

Multi-Country Study on Inclusive Education (MCSIE)

Nepal Policy Review

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DISCLAIMER

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development (USAID) or the United States Government.

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Abbreviations

ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DPOs	Disabled Persons' Organizations
ECED	Early Childhood Education
EMIS	Education Management Information System
IPs	Implementing Partners
IDP	Inclusive Development Partners
LASER PULSE	Long-Term Assistance and Services for Research Partners for University-Led Solutions Engine
LMICs	Low-and Middle-Income Countries
MECs	Minimum Enabling Conditions
MOEST	Ministry of Education, Science and Technology
MCSIE	Multi-Country Study on Inclusive Education
NGOs	Non-governmental Organizations
PPE	Pre-primary Education
SSDP	School Sector Development Plan
SSRP	School Sector Reform Plan
SDG	Standard Development Goal
SDG	Sustainable Development Goal
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Program
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific and Cultural Organization
USAID	United States Agency for International Development
UDL	Universal Design for Learning
WASH	Water, Sanitation, and Hygiene

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1. Executive Summary

Educational policies define and clarify a government's commitments, rules, and procedures with regard to how students will be educated within the country. The understanding of existing laws and policies within a country is essential context in conducting in-country programming, including conducting evaluations. The United States Agency for International Development (USAID) is supporting the Multi-Country Study on Inclusive Education (MCSIE), funding it to review three of its largest inclusive-education projects, namely, those in Cambodia, Malawi, and Nepal. The purpose of the review is to secure a clear understanding of what works and how best to support inclusive education globally in the future. Inclusive Development Partners (IDP), a woman-owned small business working to improve the rights of persons with disabilities worldwide, is implementing MCSIE.

As part of MCSIE, IDP conducted an analysis of policies, statutes, guidelines and strategies in each of the three study countries. This document represents the review of Nepal's policies and IDP's findings. Each analysis assessed the degree to which a national normative framework promoting and protecting the right to education for children with disabilities is in place and what legislative and other gaps related to MCSIE remain to be filled (if any). Findings from this analysis are useful to inform the development of interview guides and other research instruments designed to address the core research questions listed below. The policy analysis also complements the comprehensive literature review conducted for each country and identifies policy areas in which the three countries all exhibit shortcomings as well as areas of progress.

This report analyzes the legal framework for inclusive education currently in effect in Nepal. The main finding is that Nepal's legislation is progressively becoming aligned with Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) with the 2016 Inclusive Education Policy providing strong language to promote inclusive education for learners with disabilities. However, other legislation is less aligned with the CRPD and is often not consistent with the principles of the CRPD or even Nepal's Inclusive Education Policy. Ultimately, all findings show a positive progression in inclusive education legislation while also demonstrating the need to ensure the broader education policies and strategies reflect Nepal's international legislative commitments and national inclusive education policies.

In addition, the key findings and analysis are listed both by type of legislation (such as anti-discrimination, education or special/inclusive education) as well as thematic issues that are relevant to MCSIE. These findings include 1) conceptual understanding of inclusive education/educational setting; 2) identification of students with disabilities; 3) teacher training; 4) instructional approaches; 5) accommodations; 6) sign language and deaf education; 7) gender and the intersectionality of disability; and 8) recognizing the heterogeneity of disability. See sections 7.2 and 7.3 for additional information on these findings.

All of these findings will help better inform MCSIE research and data-collection methods. Below highlights some of the considerations that MCSIE will examine throughout the evaluation. These core elements were selected as they either directly relate to MCSIE's evaluation questions or are core cross-cutting elements of programming within the three countries. These findings include:

- **Conceptual Understanding of Inclusive Education/Educational Settings.** As there is not a clear conceptual framework on inclusive education even within the Inclusive Education Policy, it is feasible that stakeholders may differ in their understanding of the concept of inclusive education. Therefore, MCSIE evaluators should clearly articulate their use of "inclusive education" in accordance with the CRPD, while simultaneously endeavoring to capture stakeholders' and participants' own conceptualizations of this term, even if they differ.
- **Identification of Students with Disabilities.** There is little information provided within the policy on identification protocols, tools, or how identification will be conducted in practice. MCSIE should endeavor to capture the consequences in practice that ensue from an unclear policy stance on identification of disability.
- **Teacher Training.** Historically, Nepal did not clearly articulate the need for educators to be trained in special or inclusive education with requirements for training only being established in 2016 with the Inclusive Education Policy. Thus, this will be a relatively new area within Nepal.
- **Instructional Approach.** MCSIE evaluators should endeavor to capture the practical impact through supports, accommodations, and diversification of curriculum. The Government of Nepal has yet to provide guidance on how that will be accomplished within the country.
- **Accommodations.** MCSIE evaluators should attempt to capture the extent and quality to which legally prescribed educational accommodations for people with disabilities are provided in school settings.
- **Sign Language and Deaf Education.** MCSIE evaluators should understand that this is an emergent area within the education sector and attempt to capture lessons learned and areas for implementation development.
- **Gender and Intersectionality of Disability.** With the exception of the Inclusive Education Policy, there is little mention of the intersectionality of gender and disability within the legal context, a situation that could reflect a poor understanding of the issue. MCSIE evaluators should ensure data collection tools and methods engage men and women equally, and the tools and methods include both closed and open-ended questions that investigate stakeholders' perspectives about the intersectional nature of gender and disability.

- **Heterogeneity of Disability.** MCSIE evaluators should recognize Nepali law addresses all disability categories within its Inclusive Education Policy but that specific learning disabilities are not clearly articulated within this legislation. Where possible, evaluation activities should investigate the impact, if any, of not having learning disabilities recognized in Nepali law.

The report is organized into seven sections: introduction, background, Nepal's global commitments to inclusive education, Nepal's national legislative framework, findings and analysis, and conclusion.

2. Introduction

This section provides an introduction to the purpose of this policy review, the broader aims of MCSIE, and information on the CRPD, its role as a normative framework, and the importance of progressive realization.

2.1 Purpose

The purpose of the policy review is to provide legislative and systemic context for the countries in which MCSIE is operating. This information will help inform the evaluators of the various national policy objectives, goals, and strategies articulated by the Government of Nepal. It will later help to identify the ways in which programmatic implementation derives from or is consistent with policy objectives. The policy review uses the CRPD as the normative framework, and helps to shed light the extent to which Nepal's national policies and strategies are aligned with their international commitments. Using the CRPD as a normative framework also allows for MCSIE to compare the various policies using a standard to which all countries-Cambodia, Malawi and Nepal- are State Parties.

2.2 Multi-Country Study on Inclusive Education

Through the Long-Term Assistance and Services for Research Partners for University-Led Solutions Engine (LASER PULSE) mechanism led by Purdue University, Inclusive Development Partners (IDP) will conduct a three and a half year, \$3.585 million evaluation of three USAID inclusive education activities in Cambodia, Malawi, and Nepal. The study will investigate USAID programming in these three countries in order to identify what works to sustainably advance teaching and learning outcomes for children with disabilities in varying contexts and ultimately inform current and future programming through recommendations to current implementing partners (IPs) at the midline and broader recommendations for USAID at endline.

Five key themes provide a framework for the current study (process, identification, training, instruction and consequences). The following questions inform the evaluation of individual country programs as well as the evaluation of programming across the three countries:

1. What worked well/poorly in the process of setting up an efficient, effective, and sustainable system to focus on improving the quality of education for learners with disabilities? (Process)
2. What methods worked best to identify learners with disabilities? (Identification)
3. What training model(s) worked best to provide teachers with the resources and support they need to best meet the needs of learners with disabilities? (Training)
4. What instructional models worked best to improve classroom instruction and reading outcomes among learners with disabilities? (Instruction)
5. Were there any unintended consequences of the activity? What were they? (Consequences)

Each question includes the following sub-questions:

- How does the method/model work?
- Why does it work/not work?
- How costly is it?
- In which contexts is it likely to work best?
- How sustainable (both in terms of capacity and financial resources) is it? What is the impact on gender?

This policy analysis provides an understanding of the rights guaranteed under law as well as potential legal barriers that impact various projects being implemented within Nepal.

