing it to an end with the signing of the Comprehensive Peace Accord (the “CPA”) on 21 November 2006. The Committee notes that a new Constitution came into force in 2015 which not only reflects the achievements of the People’s Movement but also has implications for the implementation of the Convention.
7. The Committee notes that, prior to the ratification of the Convention, Nepal had enacted a number of specific legislations for the protection and promotion of the rights of persons with disabilities such as the Disabled Protection and Welfare Act, 1982 (the “DPW Act”), and the Disabled Protection and Welfare Regulation (the “DPW Regulation 1982 DPW Act and DPW Regulation 1994). The Committee commends the State party that it is currently in the process of revising its domestic legislation to bring it into full compliance with the Convention. In particular, the Committee commends the enactment of the Disability Rights Act of 2017, and the adoption of the Thirteenth Plan (2013–2016) as a key strategy to implement the rights in the Convention.
8. The Committee commends the efforts of the State party in the preparation process of the report by bringing together a cross sectoral representation of agencies led by the Ministry of Women, Children and Social Welfare (the “MOWCSW”) and also holding consultations with a range of stakeholders represented by various government ministries, including the Office of the Prime Minister.

 III. Principal areas of concern and recommendations

 A General principles and obligations (arts. 1–4)

1. The Committee is concerned that the State party tends to adhere to the World Health Organisation (WHO) definition of disability with a focus on conditions arising from inherent personal or medical limitations, thereby overlooking interactions with environmental factors. While the Convention recognizes an evolving concept of disability, the State party appears to be trapped by the concept of ‘permanent disability’. The Committee is concerned that the State party still uses a classification of disability that excludes certain groups of persons with disabilities who do not fall in any of these categories such those who are hard of hearing. The Committee is also concerned that persons with disabilities from rural areas and indigenous backgrounds face barriers in accessing disability identity cards.
2. **The Committee recommends that the State party adopt a human rights model of disability that stresses human dignity of persons with disabilities and conditions arising from interactions with various barriers that may hinder their full and effective participation in society on an equal basis with others. In this regard, the State party should ensure that the classification of disability is human rights based and does not exclude certain groups of persons with disabilities. The State party should take appropriate measures to remove all barriers to ensure that persons with disabilities from rural areas and indigenous backgrounds have access to disability identity cards.**

 B Specific rights (arts. 5–30)

 Equality and non-discrimination (art. 5)

1. While noting that the Constitution prohibits discrimination of persons with disabilities, the Committee is concerned that persons with disabilities still face multiple and intersectional forms of discrimination on other grounds such as caste, and ethnicity, in particular women and girls with intellectual and/or psychosocial disabilities, autistic persons, persons from ethnic, Dalit, Madhesi and Muslim communities.
2. **The Committee recommends that the State party implement existing anti-discrimination legislation, policies and programmes in order to prevent multiple and intersectional discrimination targeting disadvantaged groups including, autistic persons, ethnic, Dalit, Madhesi and Muslim communities. The Committee also recommends that the State party establish accessible and effective mechanisms for victims of discrimination to seek redress and commensurate compensation.**

 Women with disabilities (art. 6)

1. The Committee is concerned about the overall lack of information on social, economic, employment and other areas of public life, and political situations of women with disabilities in Nepal. In particular, it is concerned at the overall exclusion of women with disabilities in decision-making processes. The Committee is also concerned at the reportedly high incidence of sexual violence and abuse of women and girls, including cases of gang rape of women and girls with disabilities and that some cases remain unreported.
2. **The Committee urges the State party to undertake consultations with organisations representing women and girls with disabilities with a view to using these as a basis for ensuring their participation in political and public life and in implementing law reform and policy changes, - with particular attention to their family lives, education, health services, employment. The Committee recommends that the State party combat discriminatory practices as stipulated under the Three Year Interim Plan (TYIP) (2010–2013) that lays emphasis on: policy, legal and institutional reform to eliminate all forms of discrimination affecting women and girls**. **The Committee recommends that the State party strengthen and implement legislation and provide for accessible monitoring and reporting mechanisms to detect, prevent and combat all forms of violence, including sexual violence, against women and girls with disabilities.**

