



NEPAL

Futures Stolen

Barriers to Education for Children with Disabilities in Nepal

HUMAN
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Barriers to Education for Children with Disabilities in Nepal

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Barriers to Education for Children with Disabilities in Nepal

- Summary 1**
- Key Recommendations 7**
- Methodology..... 9**
- Map of Nepal..... 11**
- Terms..... 12**
- I. Background.....14**
 - Disability in the Nepalese Context 14
 - The Education System in Nepal..... 17
 - Ensuring Education for People with Disabilities: Inclusive Education23
- II. Barriers to Inclusive Education for Children with Disabilities..... 29**
 - Lack of Appropriate Classrooms.....30
 - Lack of Monitoring 31
 - Lack of Information about Possibility and Availability of Education for Children with Disabilities.....33
 - Low Enrolment.....34
 - High Drop-Out and Low Attendance Rates.....36
 - Low Pass Rate38
 - Inaccessibility of Schools 40
 - Need for Reasonable Accommodation 41
 - Physical Accessibility43
 - Denied Admission44
 - Segregated and Inferior Quality of Education45
 - Lack of Adequately Trained Teachers 46
 - Inflexible Curriculum and Evaluation System 49
 - Learning in Segregated Settings50
 - Ineffective Social Support..... 53
 - Barriers to Getting Disability Allowances 53
 - School Fees56
 - Impact of Lack of Access to Health Care 57
 - Stigma against Children with Disabilities and Their Families59

III. Abuses at Home: Cause and Consequence of Lack of Access to Education	62
IV. International Donors' Lack of Attention.....	65
V. Providing Inclusive Education with Limited Resources	69
Models of Inclusive Education in Nepal.....	71
VI. Detailed Recommendations	72
Acknowledgments.....	76

Summary

Amman, a 16-year-old boy with a physical disability that limits his movement and speech, started attending school two years ago in his village in far western Nepal. He is now in Class 2. His classmates are between seven and ten years old. His 11-year-old brother attends the same school, but studies in Class 4.

Amman uses a tricycle, which is pushed by his mother or other children in the community, to get to school. Because the school entrance has two steep steps and no ramps, Amman has to crawl to his classroom.

His mother, Lakshmi, told Human Rights Watch:

Amman sits [alone] on a smaller chair in the corner. He sometimes drools, so the other children don't feel easy about sitting near him.

He has to refrain from using the toilet while in school from 10 am to 4 pm. When he needs to use the toilet during the day, another child has to run home to fetch his mother to assist him. The teachers say that if he has stomach problems, his mother should not bother bringing him to school.

When Krishna was five years old, a doctor told his mother that he would not live his life like a “normal child” because of developmental delays. His parents tried to enroll him in school, but no public or private school would admit him. “If he were in school from 10 to 3,” his mother said, “it would really help the family.”

Instead, Krishna spends his entire day locked in a room in their home. His mother told Human Rights Watch:

I offer food and bring him tea. If he does toilet in the room, I clean it up. I have to take care of the whole house—I can't just look after him. If I spend the whole day with him, my other child will miss his bus, everything will be in disarray.

She takes Krishna outside to see the sun once or twice a day.

Balkumari, a young woman with a physical disability, told Human Rights Watch that she did not attend to school until she was 11 years old. Her father said that she could not go to the mainstream school, which her brother and sister attended, because she had difficulty walking. Instead, Balkumari was enrolled in a class for children with intellectual disabilities. She told Human Rights Watch:

I didn't like that school. I used to cry when my father took me there. I didn't feel like I was like the other children.

Because of her disability, Balkumari could not wear shoes and had difficulty walking barefoot to school since there were often pieces of broken glass on the road. Some days, she would just have to return home.

Balkumari aspires to help children with disabilities in her community. She visits the homes of children who have been denied admission to school and encourages the parents to send them to school. She said:

I want to serve people like me. I want to help those who cannot go to school. I want the children [with disabilities] to learn to write their name and address. If they get lost, at least they can write where they live and someone can help them.

Children with disabilities are entitled to attend school like all other children; however, tens of thousands of children with disabilities in Nepal are deprived of this right.

There are 120 to 150 million children with disabilities under the age of 18 worldwide.¹ UNESCO estimates that children with disabilities represent more than one-third of the 67 million children who are out of school worldwide.² In some countries, the chances of a child with a disability not attending school is two or three times greater than a child without a disability.³

¹ UNESCO, "Education: Primary Education," 2011, http://portal.unesco.org/education/en/ev.php-URL_ID=32969&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed June 1, 2011). The WHO estimates that between 93 million and 150 million children (0–14 years) live with a disability. World Health Organization, "World Report on Disability," 2011, http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf (accessed June 13, 2011).

² UNESCO, Education for All Global Monitoring Report 2007, p. 74. UNESCO, Education For All Global Monitoring Report 2011, p. 1.

³ UNESCO, "Education for All Global Monitoring Report 2008: Education for All by 2015 - Will We Make It?," 2008, <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/efareport/reports/2008-mid-term-review/> (accessed August 4, 2011), p. 48. A. Eide and M. E. Loeb, "Living Conditions among People with Activity Limitations in Zambia," September 2006, Oslo. A. Eide, S. Nhwathiwa, J. Muderedzi, and M. E. Loeb, "Living Conditions among People with Activity Limitations in Zimbabwe," 2003, Oslo. A. Eide and M. E. Loeb, "Living Conditions among People with Activity Limitations in Malawi," 2004, Oslo.

There is no clear data on the total number of children with disabilities in Nepal and how many of them are out of school. Based on the government's conservative figures from a 2001 analysis, there are, at the very least, 207,000 children with disabilities in the country.⁴

The Government of Nepal and the United Nations acknowledge that, while Nepal has made important progress toward achieving universal primary education as part of its commitment to the Millennium Development Goals (MDGs), children from marginalized communities, such as children with disabilities, represent a significant portion of the approximately 330,000 primary school aged children who remain out of school in Nepal.⁵

Nepal has ratified a number of international human rights treaties, including the UN Convention on the Rights of Persons with Disabilities (CRPD), which articulates that children with disabilities are entitled to the same rights as other children, including the right to inclusive education. This means that children with and without disabilities should be able to attend schools in their communities without discrimination. The focus of such a system is to adapt the environment and teaching methods to support the needs of all students.

Although in theory the government promotes an inclusive education policy, in practice, it supports a system of segregated resource classes designated for children with disabilities in mainstream schools and separate schools for deaf, blind and children with physical and intellectual disabilities. While it takes time to transition from resource classes and special schools to a fully inclusive education system, the government has not done enough to ensure that children with disabilities attend school and that the education system is accessible, appropriate, and of good quality for children with disabilities, particularly those with intellectual disabilities. Furthermore, the government's inclusive education policy does not appear to be serious since there is no clear plan for the integration of children with disabilities, particularly intellectual or developmental disabilities, into mainstream schools.

This report is the outcome of interviews carried out between February and July 2011 with nearly 100 disability advocates, teachers, government officials, and children or young

⁴ National Planning Commission/UNICEF/New Era, "A situation analysis of disability in Nepal," 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011). In 2009, UNICEF reports that there were 12,712,000 children in Nepal in 2009. UNICEF, "Statistics: Demographic Indicators," 2009, http://www.unicef.org/infobycountry/nepal_nepal_statistics.html#78 (accessed May 16, 2011).

⁵ Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, "Nepal Development Goals, Progress Report 2010," September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011), p. 29. Education For All Fast Track Initiative, "Joint Appraisal Document," 2010, http://issuu.com/efa-fti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 43.

people with disabilities and their families in Nepal. It examines the barriers faced by children with disabilities in obtaining an inclusive and quality education.

More than half of the 29 children and young people with disabilities or their family members interviewed by Human Rights Watch reported that the children did not attend formal school. In all of these cases, the children were denied admission by schools—both public and private—or the parents were not aware that their children had the right to attend school.

Officials in the Ministry of Education told Human Rights Watch that children with disabilities have lower enrolment and higher dropout rates than other children. Based on our research, this is due to a lack of awareness of the right to education among parents, inadequately trained teachers, lack of appropriate teaching materials, inaccessibility of and long distance to schools, lack of funds for transportation, and negative parental attitudes about the learning capabilities of their children. In each of the resource classes, Human Rights Watch visited, less than half of the 15-20 students enrolled were in attendance.