2.3 CRPD and the Role of Progressive Realization

A strong policy framework committed to inclusion is critical for students with disabilities because these students often encounter barriers to accessing education on an equal basis as students without disabilities. Students with disabilities worldwide are routinely denied the right to access a quality education. As just one example, a 2016 research project conducted by the United Nations Children's Fund (UNICEF) covering 15 low- and middle-income countries (LMICs) found that 85 percent of primary-aged children with disabilities who were out of school had never attended school (Mizunoya et al., 2016).

The CRPD, adopted in 2006, provides a clear international normative framework that obligates State Parties to ensure the full and equitable education of all students with disabilities (see section 5.1 of this review for more information). The CRPD calls for inclusive education, which extensive research has shown leads to better learning and social outcomes of students with disabilities (National Council on Disabilities, 2018).^{1 2} To conform to that normative framework, many countries worldwide have developed new national policies. These new policies address national

¹ Most of the research on inclusive education and learning outcomes has taken place in high-income countries with only recently similar research being conducted in LMICs with similar positive outcomes.

² Inclusive education can be roughly defined as students with disabilities being educated in their local schools in age-appropriate classrooms with students without disabilities where they receive appropriate supports and services to reach their full academic potential. For this research, IDP also follows the World Federation of the Deaf's definition of inclusive education where students who are deaf are educated in sign-language rich environments where they can communicate freely with peers, teachers, and administrators.

educational needs of children with disabilities and restructure or commit to the restructuring of policy and service-delivery systems that align with the CRPD.

The CRPD also calls for international cooperation to support States Parties in meeting their objectives and in promoting inclusion of persons with disabilities in international development programs (United Nations, 2006, Art. 32). In response, bilateral and multilateral donors are increasingly seeking means for ensuring additional and more effective approaches to support inclusive education efforts within LMICs. USAID is supporting the MCSIE study, funding it to review three of its largest inclusive-education projects: Cambodia, Malawi, and Nepal. The purpose of the review is to secure a clear understanding of what works and how best to support inclusive education globally in the future.

The three MCSIE countries have radically different national histories, language contexts, cultural traditions, and economic circumstances. Cambodia's, Malawi's, and Nepal's governments, however, all share a common commitment to ensuring the rights of persons with disabilities. Cambodia, Malawi, and Nepal are three of the 181 nations in the world that have ratified the Convention on the Rights of Persons with Disabilities (CRPD), signifying that all three countries have joined a global community of nations that seek to transform policy, law, economic opportunities, and human services for persons with disabilities. The CRPD represents a common policy aspiration among the three countries that can provide a framework for comparative analysis. The MCSIE study represents an opportunity to support countries to achieve their voluntary international commitments through identifying areas of alignment and possible gaps.

Across all countries, educational policy, everyday practice, and USAID technical support vary in how disability and inclusive education is approached. The CRPD - specifically its Article 24 (on education) and General Comment Number 4 (about inclusive education) – provides an opportunity for providing normative feedback for implementing partners and policy makers in the three countries. The CRPD General Obligations state that countries must “adopt all appropriate legislation, administrative and other measures for the implementation of the rights recognized in the present Convention” and States must “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities” (United Nations, 2006). Put simply, the elimination of discriminatory policy is the first priority for all countries who sign and ratify CRPD.

The CRPD's stance on discrimination against people with disabilities provides a framework for evaluation that can then examine baseline and progress in the areas of infrastructure, educational practices, and social structures to include all children with disabilities in mainstream education settings and deliver appropriate deaf education in a sign language-rich environment. The framers of CRPD acknowledged that economic, cultural, and social inclusion is a process that takes time, but must be always guided by policies that allow every child to pursue an education in inclusive or sign language-rich environments. Within the framework of CRPD, then, policies must not discriminate in any way and any breaches of human rights must be addressed immediately. The societal changes needed to uphold such policies can be “progressively realized” through

government investment, improved practice with identification and teaching, international agency cooperation, and education sector improvements.

3. Methodology

To ensure consistency in data collection and analysis strategies across all countries, IDP developed a policy analysis protocol with suggestions for search techniques and a tentative outline for the final report. The analysis was primarily limited to relevant laws, policies, and related strategies, as well as reports prepared by the respective governments and submitted to international bodies, primarily the treaty bodies associated with the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights, where relevant. It was supplemented on a limited basis by third-party evaluations and analyses uncovered during the literature review for this study.

3.1 Sample

For Nepal, 10 legislative documents and 28 additional documents were reviewed. Information from the Policy Analysis was then compared to a separate literature review conducted on the three countries. This literature review also coded any relevant information concerning commitments to international treaties, disability laws, education laws, and inclusive-education laws. For the broader literature review, more than 81 documents were reviewed in total. This process helped ensure that all relevant laws were captured and analyzed as part of this process. Legislation and strategies reviewed under this analysis for Nepal are summarized in Exhibit 1.

Exhibit 1: Legislation and Strategies Reviewed for Policy Review

Legislation Category	Nepal Laws and Strategies	Legislation Type ³
National Anti-Discrimination Legislation	National Constitution of Nepal (2015)	Constitution
	National Policy and Plan of Action on Disability (2006)	Regulation
	Act on the Rights of Persons with Disabilities Act (2017)	Statute
	Child Rights Act (2018)	Statute

³ These terms can be roughly defined as follows:

Constitution: the supreme laws of a country that provide the fundamental principles of a nation, determining the powers of the government and guaranteeing certain rights to citizens.

Statute: a law enacted by the legislative branch of a government.

Regulation: a law promulgated by the appropriate federal/national executive secretariat or department.

Executive Plan: interpretive documents that supplement regulations and clarify how they will be operationalized.

National Legislation and Strategies on Education	Nepal Education Act (1972) Ninth Amendment	Statute
	National Education Policy (2019)	Unknown ⁴
	The Act Relating to Compulsory and Free Education (2018)	Statute
	School Sector Development Plan (2016/17-2022/23)	Executive Plan
Education Legislation and Strategies for Students with Disabilities	Special Education Policy (1996)	Regulation
	Inclusive Education Policy for the Persons With Disability 2072 (2016)	Regulation

In addition to reviewing information and determining findings for the different areas of legislation, the report also provides findings on key technical issues. These technical issues include 1) conceptual understanding of inclusive education/educational setting; 2) identification of students with disabilities; 3) teacher training; 4) instructional approaches; 5) accommodations; 6) sign language and deaf education; 7) gender and the intersectionality of disability; and 8) recognizing the heterogeneity of disability. These core elements were selected as they either directly related to MCSIE's evaluation questions or are core cross-cutting elements of programming within the three countries. Due to the importance of the issues addressed across legislations and policies, IDP developed initial findings for each of these technical issues as well as suggestions on how these findings can inform MCSIE.

3.2 Limitations

This policy review addresses only the written and publicly-available policies and legislation of the Government of Nepal. This review does not incorporate information on why the policies were developed, stakeholder views on the policies, or the status of these policies' implementation in practice. This scope limits the research team's ability to address whether some of the policies have been replaced or superseded by other policies, unless explicitly stated within the new policies. The intention of this process is not to have a full understanding of the policy environment and its implementation, but rather to review what policies exist related to the education of students with disabilities and how this information can better inform the MCSIE study.

4. Background

This section provides important background on the MCSIE study and provides general information on the country of Nepal and on the situation of education in Nepal, including the current state of education for children with disabilities in the country.

⁴As this document is unavailable in English, the authors could not confirm if it is a statute, regulation, or executive plan.

4.1 General Information on Nepal

To understand the policy review, it is important to acknowledge the general country context of Nepal. This understanding can also help provide context to the findings and how these findings should be taken into consideration for MCSIE. Nepal is linguistically and culturally diverse, with over 123 languages spoken by 125 ethnic groups (UNICEF, 2019). The vast majority of the population lives in rural communities, many of which are geographically isolated. While Nepal is ranked number 147 out of 189 countries in the United Nations Development Program's (UNDP) Human Development Index, placing it in the medium human development category, close to one in four persons fall below the poverty line (UNDP, 2019). Nearly half of adult women are illiterate, and the overall literacy rate is under 70 percent (UNESCO, n.d.).