 Children with disabilities (art. 7)

1. The Committee is concerned about the absence of clear linkages between intended policies and actual implementation of policies such as the Ten-Year Children’s National Action Plan or the Thirteenth Plan (2013–2016) aimed at protecting children. More specifically, the Committee is concerned about the absence of specific measures for supporting children with disabilities and their families, and also about the inadequacy of inclusive education for children, particularly those from rural areas, marginalized ethnic minority and indigenous communities. The Committee is also concerned at reports of abandonment of children with disabilities who as a result are exposed to exploitation and abuse.
2. **The Committee recommends that the State party take steps, which should include consultations with representative organizations of persons with disabilities and relevant ethnic minorities and indigenous groups to ensure overall improvement in increasing enrolment of children with disabilities for primary school education, implementing inclusive early childhood education, opportunities for vocational training for youth with disabilities, and undertake measures for the prevention of violence, abuse, exploitation and abandonment of children with disabilities. In doing so, the State party should pay particular attention towards marginalized groups of children with disabilities in rural and mountainous areas, in particular children with intellectual and/or psychosocial disabilities and those from indigenous groups.**

 Awareness-raising (art. 8)

1. The Committee is concerned at negative attitudes as manifested in everyday language and the lack of awareness regarding the rights of persons with disabilities, particularly women and girls with intellectual and/or psychosocial disabilities from ethnic, Dalit, Madhesi and Muslim communities. The Committee also notes that awareness-raising measures are inadequate to the extent that even persons with disabilities and their families, let alone public and relevant professionals in general, are not exposed to the issues concerning the rights of persons with disabilities.
2. **The Committee recommends that the State party, in collaboration with representative organizations of persons with disabilities, develop and implement public awareness-raising and education programmes on the rights as well as the situation of persons with disabilities, including through sensitization of the media, public officials, judges and lawyers, the police, social workers and the general public, in order to foster a positive image of persons with disabilities as autonomous holders of human rights. In doing so, the State party should ensure that such awareness-raising recognizes the cross-cutting nature of the Convention, particularly with regards to articles 2, 3, 5, 12, 13, 15, 16 and 21 and adopt a human rights model of disability as a key strategy to strengthen positive public awareness regarding the diversity of disabilities.**

 Accessibility (art. 9)

1. The Committee is concerned that the State party’s measures on accessibility are limited, as noted in the National Policy and the Plan of Action on Disability (2006), to persons with disabilities in urban and city environment thereby excluding all groups of persons with disabilities living in rural and remote rugged mountainous areas.
2. **The Committee recommends that the State party in line with the Committee’s General Comment No. 2 (2014) on accessibility:**

(a) **Broaden its policy for accessibility to include all groups of persons with disabilities, including those living in rural and remote rugged mountainous areas;**

(b) **Strengthen measures, including public procurement to grant access by persons with disabilities to information and communications technologies, including by the provision of low-cost software and assistive devices for all persons with disabilities, including those living in rural areas;**

(c) **Strengthen its monitoring and enforcement mechanisms on accessibility to ensure that the National Policy and the Plan of Action on Disability (2006), the Right to Information Act, 2007, the new comprehensive Accessibility Guidelines (2013); the Thirteenth Plan (2013–2016) and the current Fourteenth Implementation Plan, are duly implemented.**

 Situations of risk and humanitarian emergencies (art. 11)

1. The Committee is concerned about the lack of specific protective measures and support for persons with disabilities targeting specifically vulnerable groups who were disproportionately affected (women, people with leprosy, children and indigenous peoples) by the 2015 earthquake.
2. **The Committee recommends that the State party adopt an effective mechanism in accordance with the Sendai Framework for Disaster Risk Reduction 2015-2030 in order to have an accessible communication strategy (e.g. hotlines, a text message-warning application, general manuals in sign language and Braille, etc.), and comprehensive emergency strategy and protocols for situations of disaster and risk. The Committee also recommends that the State party require all public services to develop individual and local plans for the safe evacuation of persons with disabilities in consultations with them through their representative organizations. In this regard, the State party should ensure that post-disaster recovery and rehabilitation efforts follow a human rights based approach in order to effectively protect all persons with disabilities.**