Despite national policies on inclusive and “child-friendly” schools,⁶ the government is failing to make the school environment accessible for children with disabilities, which in many cases effectively denies these children their right to education. Several children and young people with disabilities and their families told Human Rights Watch about the lack of access to school—in terms of physical access (no ramps or disability-friendly toilets), communication barriers (no sign language instruction or Braille teaching materials), negative attitude of teachers, and a curriculum that does not adequately address children with different learning needs. Under the CRPD, Nepal is required to make the necessary accommodations to the school environment based on the individual needs of children with disabilities to enable them to attend school with others.

Furthermore, schools are often inadequately staffed, have no flexible curriculum and limited teaching materials, leading to an inferior quality of education for children with disabilities, compared to other children. The government provides minimal special education training only to teachers working in special schools or resource classes. Teachers in mainstream schools do not receive adequate training on how to integrate children with disabilities in their classrooms, thereby undermining the principle of

⁶ UNICEF has developed a framework for rights-based, child-friendly schools and education systems that are characterized as “inclusive, healthy and protective for all children, effective with children, and involved with families and communities - and children”. UNESCO and Sheldon Shaeffer, “Progress on Programme Priorities: Improving Access to, and Quality of, Education,” Education Update: Curriculum and Learning, 2000. UNICEF, “Life Skills: Child-friendly schools,” October 8, 2004, http://www.unicef.org/lifeskills/index_7260.html (accessed May 12, 2011).

inclusive education. No training is provided by the government for staff at day care centers run by NGOs or parents' groups for children with intellectual or developmental disabilities.

In addition, all children are still expected to follow the same lessons, disregarding differences in learning abilities and needs of the children. As a result, children with disabilities in mainstream schools repeatedly fail and are more likely to repeat a class. In some instances, children repeated a class several times. Also, children in classes designated for "mentally retarded children" stay in the same resource class for years.⁷

Most students in resource classes for the blind, deaf, and intellectually disabled stay in residential facilities at the school. There is one government-paid caretaker who looks after the 10 or more children who stay there (some of whom have severe disabilities). However, the Deputy Director of the Ministry of Education confirmed that these caretakers do not receive any training, despite the fact that they are with the children all day and night. This can lead to a host of problems including lack of supervision, physical neglect and opportunities for abuse.

All children with disabilities in Nepal are entitled to receive social security benefits, including disability identity cards and allowances based on the severity of the disability. Human Rights Watch found that children with disabilities are often not benefitting from these provisions because of long distances to the district administration office (where the cards are distributed), high transportation costs, and parental attitudes that such cards will further marginalize and thus foster discrimination against their children. Also, some children with disabilities have never been diagnosed while others have been wrongly diagnosed. This in turn has had a negative impact on their access to education.

According to international and national law, children with disabilities are entitled to free basic education. However, Human Rights Watch found that, in some instances, at government-run schools, families are requested to pay fees for admission, exams or uniforms, and as a result, some parents may not enroll their children in school.

For many parents, the fact that their children with disabilities are not admitted to school presents profound dilemmas. Some see no choice but to lock their children with disabilities in a room or tie them to a post because they have other responsibilities (taking care of other

⁷ Disability advocates prefer the term "intellectual disability" as opposed to "mental retardation" because it reflects a rights-based approach and aligns with current professional practices to provide support tailored to individuals to enhance their functioning. American Association on Intellectual and Developmental Disabilities, "FAQ on Intellectual Disability," 2011, http://www.aamr.org/content_104.cfm (accessed August 9, 2011).

children, doing daily chores, working, etc.). Human Rights Watch research indicates that this is most often the case for children with intellectual, psychosocial, or multiple disabilities.

In addition to physical abuse, children with all types of disabilities also experience stigma and verbal abuse in the school and the community.

The Ministry of Education initiated “orientations” on inclusive education for district education officers, who are in turn required to organize trainings for school administrators and teachers in each district. According to the Deputy Director of the Ministry of Education, who also serves as the Chief of the Inclusive Education Section, “We have disseminated the idea, but to implement that idea it depends on the school management committee and teachers.”⁸ It is clear, however, that brief orientation programs do not provide local government officials with the necessary skills to train teachers and other school staff on how to adapt teaching methods, the curriculum and the environment to include children with diverse learning needs. As a result, the government is failing to meet its obligation to ensure inclusive schools for students with disabilities, as dictated by its own inclusive education policy as well as international law.

While international donors and UN agencies are seemingly aware of the lack of targeted efforts to ensure children with disabilities are in school, they have not done enough to ensure that funding for education is distributed without discrimination and equitably benefits children with disabilities.

Despite Nepal’s political commitments to people with disabilities, particularly children, in practice, the government is falling short in implementation where it is most needed. To address this, the government of Nepal, with support from international donors, needs to ensure that schools are available and accessible for children with disabilities and that teachers have the adequate skills to give all children an inclusive and quality education. This right is inextricably linked to the enjoyment of other rights, such as employment, health, and political participation. The failure to ensure that children with disabilities receive quality education also translates into higher social and financial costs for society in terms of health and social security mechanisms. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), “To not invest in education [of persons with disabilities] as a preparation for an active and productive adult life can be very costly and profoundly irrational in economic terms.”⁹

⁸ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education of the Government of Nepal, June 7, 2011.

⁹ UNESCO, “Policy Guidelines on Inclusion in Education,” 2009, www.unesdoc.unesco.org/images/0017/001778/177849e.pdf (accessed August 3, 2011), p. 13.

Key Recommendations

Ministry of Education

- Work with the National Center for Educational Development to:
 - Revise the teacher training materials to reflect inclusive education methods and adequate information on children with disabilities.
 - Train all teachers, school administrators, caregivers and community development workers on inclusive education methods, including basic sign language.
- Train and support parents of children with disabilities, including through regular parents' meetings to exchange information and provide peer support.
- Work with the Curriculum Development Centre to:
 - Develop an appropriate curriculum and assessment system for children with intellectual or developmental disabilities.
 - Develop the curriculum for children learning in sign language and Braille.
- Involve children with disabilities and their parents or family members in consultations and decision-making and monitoring processes.
- Develop and implement a longer-term inclusive education plan that clarifies the concept of inclusive education in line with the Convention on the Rights of Persons with Disabilities and outlines steps to integrate children with disabilities, particularly intellectual, developmental or psychosocial disabilities, into mainstream schools.
- Strengthen and regulate monitoring of schools by district education officers and assessment center coordinators to ensure that the inclusive education approach is implemented.
- Together with the Ministry of Women, Children and Social Welfare, carry out awareness-raising campaigns on the right to education, non-discrimination, and other rights of persons with disabilities, targeting the public at large, teachers, school administrators and parents.

The Ministry of Women, Children and Social Welfare, the Ministry of Education, other relevant ministries, and members of Parliament, together with disabled peoples' organizations and other stakeholders, should comprehensively review all domestic legislation and policies (including the National Policy and Plan of Action on Disability), propose amendments to fully comply with the CRPD, and implement compliance and enforcement mechanisms.

The Ministry of Women, Children and Social Welfare, the Ministry of Education, the Central Bureau of Statistics, multilateral and bilateral donors, and UN agencies should strengthen data collection on children with disabilities, including in birth registration, and should disaggregate data by type of disability and gender.

Detailed recommendations are given at the end of this report.

Methodology

The field research for this report was conducted between March and April 2011 across eight districts in three regions of Nepal (central, mid-western and far-western). The three regions were selected because they represent different geographic areas (plains, hilly and mountain areas); and there are active organizations working with people with disabilities who could provide guidance, facilitate interviews and collaborate with Human Rights Watch on advocacy.

This report is based on 97 interviews both in Nepal and by phone preceding and following field research. In this report, the word “child” refers to anyone under the age of 18.¹⁰ Human Rights Watch also interviewed young people, between the ages of 18 and 30 years, about events that occurred when they were children or because they are still going to school.

Fifty-two key informants, including fifteen children and four young people with disabilities, twenty-three parents or other family members, and ten teachers or principals were interviewed. Nine children or young people were present in interviews with parents or family members. All interviews were facilitated by local disabled persons’ organizations, nongovernmental organizations (NGOs) or disability advocates. Six of the children or young people interviewed were girls. Whenever possible, Human Rights Watch spoke directly with the children, but in cases where children were too young, had disabilities that impeded their ability to participate comfortably in an interview or faced possible trauma, we interviewed their parents.