Since the end of a decade-long conflict in 2006, Nepal has been in the midst of a massive and complex transition to a new governing system. The 2015 Constitution instituted a new federal structure with administrative bodies at the federal, state, and local levels. In 2017, 40,000 new officials were elected to local, provincial, and national parliaments (Government of Nepal, 2017). Given the government's relatively new inception, key challenges include clarifying the functions and mechanisms for accountability within each level of government, ensuring the delivery of basic services while continuing infrastructure development, and addressing governance weaknesses while growing into the new system (World Bank, 2019).

A 2017 report shows Nepal has 6.13 million children (51.1 percent boys, 48.9 percent girls) aged 5 to 12 enrolled in the basic level (grades 1-8), and 1.39 million children (49.2 percent boys, 50.8 percent girls) aged 13 to 16 enrolled in secondary level (grades 9-12) (National Institute for Research and Training [NIRT] & American Institutes for Research [AIR], 2017). Nepal's latest census reported only 1.94 percent of people having disabilities; however, Handicap International (2015) characterized the government's classification of disability as very restrictive compared to internationally accepted definitions. Globally, the report used the World Health Organization's estimate of 5.8 percent of disability prevalence among children from 0 to 14 of age (WHO & World Bank, 2011). This would translate to a figure of between 250,000 and 735,000 children with disabilities in Nepal (NIRT & AIR, 2017).

Although Nepal successfully adopted a new law in 2017 recognizing the rights of persons with disabilities (the law will be discussed in detail below), much of the country's legislative framework pre-dates the Constitution, in some cases by decades, and may be inconsistent with the terms of the 2017 law. A comprehensive study reviewing existing laws for compliance with the new Constitution, the Disability Act, or the CRPD has not yet been conducted and would be a valuable step to consolidate Nepal's national legal framework (National Federation of Disabled-Nepal, n.d.).

4.2 Situation of Education in Nepal

In addition to country context, understanding the general education in Nepal and current overview of inclusive education is useful when reviewing existing policies and strategies. While Nepal has made significant strides in increasing school enrollment to more than 96 percent in 2017 (Government of Nepal, 2017), children in school face a number of barriers to effective learning, including a failure within schools to meet standards for a quality education, teachers who do not have the skills necessary to ensure students are learning, and teaching materials limited to the Nepali language, which close to 2 million enrolled children do not speak. In part and as a result, for every 100 children who enroll in school, 29 drop out before grade 8 (UNICEF, 2019).

Children with disabilities are particularly under-served as there are no specific facilities or mechanisms to ensure they are enrolled or stay in school (Government of Nepal, 2016a). Teachers do not have the skills to teach diverse learners and school curricula are often either too specialized or too generalized to offer much support to children with disabilities, even mild disabilities (Government of Nepal, 2016a). Few students with disabilities are learning in mainstream classrooms, and there are few data on their learning outcomes (Government of Nepal, 2016a). According to the National Planning Commission's 2017 assessment of progress toward Standard Development Goal (SDG) 4, which calls for building and upgrading school facilities to ensure they are child-, disability- and gender-sensitive, there is no significant proportion of disability-accessible schools (Government of Nepal, 2017).

5. International Normative Framework for Inclusive Education and Nepal's International Commitments

There is a strong international and regional normative framework that promotes and protects the rights of children with disabilities to education on an equal basis with their peers without disabilities. This framework includes international and regional treaties as well as non-binding agreements. The most relevant of these are discussed briefly below as well as Nepal's existing international legislative commitments.

5.1 Global Commitments to Inclusion of Children with Disabilities in Education

The CRPD articulates the clearest recognition of the rights of persons with disabilities in international human rights law and represents a powerful global commitment to those rights. The CRPD calls on States Parties to ensure the full realization of all human rights for all persons with disabilities, including children, and obligates States Parties to eliminate all legislative and administrative measures and practices that are discriminatory (United Nations, 2006, Arts. 4 and 7). It also obligates States Parties to ensure the accessibility of schools, among other public facilities, and recognizes the right of persons with disabilities to an education on an equal basis with others (United Nations, 2006, Arts. 9 and 24). In particular, Article 24 of the CRPD requires States Parties to guarantee an inclusive education system that promotes the full development of the human potential of children with disabilities and that ensures that they:

- are not excluded from general education systems on the basis of disability;

- can access an inclusive, quality, and free primary and secondary education on an equal basis with others;
- are provided reasonable accommodation of any individual requirements;
- receive the support required, within the general education system, to facilitate an effective education; and
- are provided individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion. (United Nations, 2006, Art. 24)

To meet these objectives, States Parties must ensure that instruction is delivered in the most appropriate languages and means and modes of communication for each child, including those who are blind, deaf, or deaf/blind. States Parties also are obliged to train and employ qualified teachers and staff familiar with educational techniques and materials to support learners with disabilities (United Nations, 2006, Art. 24).

The United Nations Convention for the Rights of the Child, adopted in 1989, similarly recognizes and protects the human rights of children, including children with disabilities. The CRC calls on States to respect and protect the rights of all children to be free from discrimination (Art. 2); it recognizes the right of children with disabilities to live a full life with active participation in their communities (United Nations, 1989, Art. 23); and it further recognizes the right of all children to an education (United Nations, 1989, Art. 28).

The CRC and CRPD each have monitoring committees that are responsible for overseeing and evaluating the steps States Parties take to implement the respective conventions. States Parties must submit regular reports to the respective committees detailing how they are implementing the rights set out in the conventions. Committees examine each report along with submissions from civil society organizations and respond by making suggestions and general recommendations for further compliance.

In addition, the monitoring committees have the authority to issue guidance regarding the meaning of particular treaty terms and address specific issues relating to compliance. To more clearly define States Parties' obligations related to inclusive education, in 2016 the CRPD committee published General Comment No. 4 on Inclusive Education. The General Comment highlights common barriers to inclusion, emphasizes that inclusive education is a fundamental human right of all learners, and advises States Parties that, to ensure inclusive education, a "whole systems" approach is required, one that eliminates all legal, administrative, and structural disadvantages that exclude children with disabilities. It further emphasizes that States Parties cannot maintain both segregated and general education systems and remain in compliance with the CRPD (United Nations, 2016).

In addition to the binding obligations in the CRPD and the CRC, the 2015 Sustainable Development Agenda, adopted unanimously by the UN General Assembly, includes the goal of "ensur[ing] inclusive and equitable quality education and promot[ing] lifelong learning opportunities for all" (United Nations, 2015, Goal 4). Its targets include a commitment to "build

and upgrade education facilities that are child, disability, and gender sensitive and provide safe, non-violent, inclusive, and effective learning environments for all” (United Nations, 2015, target 4.A). At the World Education Forum in 2015, representatives of over 160 countries adopted the Incheon Declaration for Education 2030. The Incheon Declaration includes a comprehensive Framework for Action to achieve Sustainable Development Goal (SDG) 4; the Framework is premised on the principle that no education target should be considered met unless it is met for all, including children with disabilities. The Framework recognizes four modalities to implement an inclusive and equitable education strategy, including 1) governance, accountability, and partnerships; 2) effective coordination; 3) monitoring, follow-up, and review for evidence-based policies; and 4) financing (UNESCAP, 2018).

Nepal is party to a number of international treaties that promote and protect human rights. Exhibit 2 provides a summary of the different treaties ratified by Nepal and the date of ratification.

Exhibit 2: International Treaties Ratified by Nepal and Date of Ratification

International Convention	Date Ratified
Covenant on Civil and Political Rights (CCPR)	May 14, 1991
Convention on the Elimination of Discrimination Against Women (CEDAW)	April 22, 1991
Covenant on Economic, Social, and Cultural Rights (CESCR)	May 14, 1991
Convention on the Rights of the Child (CRC)	September 14, 1990
Convention on the Rights of Persons with Disabilities (CRPD)	May 7, 2010

Source: Office of the High Commissioner for Human Rights, 2020

Nepal submitted its first report to the CRPD Committee on August 29, 2014, approximately two years after the initial report was due to committee. Several non-governmental organizations (NGOs) and disabled persons’ organizations (DPOs) completed and submitted parallel reports (Office of the High Commissioner for Human Rights, 2020).