 Equal recognition before the law (art. 12)

1. The Committee is concerned that no changes of legal provisions to replace substituted decision-making with supported decision-making, which respects the person’s autonomy, will and preferences of persons with disabilities, in full conformity with article 12 of the Convention and general comment No. 1 (2014) have been undertaken. The Committee is particularly concerned that while the State party is making efforts to implement supported decision making, substituted decision making is still used in the State party. The Committee is further concerned at reports that persons with intellectual or/psychosocial disabilities are sometimes expelled from governmental, judicial, institutional or private enterprises, and accordingly their equal recognition before the law is denied, contrary to the provisions of article 12 of the Convention.
2. **The Committee recommends that the State party revise its legislation in order to recognize the full legal capacity of all persons with disabilities, notwithstanding their impairment, on an equal basis with others, and introduce supported decision-making mechanisms in line with the Committee’s general comment No. 1 (2014) on equal recognition before the law. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the principles of supported decision-making**.

 Access to justice (art. 13)

1. While noting the efforts being made by the State party to ensure access to justice by persons with disabilities, the Committee remains concerned about the lack of explicit provisions for ensuring disability type and age appropriate accommodation in situations necessary for guaranteeing access to justice for persons with disabilities. It is also concerned at reports of the insufficient use of sign language, Braille as well as Easy Read, and the lack of appropriate awareness training for judicial, legal and law enforcement professionals.
2. **The Committee recommends that the State party take appropriate measures to ensure physical access, accessible legal services and qualified sign‑language and tactile sign interpreters in courtrooms and police stations, including measures to ensure that persons with disabilities are not discriminated against on account of their disability (when sign language or Braille is required), or due to the lack of appropriate training of legal professionals, police and prison officers.**

 Liberty and security of the person (art. 14)

1. The Committed is concerned that persons with intellectual and/or psycho-social disabilities are allegedly chained or detained in houses or forcibly placed in psychiatric facilities, and that physical examinations, medical treatments and medications are sometimes carried out without the free consent of persons with disabilities as well as reported cases of chaining, torturing and over-dozing of persons with intellectual disabilities in psychiatric treatment facilities.
2. **The Committee recommends that the State party take all legal and other appropriate measures necessary to stop the deprivation of liberty of persons with disabilities on the basis of actual or perceived impairment, and that any examination or treatment of persons with disabilities be undertaken after free and informed consent of the persons concerned, in line with the** **Committee’s guidelines on the right to liberty and security of persons with disabilities, adopted by the Committee at its fourteenth session (17 August-4 September 2015) (see Report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), Annex). In this regard, the Committee recommends that the State party investigate, prosecute and punish cases of chaining, detention in private homes, and forcible placement and treatment in psychiatric facilities**.

 Freedom from Exploitation, Violence and Abuse (art. 16)

1. The Committee is concerned about the absence of any monitoring mechanism to collect disaggregated data on prosecution of cases of violence, abuse and exploitation of persons with disabilities; in particular data on the sexual exploitation and abuse of children and women with disabilities.
2. **The Committee recommends that the State party take appropriate measures to protect persons with disabilities from exploitation, violence and abuse both within and outside the home.**

 Living independently and being included in the community (art. 19)

1. The Committee is concerned that persons with disabilities are not provided with adequate means to enable them to exercise choice and control over their lives and make all decisions concerning their lives, particularly to live independently and in communities. The Committee is further concerned that the State party has not adopted any policy measures to protect persons with disabilities against forced institutionalization.
2. **In line with General Comment No. 5 (2017) on the right to independent living, the Committee recommends that the State party adopt a strategy to implement independent living schemes and ensure access to disability specific and community services. The Committee also recommends that the State party ensure that persons with disabilities who live with or are dependent on their families receive appropriate support to enable them to live independently in the community.**