The range of disabilities of the children included physical, sensory (blind, deaf and hard of hearing), developmental, learning, intellectual and mental disabilities. Some children had multiple disabilities. While Human Rights Watch interviewed children with a range of disabilities, this research focuses on children with intellectual and developmental disabilities because of the extra barriers they face in accessing schools and the limited educational opportunities available to them. Children (and adults) with intellectual disabilities are marginalized even within the disability community.

¹⁰ The Convention on the Rights of the Child states, “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, India acceded to the CRC on December 11, 1992, art. 1.

Human Rights Watch visited 12 schools: four general schools with resource classes for deaf, blind or children with intellectual disabilities; three special schools for children with disabilities; and five day care centers for children with intellectual, developmental or multiple disabilities.

In addition, Human Rights Watch interviewed eight relevant local and national government officials, including in District Education Offices, the Ministry of Women, Children and Social Welfare, the Ministry of Education and the Ministry of Health, and two members of parliament. Thirty-five representatives of disabled peoples' organizations (DPOs), local NGO service providers, international NGOs and UN agencies were also interviewed.

Interviews with NGO representatives and government officials were conducted in English or sign language with interpretation. Interviews with children and young people with disabilities and their families were carried out in English, Nepali, Newari and sign language, with consecutive interpretation as needed.

For each child interviewed, we explained our work in age-appropriate terms. Before each interview, we informed potential participants of the purpose of the research and asked whether they wanted to participate. We informed participants that they could discontinue the interview at any time or decline to answer any specific questions without consequence. Human Rights Watch took great care to interview children and their families in a friendly and sensitive manner, and ensured that the interview took place in a location where the interviewee's privacy was protected. Persons in the report are identified by their real names, except at the request of two parents. In these cases, their names have been replaced with pseudonyms.

HRW also consulted international disability rights experts at various stages of the research and writing. We also reviewed a number of official documents from the Nepali government, particularly the Ministry of Education, and relevant reports from multilateral and bilateral donors, UN agencies and NGOs.

Map of Nepal



Districts where Human Rights Watch conducted field research are highlighted. © Human Rights Watch 2011

Terms

Autism: Present from early childhood, autism is a developmental condition characterized by great difficulty in communicating and forming relationships with other people and in using language and abstract concepts. The cause of autism in children is unknown, but researchers generally believe that it stems from a problem in the central nervous system, not in the way parents have treated them or in others aspects of the environment.¹¹

Cerebral palsy: Cerebral palsy is an impairment of muscular function and weakness of the limbs, caused by lack of oxygen to the brain immediately after birth, brain injury during birth, or a viral infection. Often accompanied by poor motor skills, it sometimes involves speech and learning difficulties.¹²

Developmental disability: “Developmental disability” is an umbrella term that refers to any disability starting before the age of 22 and continuing indefinitely (i.e. that will likely be life-long).¹³ It limits one or more major life activities such as self-care, language, learning, mobility, self-direction, independent living, or economic self-sufficiency.¹⁴ While this includes intellectual disabilities such as Down syndrome, it also includes conditions that do not necessarily have a cognitive impairment component, such as cerebral palsy, autism, epilepsy and other seizure disorders. Some developmental disabilities are purely physical, such as sensory impairments or congenital physical disabilities. It may also be the result of multiple disabilities. While autism is often conflated with learning disabilities, it is actually a developmental disability.

¹¹ Merriam-Webster's Medical Dictionary, 2007, <http://dictionary.reference.com/browse/autism> (accessed June 13, 2011). The American Heritage New Dictionary of Cultural Literacy, Third Edition, 2005, <http://dictionary.reference.com/browse/autism> (accessed June 13, 2011).

¹² Collins English Dictionary - Complete & Unabridged 10th Edition, 2009, <http://dictionary.reference.com/browse/Cerebral+Palsy> (accessed June 13, 2011). The American Heritage® Stedman's Medical Diction, 2002, <http://dictionary.reference.com/browse/Cerebral+Palsy> (accessed June 13, 2011).

¹³ American Association on Intellectual and Developmental Disabilities, “FAQ on Intellectual Disability,” 2011, http://www.aamr.org/content_104.cfm (accessed June 17, 2011). Merck Source: Online Medical Library, “Mental Retardation/Intellectual Disability,” October 2006, http://www.mercksource.com/pp/us/cns/cns_merckmanual_frameset.jspzQzpgzEzhttpzCzzSzSzwwwzPzmerckzPzcomzSzmmhezSzsec23zSzch285zSzch285azPzhtml (accessed June 17, 2011).

¹⁴ Centers for Disease Control and Prevention, “Developmental Disabilities,” October 29, 2004, <http://www.cdc.gov/ncbddd/dd/> (accessed June 17, 2011).

Disabled Peoples' Organizations (DPOs): Disabled People's Organizations are formal groups of people who are living with disabilities, and who work to promote self-representation, participation, equality and integration of all people with disabilities.¹⁵

Intellectual disability: An "intellectual disability" (such as Down Syndrome) is a disability which is characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills. "Intellectual disability" forms a subset within the larger universe of "developmental disability," but the boundaries are often blurred as many individuals fall into both categories to differing degrees and for different reasons.

Learning disability: Learning disabilities refer to difficulties in learning specific skills, such as reading, language, or math. They affect people's ability to either interpret what they see and hear or to link information. Children with learning disabilities may also have difficulties with paying attention and getting along with their peers. Learning disabilities are not related to intelligence or educational opportunity.

Psychosocial disability: The term "psychosocial disability" is the preferred term to describe persons with mental health problems such as depression, bipolar disorder and schizophrenia. "Psychosocial disability" relates to the interaction between psychological differences and social/cultural limits for behavior as well as the stigma that society attaches to persons with mental impairments.¹⁶

¹⁵ Action on Disability and Development International, "Frequently Asked Questions: What are DPOs?," 2011, <http://www.add.org.uk/faqs.asp> (accessed June 13, 2011).

¹⁶ World Network of Users and Survivors of Psychiatry, "Manual on Implementation of the Convention on the Rights of Persons with Disabilities," <http://www.chrusp.org/home/resources> (accessed August 4, 2011), p. 9.

I. Background

In this society, children with disabilities can't have a dignified life even if the parents want it. Parents are forced to hide them.

- Mukunda Dahal, disability advocate and father of a 13-year-old girl with autism, Kathmandu, March 2011

Disability in the Nepalese Context

There is limited data on people with disabilities in Nepal, including how many adults and children are living with disabilities, their specific housing, education, and healthcare needs, and what factors promote or hinder their equal membership in Nepali society. The available statistics are wide-ranging, from 0.45 percent (in the 2001 National Census)¹⁷ to 1.63 percent (based on a 2001 Situation Analysis on Disability carried out by the Nepal National Planning Commission and UNICEF)¹⁸ to more than 25 percent prevalence of disability in Nepal (in a household survey conducted by the Social Science Research Foundation).¹⁹ According to the World Health Organization (WHO), more than 15 percent of the world's population is living with a significant physical or mental disability.²⁰

Using the government's conservative estimate of 1.63 percent prevalence, there would be, at the very least, 207,000 children with disabilities in Nepal.²¹ However, considering the

¹⁷ His Majesty's Government of Nepal, National Planning Commission Secretariat, Central Bureau of Statistics, in collaboration with UNFPA Nepal, "Population Census 2001: National Report," June 2002. The Central Bureau of Statistics will release data on the current census in late 2011, which may include statistics on the number of people with disabilities in Nepal. Om Astha Rai, "Census 2011 to be the most accurate, comprehensive," February 6, 2010, Republica News, http://archives.myrepublica.com/portal/index.php?action=news_details&news_id=14823 (accessed August 4, 2011). Kyle Knight, "What We Can Learn from Nepal's Inclusion of 'Third Gender' on Its 2011 Census," July 18, 2011, The New Republic, <http://www.tnr.com/article/world/92076/nepal-census-third-gender-lgbt-sunil-pant> (accessed August 4, 2011).

¹⁸ National Planning Commission/UNICEF/New Era, "A situation analysis of disability in Nepal," 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011). The prevalence of disability was estimated to be 1.63 percent in the total population, with estimates of 1.65 percent in the rural areas and 1.43 percent in urban areas. In the case of the ecological belts, the prevalence of disability was highest in the mountain (1.88%), followed by the hills (1.64%) and the plains (1.45%). Likewise, in case of the highest prevalence of disability, with 1.81% in the population of that region having a disability.