The 1990 Nepal Treaty Act requires an act of Parliament for a treaty to become part of Nepal’s domestic law (Government of Nepal, 1990; Pokhrel, 2019). However, where a treaty has been ratified by Parliament and there is inconsistency between the treaty and Nepal’s national law, the treaty will be deemed superior (Government of Nepal, 1990; Pokhrel, 2019). The 2015 Constitution calls for an “embrac[e]” of the norms and values of fundamental rights and human rights, including gender equality, participation, and social justice and mandates the State to pursue policies implementing international treaties to which Nepal is a party (Government of Nepal, 2015, Arts. 50, 51(b)(3)).

5.2 Regional Recognition of the Rights of Children with Disabilities

At the regional level, several other charters and guiding documents are pertinent to Nepal. For example, the Asian Human Rights Charter, adopted in 1998, references “differently-abled persons” and recognizes such persons experience discrimination in education, employment, and

housing, among others (Asian Human Rights Commission, 1998). The Charter also recognizes people with disabilities “have a right to live in dignity, with security and respect, and to have opportunities to realize their full potential.” The Association of Southeast Asian Nations (ASEAN) Human Rights Declaration (2012) further recognizes the rights of persons with disabilities “are an inalienable, integral, and indivisible part of human rights and fundamental freedoms” (Association of Southeast Asian Nations, 2012).

In 2012, the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) launched the Incheon Strategy to “Make the Right Real” for Persons with Disabilities. The Incheon Strategy was developed in order to create and prioritize strategies to achieve the SDGs and, thus, they are intrinsically linked. The Incheon Strategy is the first set of regionally-agreed disability-inclusive development goals and covers a range of development issues including poverty reduction and employment, political participation, accessibility, social protection, and education (UNESCAP, 2012). The Strategy adopts 10 goals including Goal 5 to expand early intervention and education of children with disabilities, along with 27 targets and 62 indicators to monitor and evaluate its implementation. Target 5.B calls for halving the gap in enrollment rates for primary and secondary education between students with and students without disabilities (UNESCAP, 2012). Notably, like the CRPD, the Incheon Strategy also recognizes girls and women with disabilities face multiple and overlapping forms of discrimination, and they are often left out of gender equality programs, including programs intended to prevent violence and advance access to sexual and reproductive health services. Targets 6.C and 6.D call for measures to ensure women and girls with disabilities have access to sexual and reproductive health services and benefit from measures to reduce all forms of violence, which would include violence and abuse in schools (UNESCAP, 2012).

The 2017 Beijing Declaration and Action Plan to Accelerate the Implementation of the Incheon Strategy, agreed to in 2017 by UNESCAP Member States, proposes strategic measures to bridge the gap between policy and effective implementation. With respect to the Incheon Strategy’s Goal 5 on including children with disabilities in education, the Action Plan calls for governments to, among other things, adopt and strengthen programs to train and educate families, caregivers, and service providers on child development and early detection of and interventions for children with developmental delays and disabilities, as well as the rights of children with disabilities to receive services; review and revise education policies to make them more inclusive; audit the accessibility of school facilities, including water and sanitation facilities, education materials, and teaching methods; and implement pre-service and in-service training programs for educators and staff to promote information-sharing, develop skills to meet the needs of diverse learners, and enable learning-friendly school environments (UNESCAP, 2012).

Nepal is a member of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), which, as noted above, launched the Incheon Strategy in 2012 to “Make the Rights Real” for Persons with Disabilities. The Strategy adopts 10 goals including Goal 5 to expand early intervention and education of children with disabilities, along with 27 targets and 62 indicators to monitor and evaluate its implementation. Target 5.B calls for halving the gap in

enrollment rates between children with disabilities and their nondisabled peers for primary and secondary education (UNESCAP, 2018).

The sections below analyze how and where each of these modalities are promoted within laws and policies of Nepal.

6. National Legislations that Promote the Right to an Inclusive Education

Nepal has several laws that pertain to the educational rights of students with disabilities and are also supplemented by specific strategies developed by the Ministry of Education, Science and Technology (MOEST). This section provides a summary of Nepal's anti-discrimination laws, education laws, and specific legislation and strategies related to the education of students with disabilities.

6.1 Relevant National Anti-Discrimination Laws

Nepal has several national anti-discrimination laws that address the educational rights of persons with disabilities. The most notable of these laws is the Constitution of Nepal (2015). In addition, there are also several disability anti-discrimination laws including the 2006 National Policy and Plan of Action on Disability⁵ and the more recent 2017 Act Relating to Persons with Disabilities. The 2018 Act Relating to Children, though not specifically related to disability, also addresses the educational rights of children with disabilities, among other rights.

Constitution of Nepal (2015)

The 2015 Constitution of Nepal⁶ provides that all citizens are equal before the law and prohibits discrimination “in the application of general laws” on the grounds of disability, physical or health conditions, and sex, among a host of other grounds (Government of Nepal, 2015, Art. 18). It also establishes the elimination of all forms of discrimination, oppression, and injustice as one of the primary objectives of the State (Government of Nepal, 2015, Art. 50(2)). However, while Article 18 of the Constitution prohibits the State from discriminating against Nepali citizens on multiple grounds, it does not specify disability, physical, or health conditions among them (Government of Nepal, 2015, Art. 18). Instead, in the same Article, the Constitution explicitly permits the adoption of special measures to protect, empower, or advance the rights of certain marginalized groups, including women, youth, children, and persons with disabilities (Government of Nepal, 2015, Art. 18). In other words, while adopting a ban on discrimination in general, the Constitution reserves the right of the State to use affirmative action and preferential treatment to advance the rights of persons with disabilities, among others.

With regard to education, the Constitution guarantees every citizen the right to a free education at the primary and secondary level, and recognizes a right to a free higher education for those who are physically “impaired” or “financially poor” (Government of Nepal, 2015, Art. 31). It makes

⁵ This act is reported to be expired, with a new policy currently being reviewed by the government.

⁶ Though two references mentioned that the 2015 Constitution mandated education in sign language for students who are deaf, this obligation was not apparent in the English translation of the document.

special provision for those who are visually impaired, guaranteeing them the right to a free education “with the medium of braille [*sic*] script” (Government of Nepal, 2015, Art. 31(4)). It is not clear whether this is meant to incorporate both the provision of written learning materials in braille as well as any necessary equipment to produce material in braille. No other accommodations are specifically referenced in Article 31 nor is there an independent right to accommodation articulated elsewhere in the Constitution.⁷

Article 38 guarantees women the right to “special opportunity” with respect to education and, like Article 18, explicitly provides for positive discrimination but says nothing about girls with disabilities specifically. Article 39, likewise, guarantees all children the right to an education while providing for a right to “special protection” from the State for children who are “helpless, orphaned, [or] physically impaired,” among other disadvantages, without any specific reference to gender. It is not clear from the context what “special protection” may mean, particularly whether it also anticipates positive discrimination in favor of children with disabilities or what that discrimination could include (Government of Nepal, 2015).

The Constitution also provides for a preferential right to public employment for persons with disabilities and for equal access to social services and facilities for persons with physical disabilities (Government of Nepal, 2015 Art. 42(1) and (3)). It is not clear whether this is intended to promote persons with disabilities as public school teachers, which would be a progressive step toward inclusion, and/or require accessibility of public schools. There are no other provisions in the Constitution guaranteeing a right to accessibility, a fact that could present a significant barrier to children with disabilities who seek to access schools. Annex A provides more information on how the Constitution addresses disability.

Nepal’s Constitution establishes a broad right to equality as well as a right to an education generally. But it offers little specificity regarding what these rights might mean in practice for children with disabilities, especially beyond those who are blind or have low vision. There is no explicit guarantee, as the CRPD mandates, that children with disabilities are entitled to an education that is *equal* in quality to that available to their peers without disabilities or that they be able to exercise their right to an education on the same basis and in the same environment as their peers. There are no guarantees of accommodation (beyond the use of braille) or accessibility of school facilities, and scarce language that commits the State, in keeping with the CRPD, to the full development of the human potential of children with disabilities, including their academic and social development. Rather, the obligations of the State to children with disabilities are primarily framed as protective, an approach that has the potential of reinforcing stigma and the perception of persons with disabilities as exclusively or primarily vulnerable, dependent, and incapable.