 Personal mobility (art. 20)

1. The Committee is concerned that a majority of public infrastructure, including, government offices, hospitals, schools, colleges, banks, roads, public buildings and public transportation are not easily accessible for persons with disabilities. The Committee is also concerned that streets are not paved to accommodate users of crutches and wheelchairs. The Committee is further concerned that the situation is even worse in cases where houses, schools and health facilities are located in mountainous and hilly regions where wheelchairs and other devices cannot be used.
2. **The Committee urges the State party to adopt appropriate measures to ensure mobility of all persons with disabilities in order to facilitate their participation, inclusion in community in general and in particular, to engage in education and livelihood activities, including access to quality and affordable mobility aids and assistive devices, technologies and services necessary for their unrestricted personal mobility.**

 Freedom of expression and opinion, and access to information (art. 21)

1. The Committee is concerned at the absence of a Centre for Sign Language Research and Training of Sign Language Interpreters, and at the absence of a state system for certification and approval of sign language interpreters’ qualification.
2. **The Committee recommends that the State party take appropriate measures to establish a Centre for Sign Language Research and Training of Sign Language Interpreters, and ensure their certification involving representative organisations for the deaf.**

 Education (art. 24)

1. The Committee is concerned that the State party maintains special and segregated schools. The Committee is particularly concerned at:

(a) The lack of sufficient support and training for administrative and teaching staff with regard to inclusive education;

(b) The lack of accessibility and reasonable accommodation for students with disabilities in mainstream schools;

(c) The absence of a comprehensive strategy to promote inclusive education in urban and rural areas.

1. **The Committee recommends that the State party in line with the Committee’s general comment No. 4 (2016) on the right to inclusive education and Sustainable Development Goal 4, in particular targets 4.5 and 4 (a), increase its efforts towards inclusive education by:**

(a) **Adopting a policy of mandatory training of teachers in the inclusive education model based on indicators and sign posts to be achieved, and to guarantee inclusive education by providing support for trained teachers, Braille and sign language as well as alternative means and modes of communication, Easy Read and other auxiliary equipment and media;**

(b) **Ensuring access to inclusive education for all persons with disabilities, at all levels of education including adult education throughout the country, and guarantee that this education model covers the most remote areas, incorporates a gender perspective and is ethnically and culturally relevant.**

 Health, Habilitation and Rehabilitation (arts. 25 and 26)

1. The Committee is concerned about the limited access to comprehensive health and rehabilitation services by persons with disabilities, particularly in rural and remote areas.
2. **The Committee recommends that the State party develop measures to ensure comprehensive access to health services for persons with disabilities, particularly sexual and reproductive health services, maternal and child health centres, psychosocial services, and intensify the provision of comprehensive community-based rehabilitation services including in rural and remote areas.**

 Work and employment (art. 27)

1. The Committee is concerned at the lack of information on the effectiveness of the employment quota for persons with disabilities in the civil service and how these posts are filled by persons with disabilities, particularly by persons with intellectual and/or psychosocial disabilities including those from indigenous backgrounds.
2. **The Committee recommends that the State party take appropriate measures to gather data and develop criteria to fill the five per cent quota for civil service positions that are reserved for persons with disabilities including undertaking a comprehensive evaluation of these jobs in terms of quality, and the extent to which persons with intellectual and/or psychosocial disabilities,** **including those from indigenous backgrounds, have benefitted from this quota against those who remain unemployed.**

 Adequate standard of living and social protection (art. 28)