¹⁹ Thaneswor Gautam, "Mainstreaming People with Disability in the Development of Nepal," 2006, http://www.sosref.org.np/my_file/137.pdf (accessed May 12, 2011).

²⁰ This figure refers to the adult population, aged 18 years and over, among the 59 countries surveyed. It ranges from 11.8% in higher income countries to 18.0% in lower income countries. World Health Organization, "World Report on Disability," 2011, http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf (accessed June 13, 2011).

²¹ National Planning Commission/UNICEF/New Era, "A situation analysis of disability in Nepal," 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011). In 2009, UNICEF reported that there were 12,712,000 children in Nepal. UNICEF, "Statistics: Demographic Indicators," 2009, http://www.unicef.org/infobycountry/nepal_nepal_statistics.html#78 (accessed May 16, 2011).

extreme level of poverty, poor access to health care (particularly in the hilly and mountain regions), the high incidence of accidents in the mountainous areas and the protracted conflict in Nepal,²² the prevalence of disability is likely higher than the government figures indicate.²³ Furthermore, because of shame on the family and the belief that disability is the result of past sins, children with severe or intellectual disabilities as well as girls with disabilities are often hidden in their homes away from the public and may not be included in any data on children with disabilities.²⁴ According to the Nepal Demographic and Health Survey, birth registration also does not capture information on children with disabilities.²⁵

There is no internationally accepted definition of disability. The 2006 Convention on the Rights of Persons with Disabilities, a landmark treaty ratified by 103 countries including Nepal, describes people with disabilities as including those “who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”²⁶

The government of Nepal expanded its national definition of disability in a 2006 policy.²⁷ This definition recognizes seven types of disability: physical disability, visual disability

²² From 1996 to 2006, Maoist rebels, officially named the Communist Party of Nepal, waged a campaign against the Nepalese monarchy and government forces, resulting in more than 12,000 casualties and 100,000 people displaced. A Comprehensive Peace Accord was agreed in November 2006 and was monitored by the United Nations Mission in Nepal until January 2011. BBC News, “Nepal Profile,” February 18, 2011, <http://www.bbc.co.uk/news/world-south-asia-12511455> (accessed July 28, 2011). UN Department of Public Information, 6466th Meeting of the Security Council, January 14, 2011, SC/10152, <http://www.un.org/News/Press/docs/2011/sc10152.doc.htm> (accessed July 28, 2011). While no precise government data is available on the number of children in Nepal who live with disabilities as a result of the conflict, media outlets and NGOs have reported that numerous children were injured during the war. National Coalition for Children as Zone of Peace and Child Protection, “Conflict-Affected Children’s Access to Humanitarian Services in Nepal,” December 2010, <http://www.czop.org/reports/publication/CZOPP%20Book-Bardiya%20Research.pdf> (accessed July 26, 2011), p. 7.

²³ Human Rights Watch interview with Shudarson Subedi, Advocate, Disabled Human Rights Centre, Kathmandu, March 29, 2011.

²⁴ Human Rights Watch interview with M.M. Wara, Inclusion Project Coordinator, Handicap International, Kathmandu, March 29, 2011.

²⁵ Ministry of Health and Population, Government of Nepal, “Nepal Demographic and Health Survey: Table 2.15,” 2006, p. 33. Only 32.9 percent of children under five years of age have birth certificates, and only 35 percent are registered. Human Rights Watch email correspondence with Brigitte Sonnois, Chief Child Protection, UNICEF Nepal, June 5, 2011.

²⁶ CRPD, art. 1.

²⁷ Government of Nepal, “Definition and Classification of Disability in Nepal,” 2006, translated by the Resource Center for Rehabilitation and Development, <http://rcrdnepa.files.wordpress.com/2008/05/definition-and-classification-of-disability-in-nepal.pdf> (accessed June 13, 2011). The Disabled Welfare and Protection Act of Nepal 2039 (1982) defines “disabled person” as “a Nepalese citizen who is physically or mentally unable or handicapped to do normal daily life works. This expression also includes a blind, one-eyed, deaf, dumb, dull, crippled, limb, lame, handicapped with one leg broken, handicapped with one hand broken, or a feeble-minded person.” The Act also defines “helpless disabled persons” as “a disabled person who does not have any assets or any person to attend and serve him and who cannot earn his living by doing a job himself.” Protection and Welfare of the Disabled Persons Act, 2039 (1982), s. 1, http://rcrdnepa.files.wordpress.com/2008/05/disabled-welfare-and-protection-act_1982.pdf (accessed March 10, 2011); See also Country Profile on Disability: Kingdom Of Nepal. Japan International Cooperation Agency Planning and Evaluation Department (March 2002). At: [http://gwweb.jica.go.jp/km/FSubjecto601.nsf/3b8a2d403517ae4549256f2d002e1dcc/54a619bb76fd92034925727d0008246b/\\$FILE/Nepal%282002%29%201.pdf](http://gwweb.jica.go.jp/km/FSubjecto601.nsf/3b8a2d403517ae4549256f2d002e1dcc/54a619bb76fd92034925727d0008246b/$FILE/Nepal%282002%29%201.pdf). The updated definition in the government’s 2006 policy is: “Disability is the condition of

(blind or low-vision), hearing disability (deaf or hard of hearing), deaf-blindness, voice and speech disability, intellectual disability and multiple disabilities. In Nepal, persons with intellectual disabilities are referred to as people with “mental retardation.”²⁸ The definition also includes little people and disabilities such as muscular dystrophy, autism and stuttering.²⁹ In its National Policy and Plan of Action adopted in 2006, the Ministry of Women, Children and Social Welfare acknowledged, however, that the current definition does not reflect international standards and pledged to revise it in a “timely” manner.³⁰

According to the 2001 disability analysis carried out by the National Planning Commission, multiple disabilities were the most common type of disability in Nepal, accounting for 31 percent of persons with disabilities. Among all people with disabilities, 34.3 percent had a physical disability,³¹ 19.4 percent reportedly had a speaking disability,³² 19.1 percent with a hearing impairment, 11.1 percent have epilepsy, 5.9 percent had an intellectual disability, 5.6 percent had a visual impairment and 4.6 percent had a psychosocial disability.³³

difficulty in carrying out daily activities normally and in taking part in social life due to problems in parts of the body and the physical system as well as obstacles created by physical, social, cultural environment and by communication.” The definition is based on the WHO framework for measuring health and disability at both individual and population levels, called the International Classification of Functioning, Disability and Health (ICF). The ICF was officially endorsed by all 191 WHO Member States in the Fifty-fourth World Health Assembly in May 2001 (resolution WHA 54.21). World Health Organization, “International Classification of Functioning, Disability and Health,” May 22, 2001, <http://www.who.int/classifications/icf/en/> (accessed June 3, 2011).

²⁸ Disability advocates prefer the term “intellectual disability” as opposed to “mental retardation” because it reflects a rights-based approach and aligns with current professional practices to provide support tailored to individuals to enhance their functioning. American Association on Intellectual and Developmental Disabilities, “FAQ on Intellectual Disability,” 2011, http://www.aaid.org/content_104.cfm (accessed June 1, 2011).

²⁹ Disabled Peoples Organizations – Denmark, “Country Strategy of the Danish Council of Organization of Disabled People: October 2007 – September 2012,” September 12, 2007, <http://www.disability.dk/partner-countries/nepal/country-strategy> (accessed May 13, 2011). See also Government of Nepal, “Definition and Classification of Disability in Nepal,” 2006, http://rcrdnepa.files.wordpress.com/2010/09/definition-and-classification-of-disability-in-nepal_english.pdf (accessed May 12, 2011).

³⁰ Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011), section 2.2.4. The Act uses a number of derogatory word such as *kano*, *andho*, *bahiro*, *lato*, *lathebro*, *lulo*, *kunjo*, *langado*, *chorando*, and *dundo*. These derogatory words should be removed while harmonizing the definition.

³¹ National Planning Commission/UNICEF/New Era, “A situation analysis of disability in Nepal,” 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011). The report indicates that 19.5 percent have mobility disabilities and 14.8 percent have manipulation disability. Mobility disability is defined as “A person who was unable to perform the daily activities of life due to a physical deficiency, defect or deformity in the lower limbs was said to have mobility or walking disability. Manipulation disability is defined as “A person who was unable to perform the daily activities of life due to a physical deficiency, defect or deformity in the upper limbs was said to have working or manipulation disability.”