⁷ Article 51(h)(3) obligates the State to pursue policies making higher education available and accessible; in context, the reference to accessibility appears to be in relation to financial accessibility.

National Policy and Plan of Action on Disability (2006)

The National Policy and Plan of Action on Disability is intended to promote the social inclusion of persons with disabilities and alleviate poverty. It is comprehensive, identifying 17 areas of priority including national coordination and law-making as well as access, education, and transportation, among others. The Ministry of Women, Children, and Social Welfare is designated as the implementing agency with support from the Disabled Service National Coordination Committee. The Plan also contemplates involvement of disabled persons organization (DPOs) as well as other government ministries. With regard to education in particular, the Plan promotes inclusive education “in order to increase education opportunities of children with disabilities” (Government of Nepal, 2006, p. 53). It promises adoption of a policy to provide free quality education to children with disabilities from pre-primary to higher levels and the construction of a “medium” school, which may be “integrated, inclusive, or special,” with residential facilities in each district. It also commits to the development of textbooks that include “positive attitude [*sic*] to people with disability” (Government of Nepal, 2006). Although the Plan represents an attempt to give meaning to the rights of persons with disabilities, it fails to meet the standard of inclusive education articulated in the CRPD or in the Asia-Pacific regional policies.

Persons with Disabilities Act (2017)

The Act Relating to Rights of Persons with Disabilities (Persons with Disabilities Act) repeals the 1982 Disabled Persons Protection and Welfare Act and seeks to consolidate existing laws relating to the rights of persons with disabilities and eliminate discrimination while ensuring an environment that enables and empowers persons with disabilities to live lives of dignity (National Federation of Disabled-Nepal, 2018). It draws on the language of the CRPD in terms of how it defines persons with disability and discrimination, which includes the denial of reasonable accommodation, and prohibits discrimination on the basis of disability in the enrollment of a child with a disability in school, among other things (Government of Nepal, 2017, Art. 8). The Act enumerates a series of rights belonging to persons with disabilities, including the right to political participation, the right to community life, the right to participate in cultural life, the right to access justice, and more. Like the CRPD, the Act also contains provisions specific to children with disabilities and women with disabilities (Government of Nepal, 2017, Arts. 20 and 19).

In language partially drawn from the CRPD, Article 20 guarantees children with disabilities the right to obtain an education and obligates the Government to “make appropriate provision on curricula, course books, and teaching and learning matters” so as to meet the learning needs of “children with intellectual disabilities, mental disabilities, autism, mental paralysis, or hearing and sight disabilities” (Government of Nepal, 2017, Art. 20). Although the stated goal of such education is to “assimilate in the society and make [*sic*] personal development,” the language of Article 20 does not require the Government to ensure that children with disabilities receive an education on an equal basis with other children or that they do so in the same schools, a placement that is fundamental to an inclusive education.

Article 21 on the education of persons with disabilities states that the Government “shall, on the basis of the classification of disabilities, make separate provision, as required, with regard to education and evaluation system of the students with disabilities” (Government of Nepal, 2017).

It is not clear from the context whether this is an effort to reserve the right to offer special treatment in the form of accommodations and the like or whether it permits the Government to segregate students with disabilities in separate schools or learning facilities. Article 12 otherwise obligates the Government to ensure children with disabilities can receive education through alternative means, such as braille or sign language, and mandates that they should have access to accessible information technology (Government of Nepal, 2017, Art. 12).

Finally, Article 21 mandates that educational institutions must build school buildings “in accordance with the standards determined by the Government of Nepal” to ensure they are accessible to persons with disabilities (Government of Nepal, 2017, Art. 21).

To monitor and promote the rights enumerated in the Act, the Act adopts a cross-sectoral and inclusive approach, creating a Steering Committee composed of the Minister of Women, Children, and Senior Citizens; a member of the National Planning Commission; and the Secretaries from the following Ministries: Finance; Law, Justice, and Parliamentary Affairs; Federal Affairs and General Administration; Health and Population; Labor, Employment, and Social Security; Education, Science and Technology; and the Social Welfare Council as well as representatives of the National Federation of Persons with Disabilities and DPOs or other organizations working on disability-related issues (Government of Nepal, 2017, Art. 38). The Steering Committee is responsible for implementing disability-related plans and programs, advising the Government on policy development, and promoting coordination between various Government bodies as well as civil society organizations, among others (Government of Nepal, 2017, Art. 39). The Steering Committee is also responsible for promoting public awareness about “behavior and assistance” that respects the rights of persons with disabilities, developing and promoting Nepali sign language, and approving policies on accessibility of public facilities.

Although the Steering Committee has oversight of the Act’s implementation, separate provisions detail the responsibilities of particular entities to satisfy its terms. With respect to education, for example, the Act states it is the responsibility of educational institutions to effectively implement the Act’s education-related provisions (Government of Nepal, 2017, Art. 46). The Act also states family members and guardians are likewise obligated to “maintain and provide opportunity of education” to persons with disabilities, but is limited in detail. (Government of Nepal, 2017, Art. 46).

While overall the Act includes many progressive elements and contributes to a legal framework enabling inclusive education, its emphasis on protection and its approach to disability as a medical condition, exemplified by the attached schedule for the classification of disability, limit its transformational potential. The schedule takes a decidedly medical approach to disability and requires those obtaining classification to specify in which part of the body they experience a problem or difficulty. The Act is also limited in its recognition of the diversity among persons with disabilities. The classification of disability adopted by the Act allocates the benefits to which any individual may be entitled on the basis of the severity of his/her disability. However, this fails to take into account the real social and economic costs of multiple forms of discrimination unrelated to the severity of disability. In its submission to the Committee on the Rights of Persons with

Disabilities, the National Federation of Disabled-Nepal details the multiple and overlapping forms of disadvantage that face persons with disabilities in Nepal, including being poor, indigenous, *dalit* (the lowest member of the traditional Indian caste system) , and living in remote areas (National Federation of Disabled-Nepal, 2018). The disability benefits provided for in the Act do not account for these intersectional disadvantages, risking leaving the needs of particularly marginalized groups unmet. Notably, while the Act explicitly recognizes the need for a collaborative, cross-sectoral approach to the elimination of disability discrimination, it offers few details regarding how such collaboration is to be monitored or how each agency will be held accountable for satisfying the Act's requirements.

Act Relating to Children (2018)

The 2018 Act Relating to Children guarantees every child the right to live with dignity and commits the Government to take actions to protect children's rights to life and development (Government of Nepal, 2018, Art. 3). The Act also prohibits discrimination against any child (defined as a person under the age of 18) on the basis of physical or mental conditions, disability or health status, among other factors (Art. 5), and articulates a right to protection for children with disabilities who are affected by conflict, are displaced, or are at risk or living on the street (Government of Nepal, 2018, Art. 7(4)).

Article 12, which is specific to children with disabilities, recognizes the right of every child with a disability to “ensure her/his self-respect and self-esteem, promote self-dependence [*sic*], actively participate in society, and live with dignity.” In particular, it provides that children with disabilities have the right to access special care, to “mingle in society,” and to receive an education, among other rights. It also guarantees the right to equal access to and enjoyment of public services and facilities, which, although not specified, should include schools (Government of Nepal, 2018).

Finally, and importantly, the Act echoes the Constitution and recognizes a right to free education in a child-friendly environment for every child through secondary school (Government of Nepal, 2018, Art. 15). Article 15 specifies that children with disabilities in particular are entitled to receive education “through the use of appropriate study materials and teaching methods suitable to her/his special physical and mental conditions.” This last provision is qualified by the addition of language noting that the right to such materials is to be in accordance with prevailing laws, which may potentially limit the scope of the Act's guarantee(s). Nevertheless, it represents a potentially important step toward meeting the requirements of the CRPD that children with disabilities are provided instruction “in the most appropriate languages and means and modes of communication for each child” (Government of Nepal, 2018, Art. 24).