1. The Committeeis concerned about the actual effectiveness of a number of policy measures such as the National Policy and Plan of Action on Disability, 2006 (NPPAD) and the Poverty Alleviation Fund (PAF) in ensuring a decent standard of living for persons with disabilities and allowing them to meet the additional costs of living with a disability. The Committee is also concerned about the extent to which community based rehabilitation (the "CBR") programmes have been effective in reducing the number of persons with disabilities in poverty.
2. **The Committee recommends that the State party take necessary measures to ensure that persons with disabilities throughout its territory have access to community-based rehabilitation services and adequate social protection programmes that are oriented towards social and community inclusion. The Committee requests that the State party provide updated data in its next periodic report on the number and percentage of persons with disabilities who have benefitted from social protection floors from the Government, and request that this data is disaggregated by sex, age, ethnicity and in particular for persons with intellectual, and/or psychosocial disabilities, hearing or visual disabilities and multiple disabilities.**

 Participation in Cultural Life, Recreation, Leisure and Sports (art.30)

1. The Committee is concerned about how the National Sports Policy, 2010, which was adopted to develop and expand para-sports in order to encourage persons with disabilities to participate in sports of their interest, has been effective in ensuring the rights of persons with disabilities under article 30, particularly those with visual, speech and hearing impairment. The Committee also notes that while the State party has signed the Marrakesh Treaty, it is yet to ratify it.
2. **The Committee recommends that the State party take appropriate action and measures to ensure that persons with disabilities can participate in cultural, recreational, leisure and sporting programs. The Committee also encourages the State party to take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

 C. Specific obligations (arts. 31-33)

 Statistics and Data Collection (art. 31)

1. The Committee is concerned thatthe latest census carried in 2011 through the Central Bureau of Statistics did not collect disaggregated data on disabilities and accordingly inadequately reflects the situation of disability in the State party.
2. **The Committee recommends that the State party pay attention to the links between article 31 of the Convention and Sustainable Development Goal 17, target 17.18 to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts and to analyse the data to provide tailored services for persons with disabilities. In this regard, the Committee recommends that the State party utilises the Washington Group Set of Questions in future censuses in order to capture comprehensively data on disability.**

 International cooperation (art. 32)

1. The Committee is concerned that the State party’s collaboration with international bodies to improve the capacity of the State party to implement the Convention does not adequately include the participation of persons with disabilities. The Committee is further concerned about the extent to which new technologies and good practices promptly reach persons with disabilities and representative organizations of persons with disabilities and also the extent to which persons with disabilities have been included in consultations or partnerships to achieve the Sustainable Development Goals.
2. **The Committee recommends that the State party review international projects undertaken by the State party in partnership with global aid agencies to ensure full compliance with the principles of the Convention, and ensure the meaningful and empowered inclusion of persons with disabilities and their representative organisations in designing, implementing and monitoring disability inclusive development projects and also in achieving Sustainable Development Goals.**

 National implementation and monitoring (art. 33)

1. The Committee is concerned about the lack of resources and the lack of effective and comprehensive inclusion of organizations of persons with disabilities in order to facilitate their participation in the monitoring processes regarding the implementation of the Convention in accordance with article 33 (3).
2. **The Committee recommends that the State party provide adequate funding for both established monitoring frameworks and organizations of persons with disabilities to enable them to monitor the implementation of the Convention across the State party, in accordance with article 33 (3) and taking into account the guidelines on independent monitoring frameworks and their participation in the work of the Committee on the Rights of Persons with Disabilities (CRPD/C/1/Rev.1, annex).**

 Follow-up to concluding observations and dissemination

1. The Committee requests the State party to provide, within 12 months and in accordance with article 35, paragraph 2 of the Convention, written information on the steps undertaken to implement the recommendations contained in paragraph 20.
2. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in the relevant Ministries, the Judiciary, law enforcement officers and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector, and the media, using modern social communication strategies.
3. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.
4. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons’ organizations, in the preparation of its second to fourth periodic reports.

 Technical cooperation

1. **The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group (IASG) for the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations.**

 Next report

1. **The Committee requests the State party to submit its combined second, to fourth periodic reports by no later than 7 June 2024, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee’s simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitutes its report.**

1. \* Adopted by the Committee at its nineteen session (14 February – 9 March 2018). [↑](#footnote-ref-2)