³² According to this analysis, “[a] person who could not speak at all or a person who could not be understood outside the family,” was said to have speaking disability. National Planning Commission/UNICEF/New Era, “A situation analysis of disability in Nepal,” 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011).

³³ National Planning Commission/UNICEF/New Era, “A situation analysis of disability in Nepal,” 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011), section 3.

Diseases such as typhoid, smallpox, and meningitis were reported as the main causes of disability. Accidents were considered a major cause of physical disabilities.³⁴

In Nepal and in many other countries, disability and poverty are inextricably linked.³⁵ Poverty can lead to disability through malnourishment, the inaccessibility of health services, poor sanitation, or unsafe living and working conditions.³⁶ In turn, having a disability can “entrap a person in poverty by limiting their access to education, employment, public services and even marriage.”³⁷ Worldwide, as many as 50 percent of disabilities are directly linked to poverty. Nepal, with a population of about 29 million, is one of the poorest countries in the world with a per capita income of US\$240 per year.³⁸ According to the World Bank, the poor in Nepal have the lowest physical access to health care.³⁹

The Education System in Nepal

There are 32,130 schools across the 75 districts in Nepal.⁴⁰ The school system consists of primary, lower secondary, secondary and higher secondary education. Under a new approach, “basic education” refers to primary (classes 1 to 5) and lower secondary school (classes 6 to 8). Secondary schools offer two more years of education (classes 9 and 10), while higher secondary schools are an additional two years beyond that. Childhood development or pre-primary classes are offered as preparation for grade one.⁴¹

Of the primary school aged population in Nepal, 93.7 percent are enrolled in school, totaling nearly five million children.⁴² Of all those enrolled in school at the primary level, 1.1 percent are students with disabilities, totaling 53,681 children.⁴³ Table 1, below, shows the enrolment of children with disabilities at primary, lower secondary and basic levels in the school year 2009-10.

³⁴ Ibid.

³⁵ Sarmila Shrestha, Narayan Kaji Shrestha, and Sunil Deepakat, “A Community Assessment of Poverty and Disability among Specific Rural Population Groups in Nepal,” *Asia Pacific Disability Rehabilitation Journal*, vol. 20, no. 1, 2009, p. 83.

³⁶ World Bank, “Social Analysis and Disability: A Guidance Note,” March 2007, <http://hpod.pmhclients.com/pdf/SAnalysisDis.pdf> (accessed July 26, 2011), p. 9.

³⁷ Ibid.

³⁸ Sarmila Shrestha, Narayan Kaji Shrestha, and Sunil Deepakat, “A Community Assessment of Poverty and Disability among Specific Rural Population Groups in Nepal,” *Asia Pacific Disability Rehabilitation Journal*, vol. 20, no. 1, 2009, p. 85.

³⁹ World Bank, “Nepal: Providing Essential Health Services to the Poorest and Most Excluded,” 2011, http://www.worldbank.org.np/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/NEPALEXTN/0,,contentMDK:22889270~pagePK:1497618~piPK:217854~theSitePK:223555,00.html?cid=3001_7 (accessed July 26, 2011).

⁴⁰ Ministry of Education of the Government of Nepal, “Flash I Report 2066 (2009-2010),” November 2009, p. 40.

⁴¹ Ibid, p. 12.

⁴² Ibid, p. 17. The total number of students at primary, lower secondary and basic level is 4,900,663; 1,604,422; and 6,505,085 respectively.

⁴³ Ibid, p. 23.

Table 1: Students with disabilities by type of disability and school level⁴⁴

LEVEL		TYPES OF DISABILITIES						
		Physical	Mental ⁴⁵	Deaf	Blind	Deaf and Blind	Vocal and speech related disabilities	Total Disabled
Primary	Girls	8,399	7,654	3,902	2,002	974	2,006	24,937
	Boys	9,940	8,350	4,441	2,260	1,064	2,689	28,744
	Total	18,339	16,004	8,343	4,262	2,038	4,695	53,681
	% of total	0.4	0.3	0.2	0.1	0.04	0.1	1.1
Lower secondary	Girls	3,019	1,244	981	860	341	344	6,789
	Boys	3,468	1,350	1,193	881	405	539	7,836
	Total	6,487	2,594	2,174	1,741	746	883	14,625
	% of total	0.4	0.2	0.1	0.1	0.05	0.1	0.9
Basic	Girls	11,418	8,898	4,883	2,862	1,315	2,350	31,726
	Boys	13,408	9,700	5,634	3,141	1,469	3,228	36,580
	Total	24,826	18,598	10,517	6,003	2,784	5,578	68,306
	% of total	0.4	0.3	0.2	0.1	0.04	0.1	1.1

While the government reports that 68,306 children with disabilities are in school,⁴⁶ at the core of the problem is the lack of data on the number of children with disabilities *out* of school. According to the Ministry of Education, 6.3 percent primary-school-aged children are not in school, totaling more than 329,000 children.⁴⁷ However, available data on student enrolment does not identify how many of these out-of-school children have a disability.⁴⁸

⁴⁴ Ibid, p. 24.

⁴⁵ This term refers to children with intellectual disabilities.

⁴⁶ Ministry of Education of the Government of Nepal, "Flash I Report 2066 (2009-2010)," November 2009, p. 24.

⁴⁷ Ibid, p. 27.

⁴⁸ Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, "Nepal Development Goals, Progress Report 2010," September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011). The government has been working with the Resource Center for Rehabilitation and Development (RCRD) of Nepal to develop baseline data and a national updatable database on the number of people with disabilities. They are working with district government officials to develop software and mobilized districts and municipal development committees. However, the government allocated only 50,000 Nepali rupees (equivalent of roughly US\$700) to each district to carry out this task. As a consequence, the data is being collected in only some villages in each of the 75 districts. Fifty districts have completed household surveys and the data should be available by the end of 2011.

Under Nepal’s Interim Constitution, the state is obligated to provide free education to all children up to secondary level, or for Classes 1 through 8.⁴⁹ The Ministry of Education is responsible for overall development of education in the country, including the formulation and implementation of education policies and plans.⁵⁰ District Education Offices in each of Nepal’s 75 districts have direct oversight over the schools in their area. The government has instituted a decentralization policy, whereby local governments “are expected to play an increasing role in the planning and implementation of public services.”⁵¹ The Special Education Council, under the Ministry of Education, is responsible for developing and implementing inclusive education in Nepal.⁵²

The Government of Nepal has stated its commitment to achieving universal primary education as part of its efforts to reach the Millennium Development Goals by 2015.⁵³ Similarly, Nepal is part of the Education for All (EFA) campaign, which aims, among other things, to “[e]nsure that...all children, particularly girls, those in difficult circumstances, and those belonging to ethnic minorities, have access to, and complete, free and compulsory primary education of good quality” by 2015.⁵⁴

Nepal’s School Sector Reform Program (SSRP) 2009–2015 aims to improve access, equity and quality within the education system to meet the EFA and MDGs, with an emphasis on out-of-

⁴⁹ United Nations Development Programme, “The Interim Constitution of Nepal, 2063 (2007),” 2008, <http://www.ccd.org.np/new/resources/interim.pdf> (accessed May 31, 2011), section 17(2).

⁵⁰ Government of Nepal, Ministry of Education, “About MOE,” September 7, 2010, <http://moe.gov.np/new/> (accessed June 4, 2011).

⁵¹ Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p. 16.

⁵² The Council is comprised of 13 members and is chaired by the Minister of Education. Education Act 2028 (1971).

⁵³ The Millennium Development Goals are eight goals to be achieved by 2015 that respond to the world’s main development challenges. The MDGs are drawn from the actions and targets contained in the Millennium Declaration that was adopted by 189 nations and signed by 147 heads of state and governments during the UN Millennium Summit in September 2000. United Nations Development Programme, “Meeting the Millennium Development Goals in Nepal,” February 2011, <http://www.undp.org.np/mdg/> (accessed June 4, 2011).