6.2 Nepal's National Legislation and Strategies on Education

The Ninth Amendment of Nepal's Education Act of 1972 and the 2018 Act Relating to Compulsory and Free Education are the two most relevant laws related to general education rights in the country. The School Sector Development Plan 2016/17-2022/23 supports these laws by providing strategic guidance on how education will be improved in the country.

Nepal Education Act (1972)

Nepal's Education Act, most recently amended in 2016, governs the management of schools throughout the country and sets standards for the development of curricula and methods of examination. Despite international standards promoting inclusive education, Nepal's Education Act explicitly permits special education and defines it as the "special type of education to be given to blind, deaf/dumb, or the children who are physically or mentally disabled" (Government of Nepal, 2016a, para. 2(d1)). The Act does mandate that special education must be of the same quality as general education (Government of Nepal, 2016a, para. 6A), but it contains nothing to suggest special education must be provided in the same schools or classrooms as general education classes. In other words, it falls far short of the requirements for an inclusive educational environment mandated by the CRPD. Furthermore, the use of the term "deaf/dumb," even if arising in translation from Nepali, represents a poor awareness of the categories of disability most commonly recognized in contemporary language and perpetuates stigma and thus discrimination.

The Act Relating to Compulsory and Free Education (2018)

The Act Relating to Compulsory and Free Education (2018) re-states the right of every citizen to "equal access to quality education" (Government of Nepal, 2018b, Art. 3). This right includes the right to early childhood development and education and basic secondary and higher education. Persons with disabilities are guaranteed the right to an education by means of "special education," which is defined as "education provided in special way [*sic*] and with certain means for the children who have visual impairment, are deaf, have autism, intellectual disability, hard of hearing or extreme physical disability or who are in other condition of similar nature by placing them at separate groups [emphasis added]" (Government of Nepal, 2018b. Arts. 3(7), 2(e)).

Although the Act appears to contemplate a separate educational program for children with disabilities, elsewhere it specifies that "every child shall have the right to acquire education up to the basic level or secondary level from the school which is convenient from [her/his] place of residence" (Government of Nepal, 2018b, Art. 8). This language suggests that children with disabilities may be permitted to attend local general education schools but receive education in segregated classrooms. The Act further mandates that persons who are blind have the right to receive a free education through the use of braille and those who are deaf and/or have communication disabilities have the right to education using sign language (Government of Nepal, 2018b, Art. 33). The Act makes special provision for children who are *dalit*, have disabilities, and are poor, calling for them to be admitted to schools. There is nothing in the Act regarding the accessibility of schools or reasonable accommodations, beyond those for children with visual-, hearing-, or speaking-related disabilities.

National Education Policy (2019)

The National Education Policy (2019) encompasses inclusive and special education policies amongst 13 other thematic policies. Policy 10.28 envisions operating "Special Schools" with residential services to ensure the education for children with disabilities who cannot travel daily to their schools. The policy also aims to educate children with disabilities together with the other students per their disability category. The policy also has provisions to create opportunities for persons with disabilities in getting technical and vocational skills to help them live independent

lives. In addition to this, it aims to develop disability inclusive teaching learning environments and materials and to adopt disability inclusive evaluation systems and curriculum per the need of persons with disabilities

School Sector Development Plan (2016/17-2022/23)

The School Sector Development Plan (SSDP) has the goal of contributing to social development and reducing disparities by ensuring all citizens have the opportunity to become functionally literate and numerate and to develop the basic life skills and knowledge required to enjoy a productive life, while taking into account the diversity of needs in the country. Inclusion and equity in terms of access, participation, and learning outcomes are among the SSDP's core principles, with a special focus on reducing disparities among and between groups with the lowest levels of access, participation, and learning outcomes, including children with disabilities.

The SSDP follows the previous education sector plan, the School Sector Reform Plan (SSRP) (2009), which incorporated a five-year School Sector Reform Programme, which was extended until 2016 (Government of Nepal, 2016a). The SSDP integrates and builds on the Government's previous commitments to ensure access to quality education, reflected in the Education for All Programme (2004-2009), the Community School Support Project (2003-2008) and the SSRP, among others. It is also designed to align with the Sustainable Development Goals, especially SDG 4, and further Nepal's ambition to transition to middle-income status by 2030.

It is not clear the extent to which the SSDP supersedes the 1996 Special Education Policy, but it does call for particular actions to advance access to quality education for children with disabilities, especially those facing multiple forms of disadvantage. These include:

- Prioritizing implementation of the Consolidated Equity Strategy for the School Education Sector (2014) and incorporating its Equity Index into Nepal's Education Management Information System (EMIS) to ensure appropriate monitoring and follow-up;
- Expanding access to early childhood education (ECED) and pre-primary education (PPE) programs outside urban centers and developing guidelines for ECED/PPE to ensure children with disabilities have full access to learning activities;
- Strengthening diagnostic and referral mechanisms for children with disabilities and improving collection and analysis of disaggregated data that measures education outcomes;
- Strengthening institutional capacity to provide inclusive education for children with disabilities and special needs and establishing partnerships with non-state actors and other relevant ministries to respond to the needs of children with complex or severe disabilities;
- Meeting minimum enabling conditions standards (MECs) to enable the full participation of children with disabilities in mainstream schools;
- Constructing/re-constructing schools to ensure that they are safe for all students; and
- Improving water, sanitation, and hygiene (WASH) infrastructure so that facilities are accessible to children with disabilities (Government of Nepal, 2016a).

Among the SSDP's seven-year targets for basic education outcomes is the establishment of 365 "integrated schools for children with disabilities" (Government of Nepal, 2016a).

Although the Plan demonstrates an intent to support inclusion of children with disabilities, and indeed calls for a move from special and segregated education services for children with disabilities to inclusive education through mainstream schools, it is not clear how and when these objectives are intended to be or may be met. While the Plan calls for the development of a long-term inclusive education plan in consultation with stakeholders, it also anticipates the plan will include a strategy for special and residential schools. In fact, the SSDP contemplates the establishment of "specialized [children with disabilities] ECED/PPE facilities and home-based support" for children with complex or severe disabilities, suggesting a willingness to continue segregating certain types of learners (Government of Nepal, 2016a, Art 36). One of the SSDP's targets for secondary education outcomes is the establishment of 40 special schools "with full residential and care services operating for children with disabilities" (Government of Nepal, 2016a, Art 45).

Importantly, the SSDP includes costing information for what it refers to as "integrated schooling," meaning resource classes in general schools for children with disabilities, scholarships for students with disabilities, and some accessible pedagogical materials. A thorough assessment of current budget allocations and any assessment data gathered from the MOEST would be useful.

6.3 Nepal's Education Policies for Students with Disabilities

Within Nepal, there is only one existing policy—the 1996 Special Education Policy—that specifically addresses the educational rights of students with disabilities. This policy is described more below.

1996 Special Education Policy

The Special Education Policy (1996) has been considered the "cornerstone for the development of special education in Nepal" and created a foundation towards the inclusion of children with disabilities within the educational system (Dae-Young & Shiwakoti, 2017). The policy defines special education as "the teaching, learning, and training arrangement made through special method to meet the need of education of various types of disabled children as the other normal children in conformity with their disability" (Government of Nepal, 1996, p. 3) and was the first policy to categorize disability into seven distinct groups: "physically disabled, mentally retarded, deaf and hearing impaired, blind or poor eyesight, teaching difficulty, problem in voice, language, and communication skills, and multiple disabilities" (Government of Nepal, 1996, p. 4-5). The policy also provided definitions for each disability category.

The Special Education Policy also categorized integrated and special schools, with clear distinction between how each provided a different level of support in order to provide education for children with disabilities. Integrated schools were those in which teachers received special education training and used resource classrooms in the regular school setting for children with

mild-to-moderate disabilities; by contrast, special schools were schools that taught specifically to children with one type of disability (Government of Nepal, 1996). This approach of distinguishing inclusive education opportunity by level of support needs is not consistent with the guidance provided by General Comments No. 4.

Overall, the Special Education Policy aimed to provide equal opportunity by making the education for persons with disabilities align with the national education policy at the time it was developed. In doing so, the policy ensured the production of curriculum, educational materials, and textbooks for children with a disability--free of cost. Additionally, diverse modes of evaluation, as well as differentiation techniques were to be taught to and implemented by teachers in order for all children to achieve their full potential. Special equipment, such as wheelchairs and hearing aids, were to be provided by the government and by boarding facilities for children with a disability, when necessary. Additionally, the policy aimed to deliver training and promote public awareness to guardians and teachers on the importance of education in fostering the growth and development of children with disabilities (Dae-Young & Shiwakoti, 2017).

This policy has been repealed by the adoption of the Inclusive Education Policy for the Persons with Disability 2072 (Government of Nepal, 2016b).

Inclusive Education Policy for the Persons with Disability 2072 (2016)

In 2016, the Government of Nepal adopted a new Inclusive Education Policy based upon the principles of the CRPD and relevant regional documents such as the Incheon Declaration 2015. The policy provides historical perspective of past efforts, the current situation of education of learners with disabilities, and existing challenges to these approaches. The policy describes challenges with effective inclusion of students with disabilities in the general education setting, the need to improve training and resource development and management, the use of technology in the classroom, and poor data collection methods to understand how many students with disabilities there are in the country.

The policy provides one main objective and three corresponding objectives. These objectives are as follows (Government of Nepal, 2016b):

Main objective of the “inclusive education policy for citizen with disability” is to prepare capable (able to provide leadership) and competitive citizen [sic] by ensuring quality education on rights based approach through life-long education to the persons with all types of disabilities. To achieve this main objective, the following objectives have been formulated:

7.1 To ensure equitable access of children with disabilities in the quality of educational opportunities.

7.2 To provide quality, life useful, skill oriented and employment oriented education as per the need of citizens with disabilities.

7.3 To provide lifelong continuous education for the citizen with disabilities.

The policy then proceeds to detail the demand for a functional assessment of needs; the adaption of curriculum, textbooks, and learning materials based on disability type; and the need to ensure all schools, universities, and education institutions promote technology to further learning. Some of the more progressive elements of the policy include transforming schools to become disability friendly, recognizing the need to promote girl-friendly schools for girls with disabilities, and developing schools that are non-violent. The policy also addresses the need to provide new accessible infrastructures and retrofit existing structures to ensure accessibility and the need to provide scholarships for students with disabilities. In terms of identification, Nepal plans to develop assessment centers to assess the cognitive abilities of students with disabilities. The policy does not articulate how this information will be used to support students; inclusion of such information would have been helpful in the document. The policy also promotes the use of sign language and tactile communication.

Furthermore, the policy provides guidance on managing inclusive education within a new government structure; on financing, monitoring, and evaluating programs; and on identifying and managing possible risks. The policy also addresses several innovative issues such as violence against students with disabilities, gender equity, personal learning plans (which are similar to the United States' Individualized Education Plans), classroom accommodations, and the need to include students with disabilities in school disaster response plans. The policy could be strengthened by promoting a stronger role of parents in the identification of students with disabilities and in the development of educational plans, as well as establishing a remedy process in case the policies are not appropriately implemented. Overall, the policy is very strong and can be a model for other countries as it addresses the needs of all students with disabilities and also promotes full inclusion.

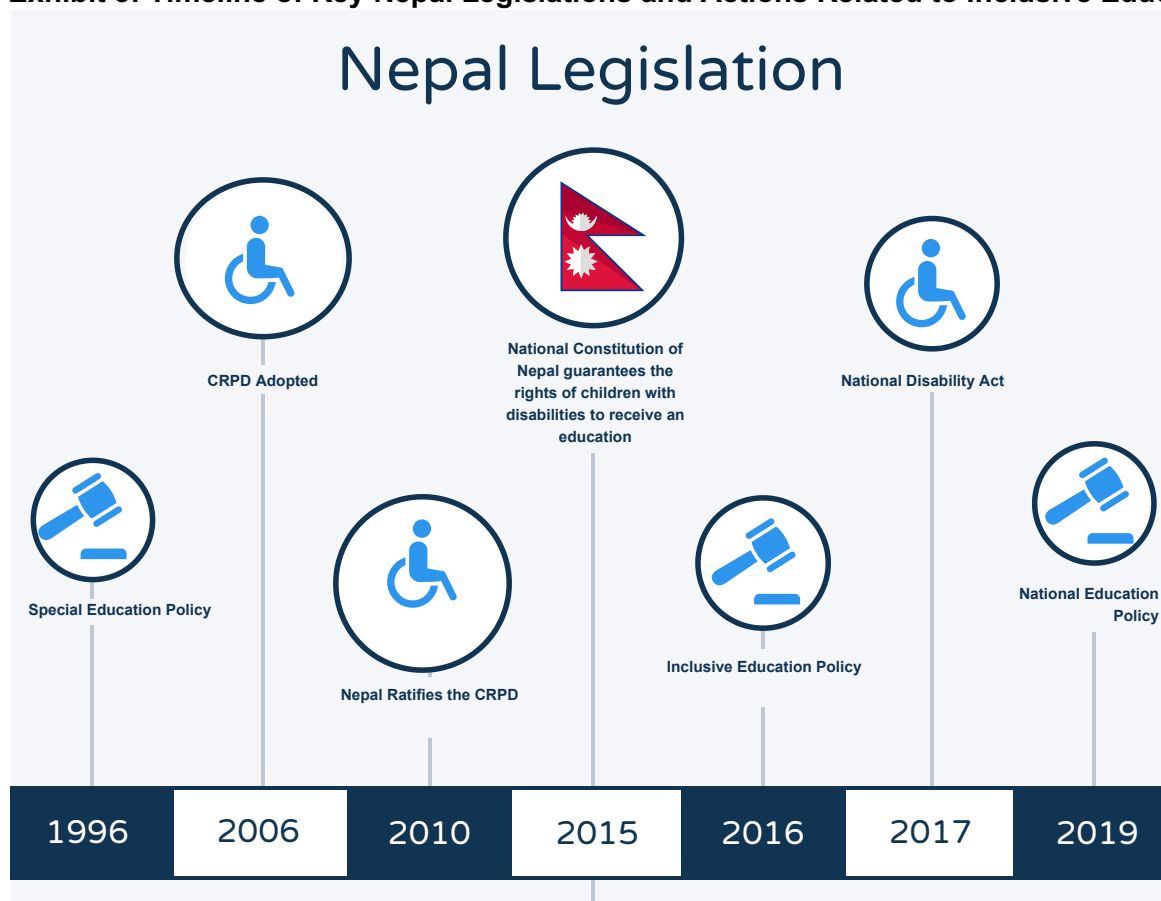
7. Nepal Findings and Analysis

This section provides an analytical summary of the above-mentioned laws and policy organized by type of legislations as well as topics that are pertinent to MCSIE.

7.1 Progressive Realization Toward Inclusive Education

As stated in the Introduction Statement, policies should reflect international commitments in which countries are State Parties, and progressive realization toward inclusive education should be demonstrated in countries' strategies and other areas of implementation. As this review does not assess policy implementation but rather reviews legislation, progressive realization can only be demonstrated by a review of legislation and not through actual services for programs. Likewise, a review can only look to see how laws are either aligned or not aligned with the CRPD and whether laws are moving towards alignment of the CRPD. Exhibit 3 provides a timeline of a few of Nepal's key actions and legislations related to the education of students with disabilities.

Exhibit 3: Timeline of Key Nepal Legislations and Actions Related to Inclusive Education



Nepal's 2016 Inclusive Education Policy is aligned with the CRPD and is a clear departure from the country's 1996 Special Education policy, which only provided specific provisions to a limited number of disability groups and promoted segregated education. However, even after the ratification of the CRPD and the adoption of the Inclusive Education Policy, general education policies, such as the 2019 National Education Policy, do not consistently follow the guidance outlined in the 2016 Inclusive Education Policy. For example, the National Education Policy promotes and envisions the development of segregated schools for a variety of types of disabilities, compared to the Inclusive Education Policy which promotes education in the mainstream environment. This inconsistency is also seen with the School Sector Plan 2016/17-2022/23 that suggests developing and strengthening segregated schools. The presence of a strong inclusive education policy that is not fully aligned with broader education policies and strategies suggests additional work may be needed to ensure all elements of Nepal's education system are inclusive.