⁵⁴ Education for All (EFA) is an international initiative led by UNESCO to provide quality basic education for all children, youth and adults. In 2000, 164 governments pledged to achieving six specific education goals by 2015. UNESCO, “Education for All (EFA),” 2011, <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/> (accessed May 14, 2011). Nepal also recognizes the Salamanca Declaration, adopted by the World Conference on Special Needs Education in 1994, and the Biwako Millennium Framework of Action, adopted by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed May 31, 2011), p. 50. The Salamanca Declaration emphasizes that everyone who needs special education, including people with disability, should be merged in the mainstream of national education program. UNESCO, “The Salamanca Statement and Framework for Action,” June 1994, <http://unesdoc.unesco.org/images/0009/000984/098427eo.pdf> (accessed June 17, 2011). The Biwako Framework for Action sets the goal of 75 percent enrolment of children with disabilities in primary school by 2010, and 100 percent school by 2015. UNESCAP, “WHO/ESCAP Training Manual on Disability Statistics,” December 16, 2009, <http://www.unescap.org/stat/disability/manual/Appendix4-Disability-Statistics.pdf> (accessed June 17, 2011).

school populations.⁵⁵ According to the SSRP, the government is required to provide free quality basic education for all children aged 5 to 12.⁵⁶ Free education includes direct costs of schooling (e.g., free textbooks, and no fees for admission, tuition and examinations).⁵⁷ Under the SSRP, the government is obligated to provide “enabling conditions for learning” for every school, which relate to the physical and educational environment, instruction, curriculum and textbooks.⁵⁸ The SSRP also includes the provision of scholarships to public school students in Karnali Zone (in the mountain region), students from the Dalit communities and students with disabilities across the country, paying special attention to girls.⁵⁹ In 2006 about 9,100 children with disabilities received scholarships.⁶⁰ The goal of the SSRP is that 175,000 students with disabilities will receive scholarships for basic and secondary education by 2015.⁶¹

In 2006 the government adopted an inclusive education policy, guaranteeing free primary education for all children and establishing resource classes for children with disabilities. Resource classes are designated classrooms for children with specific disabilities within a mainstream school; there are classes for the blind, deaf and for children with intellectual disabilities. To date there are 360 integrated resource classes, of which 164 are for the deaf, 78 are for the blind, and 118 are for children with intellectual disabilities.⁶² In addition, there are 13 special schools for deaf children, 1 school for blind, 13 schools for children with

⁵⁵ From 1999-2004, the Government of Nepal followed its Basic and Primary Education Programme II (BPEP II) to increase access to and improve the quality of basic and primary education. Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011). Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, “Nepal Development Goals, Progress Report 2010,” September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011), p. 26. People with disabilities are not always mentioned in references to vulnerable groups in the SSRP. This may lead to their unintentional exclusion when implementing the actions. Some groups, like woman and Dalits, are specifically mentioned every time special provisions are made. The adoption of one standard, inclusive definition and terminology would help ensure consistency throughout the document. Education For All Fast Track Initiative, “Joint Appraisal Document,” 2010, http://issuu.com/efa-fti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 97.

⁵⁶ Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p. 25.

⁵⁷ Ibid, p. 26. Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, “Nepal Development Goals, Progress Report 2010,” September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011).

⁵⁸ Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p. 91. Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, “Nepal Development Goals, Progress Report 2010,” September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011), p. 26.

⁵⁹ Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p.26.

⁶⁰ Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011).

⁶¹ Government of Nepal, Ministry of Education, “School Sector Reform Plan,” June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p. 119.

⁶² Human Rights Watch correspondence with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 14, 2011. Nepal Association of the Blind, “Organizational Strengthening Programme Annual Report 2009,” January 2009, http://www.nabnepal.org/Annual_Repo_2009.pdf (accessed on May 27, 2011).

intellectual or developmental disabilities and 1 school for children with physical disabilities. Nepal also has 5 integrated schools for deaf children and 16 integrated schools for blind children.⁶³ According to the Ministry of Education 1,509 children with disabilities attend special schools.⁶⁴ Most children with physical disabilities attend general schools.

Some parents of children and young people with intellectual or multiple disabilities have set up “day care centers” or alternatives to school where children learn daily life skills and play. These day care centers are run privately and are not regulated by the government.

The government has established resource centers in specific geographic areas. The resource centers, housed at a leading school in that area, are responsible for developing the capacity of schools in the area by organizing opportunities to share experiences and learning and by regularly monitoring the schools.

The government has also formed assessment centers for children with disabilities in 62 of Nepal’s 75 districts.⁶⁵ The assessment center, managed by the District Education Office, is a committee comprised of the local district education officer, resource teachers, local NGOs, a medical professional and one government-paid assessment coordinator. The function of the assessment center is to collect information on children with disabilities in that geographic area, assess their educational needs and refer them to the appropriate education system, either general schools, resource classes or special schools.⁶⁶

While various domestic policies address the need for inclusive education, current national laws do not reflect this and other rights in the Convention on the Rights of Persons with Disabilities.⁶⁷ For example, the national laws also provide for special schools, lagging

⁶³ Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011. Human Rights Watch correspondence with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 14, 2011.

⁶⁴ Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

⁶⁵ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011. Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011).

⁶⁶ Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011. Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011. Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011.

⁶⁷ Many of the national policies and laws were established before the adoption of the Convention on the Rights of Persons with Disabilities and therefore do not reflect the standards and rights-based language set out in the treaty. For example, the definition of disability in the 1982 Protection and Welfare of the Disabled Persons Act (and the title of the act itself) are based on the medical and charity approach to disability. Protection and Welfare of the Disabled Persons Act, 2039 (1982), s. 2.

behind the government's own policy of inclusive education and omitting any concrete plan of how children with intellectual or developmental disabilities in particular will be included in mainstream schools.⁶⁸ The Ministry for Women, Children and Social Welfare, with support from the UN Office of the High Commissioner for Human Rights, is undertaking a review and reform of existing legislation and policies, in close consultation with representative organizations of persons with disabilities.

Nepal is currently engaged in a constitutional reform process, which is to be completed in August 2011.⁶⁹ During Nepal's recent Universal Periodic Review by the UN Human Rights Council, governments urged the Nepal Constitutive Assembly to ensure that the new Constitution is in line with international treaties. A number of governments also called on Nepal to protect the rights of people with disabilities, including the right to non-discrimination and the right to education.⁷⁰

Nepal spent 2 percent of its gross national product (GNP) on education in 2007-2008.⁷¹ The share of GNP devoted to education in Nepal remained the same between 1999 and 2007, well below the developing country median (4.5 percent).⁷² In 2009 Nepal dedicated 17 percent of its national budget to education, totaling roughly 48 billion Nepali rupees (about US\$677 million).⁷³ According to the Ministry of Education, nearly

⁶⁸ The Disabled Welfare and Protection Act, the Special Education Policy, the Education Act, and the Education Regulations also provide for special education to children with disabilities. Disabled Welfare and Protection Act of Nepal 2039 (1982), ss. 5, 6. Special Education Policy 2053 (1997). Education Act 2028 (1971), para. 6a. Education Regulations 2049 (1992), rules 60, 66. The Children's Act requires the government to establish special orphanages and centers for children with intellectual disabilities. Children's Act 2048 (1992), s. 43.

⁶⁹ The interim constitution initially provided a 2-year time frame for drafting the new constitution, ending on 28 May 2010. However, because of the challenging post-conflict transition, a political consensus was reached on a 1-year extension. On May 28, 2011, the political parties agreed to extend the time frame by another 3 months, citing differences in opinion on the integration and rehabilitation of members of a former armed rebel group. The next deadline for finalizing a draft constitution is August 28, 2011. Asian Development Bank, "Nepal: Political and Economic Update," June 2011, http://www.adb.org/Documents/Economic_Updates/NEP/in89-11.pdf (accessed June 21, 2011), p. 1. Rajeshree Sisodia, "Nepal's reform stalls," *Le monde diplomatique (English edition)*, June 8, 2010, <http://mondediplo.com/2010/08/06nepal> (accessed June 21, 2011).

⁷⁰ Specifically, Sweden, New Zealand, Germany, Bahrain, and Slovakia raised concerns about the rights of people with disabilities in Nepal. United Nations Human Rights Council, "Report of the Working Group on the Universal Periodic Review - Nepal," March 8, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/116/42/PDF/G1111642.pdf?OpenElement> (accessed June 17, 2011), pp. 13-20.

⁷¹ Government of Nepal, Ministry of Education, "School Sector Reform Plan," June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011), p. 14.

⁷² UNESCO, "Regional Overview: South and West Asia, Education for All Global Monitoring Report," 2010, <http://unesdoc.unesco.org/images/0018/001865/186527E.pdf> (accessed on June 4, 2011), p. 12.

⁷³ Ministry of Education, Government of Nepal, "A Study on the Financial Management of Department of Education, District Education Office, and Tracking of School Grants," July 2009, http://www.doe.gov.np/download/download_1182256956.pdf (accessed June 13, 2011). Government of Nepal, "Nepal Budget Statement: Fiscal Year 2009-10," July 13, 2009, http://trunco.com.np/pdf/TRU_Budget_Highlights_2009-10.pdf (accessed June 13, 2011).

160 million rupees (roughly \$2.2 million) has been allocated for inclusive education and special education in 2010/2011.⁷⁴

The World Bank and the Asian Development Bank are the principal multilateral donors to Nepal.⁷⁵ As of April 2011 the World Bank reported that Nepal was allocated \$120 million from the Education for All-Fast Track Initiative's (EFA-FTI) Catalytic Fund.⁷⁶ The World Bank also supports the Community School Support Project, which aims to increase community management of schools, and the Second Higher Education Project, which assists the government with improving the quality and relevance of higher education and research.⁷⁷ The Asian Development Bank reported that Nepal had received \$185 million for education initiatives, including EFA, as of December 2010.⁷⁸ It lists its areas of focus as increasing the enrolment rate in primary education, upgrading school facilities, increasing the provision of scholarships and school grants, and training teachers.⁷⁹ Other international donors, including the European Union, the Danish International Development Agency (DANIDA), the Norwegian Agency for Development Cooperation (NORAD), and UNICEF, are investing in Nepal's EFA campaign and its efforts to reach the MDGs.

Ensuring Education for People with Disabilities: Inclusive Education

UNESCO estimates that children with disabilities represent more than one-third of the 67 million children who are out of school worldwide.⁸⁰ In some countries, the chances of a child with a disability not attending school are two or three times greater than a child without a disability.⁸¹

⁷⁴ Human Rights Watch correspondence with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 8, 2011.

⁷⁵ Disabled Peoples Organizations – Denmark, "Country Strategy of the Danish Council of Organization of Disabled People: October 2007 – September 2012," September 12, 2007, <http://www.disability.dk/partner-countries/nepal/country-strategy> (accessed July 26, 2011), p. 9.

⁷⁶ World Bank, "Fast Track Initiative Catalytic Fund: Annual Progress Report 2010," April 21, 2011, <http://www.educationfasttrack.org/media/Misc./CF%20WB%20Progress%20report%20April%202011.pdf> (accessed May 13, 2011). Disabled Peoples Organizations – Denmark, "Country Strategy of the Danish Council of Organization of Disabled People: October 2007 – September 2012," September 12, 2007, <http://www.disability.dk/partner-countries/nepal/country-strategy> (accessed May 13, 2011).

⁷⁷ World Bank, "Education in Nepal," 2011, <http://www.worldbank.org.np/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/NEPALEXTN/0,,contentMDK:21683119~pagePK:141137~piPK:141127~theSitePK:223555,00.html> (accessed July 26, 2011).

⁷⁸ Asian Development Bank, "Asian Development Bank and Nepal: Fact Sheet," April 2011, http://www.adb.org/Documents/Fact_Sheets/NEP.pdf (accessed July 26, 2011).

⁷⁹ Ibid.

⁸⁰ UNESCO, Education for All Global Monitoring Report 2007, p. 74. UNESCO, Education For All Global Monitoring Report 2011, p. 1.

⁸¹ UNESCO, "Education for All Global Monitoring Report 2008: Education for All by 2015 - Will We Make It?," 2008, <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/efareport/reports/2008-mid-term-review/> (accessed August 4, 2011), p. 48. A. Eide and M. E. Loeb, "Living Conditions among People with Activity Limitations in

Inclusion in education is rooted in Article 26 of the Universal Declaration of Human Rights, which provides that “everyone has the right to education.”⁸² The Convention on the Rights of Persons with Disabilities obliges States Parties to guarantee an “inclusive education system at all levels.”⁸³ Specifically, CRPD Article 24 requires States Parties to ensure that children with disabilities “are not excluded from the general education system on the basis of disability” and that they have access to “inclusive, quality and free primary and secondary education on an equal basis with others in the communities in which they live.”⁸⁴ The convention goes further by requiring governments to provide reasonable accommodations and the “individual support required, within the general education system, to facilitate their education...consistent with the goal of full inclusion.”

The concept of inclusive education is also contained implicitly in article 13, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights and articles 23 and 29 of the Convention on the Rights of the Child (CRC).

The Committee on the Rights of the Child (CRC Committee) is a body of international children’s rights experts who monitor the implementation of the CRC. The CRC Committee occasionally issues “general comments” which provide additional authoritative guidance for interpreting the treaty’s provisions. In its general comment No. 9 the CRC Committee recognizes the importance of modifications to school practices, provision of support

Zambia," September 2006, Oslo. A. Eide, S. Nhiwathiwa, J. Muderedzi, and M. E. Loeb, "Living Conditions among People with Activity Limitations in Zimbabwe," 2003, Oslo. A. Eide and M. E. Loeb, "Living Conditions among People with Activity Limitations in Malawi," 2004, Oslo.

⁸² Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 26. Several treaties and normative instruments have reaffirmed this right. The UNESCO Convention against Discrimination in Education (CADE), adopted on December 14, 1960, 429 U.N.T.S. 93 (1962), stipulates that States have the obligation to expand educational opportunities for all who remain deprived of primary education. The International Covenant on Economic, Social and Cultural Rights, adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, reaffirms the right to education for all and highlights the principle of free compulsory education. Finally, the Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, the most widely ratified human rights treaty, spells out the right of children not to be discriminated against. UNESCO, “Inclusive Education,” 2011, <http://www.unesco.org/new/en/education/themes/strengthening-education-systems/inclusive-education/> (accessed May 17, 2011).

⁸³ Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008, ratified by Nepal on May 7, 2010. Nepal has ratified most of the major human rights treaties: Convention on the Elimination of Racial Discrimination, Convention on the Rights of the Child and its optional protocols, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and its Optional Protocols, Convention on the Elimination of Discrimination Against Women and its optional protocol, Convention Against Torture, and most recently, the Convention on the Rights of Persons with Disabilities (CRPD) in May 2010. The CRPD confirms that the human rights stipulated in other major human rights documents apply with equal force to individuals with disabilities and spells out how States Parties must specifically ensure these rights. The CRPD also has a dedicated article on respecting the rights of children with disabilities.

⁸⁴ CRPD, art. 24.

services to students and training of mainstream teachers “to prepare them to teach children with diverse abilities and ensure that they achieve positive educational outcomes.”⁸⁵

In an inclusive education system, all students participate in ordinary classes in their district schools.⁸⁶ This includes “disabled and non-disabled, girls and boys, children from majority and minority ethnic groups, refugees, children with health problems, working children, etc.”⁸⁷ Inclusive education furthermore requires that students are provided with support services and an education based on their individual needs.⁸⁸

Inclusive education focuses on removing the barriers within the education system itself that exclude children with special educational needs and cause them to have negative experiences within school.⁸⁹ It requires teachers and classrooms to adapt, rather than for the child to change. Support services should be brought to the child, rather than relocating the child to the support services.⁹⁰ In an inclusive classroom, children with disabilities have individual education programs to guide the teacher, parents and student on how to achieve the best educational outcomes for the child.

⁸⁵ UN Committee on the Rights of the Child, “ General comment no. 9 (2006): The rights of children with disabilities,” February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011), para. 62.

⁸⁶ Enabling Education Network, “Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia,” November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 56. For example, a program in Samoa, funded by the Australian Agency for International Development (AusAid), prepares students who are blind or visually impaired to attend regular public schools with their non-disabled peers, instead of being segregated in specialist schools. The funding is used to buy equipment such as braille machines, computers with screen reading software, and high speed internet access to facilitate Teleschool lessons (a service that allows children with disabilities to communicate with support service providers online). Royal Institute for Deaf and Blind Children, “The Gift of Braille Being Taught in Samoa to Help the Vision Impaired,” January 31, 2011, <http://www.ridbc.org.au/news/pr.asp?id=565> (accessed June 24, 2011).