7.2 Policy Findings and Analysis Organized by Types of Legislation

Below are the findings and analytical summary organized by the types of legislation.

Finding 1: International Commitments to Human Right Treaties. Nepal has signed and ratified several key international and regional treaties including the CRPD and submitted its first report to the CRPD Committee in 2014. The 2017 Persons with Disabilities Act draws on language presented in the CRPD but fails to fully guarantee the educational rights of persons with disabilities. The Inclusive Education Policy, however, does guarantee the rights of students with disabilities to receive an inclusive education by giving details on how those rights can be achieved.

Finding 2: Relevant National Anti-Discrimination Laws. Nepal's Constitution of 2015 specifically addresses the rights of student with disabilities, particularly those who are physically "impaired," and mentions the right of persons who are blind to access braille.

Finding 3: National Legislation and Strategies on Education. Nepal's national education laws often address the needs of students with disabilities, mandating that this population receive the same quality of education. However, policies do not promote inclusive education and some laws, such as the Act Related to Compulsory and Free Education, allow for students with disabilities to be educated in a segregated environment and, thus, are not compliant with the CRPD.

Finding 4: Education Policies and Strategies for Students with Disabilities. The 2016 Inclusive Education Policy details the rights of students with disabilities in Nepal to achieve an inclusive education. The policy also provides several other innovative measures, such as the need for technology, the need for inclusion in disaster response, and the need to address possible violence against persons with disabilities in schools (Government of Nepal, 2016b).

7.3 Policy findings and analysis by topics relevant to the MCSIE program

Below are the findings and analytical summary organized by the topics relevant to the MCSIE program that were detailed in section 6. In addition, the implication of these findings on the MCSIE evaluation is also detailed below. The findings and MCSIE considerations by topic are as follows:

Conceptual understanding of inclusive education/educational settings. Several of Nepal's policies and strategies such as the Constitution and the Persons with Disabilities Act mandate that students with disabilities receive an education, but do not articulate the setting in which this education should be received. Historically, other laws such as the Nepal Education Act and the Special Education Policy permit for special education within segregating settings. The Inclusive Education Policy, however, provides strong objectives, policies, and strategies on how inclusive education should be obtain that is aligned with the CRPD and guidance provided in General Comments No. 4. However, within this document, inclusive education is not specifically defined.

Consideration for MCSIE: As there is not a clear conceptual framework on inclusive education even within the Inclusive Education Policy, it is feasible that stakeholders may differ in their understanding of the concept of inclusive education. Therefore, MCSIE evaluators should clearly articulate their use of "inclusive education" in accordance with

the CRPD, while simultaneously endeavoring to capture stakeholders' and participants' own conceptualizations of this term, even if they differ.

Identification of Students with Disabilities. The need to strengthen identification and referral systems is a core element of the SSDP as well as the Inclusive Education Policy. Details on protocols and tools to be used for identification purposes are not present within Nepal's policies or strategies, and these policies could also be strengthened by addressing parents' role in the identification process.

Consideration for MCSIE: There is little information provided within the policy on identification protocols, tools, or how identification will be conducted in practice. MCSIE should endeavor to capture the consequences in practice that ensue from an unclear policy stance on identification of disability.

Teacher Training. The Inclusive Education Policy as well as historical legislation such as the Special Education Policy, state that the MOEST should be responsible for teacher training and that special education should be a part of both general education and special education trainings. Although teacher training is a core element of the SSDP, there is no mention of the need to train teachers on special or inclusive education, nor is disability listed as a cross-cutting priority.

Consideration for MCSIE: Historically, Nepal did not clearly articulate the need for educators to be trained in special or inclusive education with requirements for training only being established in 2016 with the Inclusive Education Policy. Thus, this will be a relatively new area within Nepal.

Instructional Approach. The need to deliver instructional strategies that would benefit students with disabilities in the classroom, such as the provision of universal design for learning (UDL) or differentiated instruction, is not mentioned within Nepal's policy framework. The Inclusive Education Policy, however, does address the need to adapt curriculum, materials, and other supports to ensure that persons with disabilities can access learning.

Consideration for MCSIE: MCSIE evaluators should endeavor to capture the practical impact through supports, accommodations, and diversification of curriculum. The Government of Nepal has yet to provide guidance on how that will be accomplished within the country.

Accommodations. Reasonable accommodations are mandated in the Persons with Disabilities Act using similar language to the CRPD. Although the Special Education Policy advocates for the provision of braille, hearing aids, and assistive devices for students with physical disabilities with limited accommodations for other types of disabilities, the Inclusive Education Policy addresses accommodations for all types of disabilities.

Consideration for MCSIE: MCSIE evaluators should attempt to capture the extent and quality to which legally prescribed educational accommodations for people with disabilities are provided in school settings.

Sign language and deaf education. The Inclusive Education Policy guarantees the right of students who are deaf and hard of hearing to access information using sign language as well as promotes access to sign language interpreters in order to participate in educational activities. This service should be provided to students with disabilities free of cost to the families. The right to receive an education using sign language is not guaranteed within other Nepali laws.⁸

Considerations for MCSIE: MCSIE evaluators should understand that this is an emergent area within the education sector and attempt to capture lessons learned and areas for development in implementation.

Gender and intersectionality of disability. Gender equality is mandated within Nepal's constitution and several other key policies and strategies. With the exception of the Inclusive Education Policy, these documents do not address the intersectionality of disability and gender or an acknowledgement of the intersectional vulnerability of girls who have a disability. The Inclusive Education Policy addresses the need for schools to be "girl-student friendly" (Government of Nepal, 2016b).

Considerations for MCSIE: With the exception of the Inclusive Education Policy, there is little mention of the intersectionality of gender and disability within the legal context, a situation that could reflect a poor understanding of the issue. MCSIE evaluators should ensure data collection tools and methods engage men and women equally, and the tools and methods include both closed and open-ended questions that investigate stakeholders' perspectives about the intersectional nature of gender and disability.

Heterogeneity of Disability. Historically, there has been little specificity regarding the rights of children with disabilities outside of the rights provided to students who are blind or have low vision. The Inclusive Education Policy is a departure from previous policies in that it provides rights for a wide variety of disability categories including students who are blind or have low vision, students who are deaf or are hard of hearing, students with physical disabilities, students with intellectual disabilities, students with autism, students with multiple disabilities, and others such as students with hemophilia and students with communication disabilities. Specific learning disabilities, however, are not recognized within the policy.

Considerations for MCSIE: MCSIE should recognize that Nepali law addresses all disability categories within its Inclusive Education Policy but that specific learning disabilities are not clearly articulated within this legislation. Where possible, evaluation

⁸ Several documents and stakeholder meetings during IDP's inception visit referred to sign language being mandated by the Constitutions but upon our review of the translated Constitution, IDP could not find reference to this right in the document.

activities should investigate the impact, if any, of not having learning disabilities recognized in Nepali law.

8. Conclusion

This policy analysis has drawn upon international normative frameworks, primarily through the CRPD, to understand the extent to which Nepal's national policies and laws promote the rights and inclusion of children with disabilities. The review has considered Nepal's international commitments, anti-discrimination legislation, national legislation and strategies on education broadly, as well as the policy application for students with disabilities specifically. Policy findings have been articulated in accordance with these core areas of review. Furthermore, policy findings have also described the extent to which the legislative environment addresses conceptual understandings of inclusion, identification of students with disabilities, instructional approaches, and teacher training, among other themes. Finally, the report has taken note of the ways in which the MCSIE should consider and respond to the findings generated in the context of Nepal. For a fuller understanding of the implications of this review on the work conducted through the MCSIE, this report should be read in concert with the literature review and stakeholder mapping, produced as additional deliverables.

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