⁸⁷ Enabling Education Network, “Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia,” November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 9. Save the Children, “Making Schools Inclusive,” 2008, <http://www.savethechildren.org.uk/en/docs/making-schools-inclusive.pdf> (accessed March 5, 2011), p. 10.

⁸⁸ While there is no agreed international definition of the term “inclusive education,” relevant international institutions such as UNESCO, UNICEF, the CRC and the UN Special Rapporteur on the Right to Education use the term along the lines of this description. The Ministry of Education has adopted the following definition: “Inclusive Education in Nepal must secure the right of all children to relevant education in their own community. It must promote and educational system that celebrates the rich cultural differences of the country up holding non-discriminatory environments. Inclusive education acknowledges the demand and the necessity for community ownership of the school. Inclusive education believes that all children can learn given the appropriate environment and support. It is a strategy that identifies children who for any reason are excluded or who are at risk of dropping out from schooling in a particular context. These groups should be identified at both national and local levels. Moreover, inclusive education facilitates a process that meets the social, cultural and academic needs through a child centered approach.” Human Rights Watch correspondence with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 14, 2011.

⁸⁹ Save the Children, “Making Schools Inclusive,” 2008, <http://www.savethechildren.org.uk/en/docs/making-schools-inclusive.pdf> (accessed March 5, 2011).

⁹⁰ UNICEF, “Examples of inclusive education: Nepal,” 2003, <http://www.unicef.org/rosa/InclusiveNep.pdf> (accessed May 17, 2011).

Diversity in the classroom benefits all children, including by addressing stereotypes, improving understanding and learning. Studies in both Organization for Economic Co-operation and Development (OECD)⁹¹ and non-OECD countries increasingly recognize that students with disabilities achieve better academic results in inclusive environments, surrounded by their non-disabled peers and provided with special support when needed.⁹² As noted by Vernor Muñoz, the former UN Special Rapporteur on the Right to Education, schools with an inclusive orientation are the most effective means of combating discrimination, and are thus essential to securing the full right to education for children with disabilities.⁹³ The CRC Committee also acknowledged that inclusive education can show a child with a disability “that he or she has recognized identity and belongs to the community of learners, peers, and citizens.”⁹⁴

Inclusive education needs to be distinguished from the system of integrated education. The latter focuses on developing the skills of children with disabilities so that they can join a mainstream school, sometimes through classrooms located within the mainstream school itself. However, this model tends to regard the child itself as the problem rather than addressing whether children with disabilities are in fact learning and the system-wide barriers in the education system.⁹⁵ Specialized classes within mainstream schools may be beneficial for some students with disabilities to complement or facilitate their participation in regular classes, such as to provide Braille training or physiotherapy.⁹⁶

Inclusive education stands in sharp contrast to the special or separate education model, in which children with disabilities are taught in segregated schools outside the mainstream,

⁹¹ The Organization for Economic Co-operation and Development (OECD) is a platform for government ministers, representatives of international organizations, and leaders of business, trade unions and civil society in its 34 member countries to stimulate economic progress and global development and co-ordinate domestic and international policy. Its members include the U.S., Canada, United Kingdom, Mexico, Chile, and Turkey. Organization for Economic Co-operation and Development, "About the OECD," 2011, <http://www.oecd.org/> (accessed July 27, 2011).

⁹² UNESCO, "Inclusive Education," 2011, <http://www.unesco.org/new/en/education/themes/strengthening-education-systems/inclusive-education/> (accessed May 17, 2011). Inclusion International, "Better Education for All: A Global Report," October 2009, http://inclusion-international.org.cluster.cwcs.co.uk/wp-content/uploads/Better-Education-for-All_Global-Report_October-2009.pdf (accessed May 17, 2011).

⁹³ United Nations Human Rights Council, "The Right to Education of persons with disabilities: Report by the UN Special Rapporteur on the Right to Education Vernor Muñoz," February 19, 2007, A/HRC/4/29, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/108/92/PDF/G0710892.pdf?OpenElement> (accessed June 17, 2011).

⁹⁴ UN Committee on the Rights of the Child, "General comment no. 9 (2006): The rights of children with disabilities," February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f2.html> (accessed 17 June 2011), para. 64.

⁹⁵ Enabling Education Network, "Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia," November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 10. Sightsavers International, "Policy Paper: Making Inclusive Education a Reality," July 2011, p. 4.

⁹⁶ Sightsavers International, "Policy Paper: Making Inclusive Education a Reality," July 2011, p. 4.

in special programs and institutions and with special teachers.⁹⁷ In this system, children with and without disabilities have very little interaction, which can lead to greater marginalization within the community, “a situation that persons with disability face generally, thus entrenching discrimination.”⁹⁸

Disability experts continue to debate the effectiveness of inclusive schools versus special schools for children with disabilities, depending in particular on the type of disability. Some disabled peoples organizations believe that children with disabilities should in general be included in mainstream education.⁹⁹ Organizations working with people with intellectual disabilities and their families promote that every student with a disability has the right to *choose* an inclusive option.¹⁰⁰ Accordingly, such organizations argue that education systems should accommodate students with disabilities and provide them with support in a regular classroom with non-disabled students.¹⁰¹

Organizations of deaf people, however, have traditionally preferred special schools in order to encourage learning of sign language, to preserve deaf culture and to ensure that deaf children have support and meaningful interaction with teachers and other students.¹⁰² Some children in special schools may be successful both academically and socially, particularly in developing strong relationships with others with whom they can communicate. However, at the same time, segregated educational settings—especially during a key part of their growth and development—may have a negative impact both on individual children and on society.¹⁰³

⁹⁷ UNESCO, “Education: Ten questions on inclusive education,” 2011, <http://www.unesco.org/new/en/education/themes/strengthening-education-systems/inclusive-education/10-questions-on-inclusive-quality-education/> (accessed June 1, 2011). United Nations Human Rights Council, “The Right to Education of persons with disabilities: Report by the UN Special Rapporteur on the Right to Education Vernor Muñoz,” February 19, 2007, A/HRC/4/29, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go7/108/92/PDF/Go710892.pdf?OpenElement> (accessed June 17, 2011).

⁹⁸ United Nations Human Rights Council, “The Right to Education of persons with disabilities: Report by the UN Special Rapporteur on the Right to Education Vernor Muñoz,” February 19, 2007, A/HRC/4/29, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go7/108/92/PDF/Go710892.pdf?OpenElement> (accessed June 17, 2011).

⁹⁹ International Council for Education of People with Visual Impairment/World Blind Union, Implementation Plan for Nepal: Education for All Children with Visual Impairment, http://www.icevi.org/efa/EFA-VI_Summary_Report/nepal.html (accessed March 15, 2011).

¹⁰⁰ Inclusion International, “Who We Are,” 2011, <http://www.inclusion-international.org/about-us/who-we-are/> (accessed May 26, 2011).

¹⁰¹ Inclusion International, “Better Education for All: A Global Report,” October 2009, http://inclusion-international.org.cluster.cwcs.co.uk/wp-content/uploads/Better-Education-for-All_Global-Report_October-2009.pdf (accessed May 17, 2011).

¹⁰² World Federation for the Deaf, Policy: Education rights for deaf children, <http://www.wfdeaf.org/policies/education-rights-for-deaf-children> (accessed June 21, 2011). The World Federation for the Deaf advocates that “the least restrictive environment for a deaf learner is whatever is the most enabling environment for that learner. Full inclusion for a deaf learner means a totally supportive, signing and student-centred environment.”

¹⁰³ Sightsavers, “Policy Paper: Making Inclusive Education a Reality,” July 2011, p. 5.

One of the key challenges is that the meaning of inclusive, integrated and special education is often not well understood. The Nepal government, for example, claims that it follows an inclusive education policy, even though it also maintains special, segregated schools as well as integrated resource classes. It is not clear from its policy how the government envisions a truly inclusive education system in the long-term.¹⁰⁴

As noted in the recent report by Sightsavers, “No government can realistically expect to switch overnight from an integrated approach to education to an inclusive one.”¹⁰⁵ As a first step, governments may adopt a “twin track” approach, where children are integrated from special schools into mainstream schools over a set period of time. However, this approach requires the government, together with international partners, to clarify the concept of inclusive education and discuss the relationship between separate schools, resource classes, assessment centers and mainstream schools and how they can work together toward the common goal of achieving an inclusive quality education for all children.¹⁰⁶ Rather than existing as parallel processes, collaboration between special schools and inclusive schools through information sharing and the development of future strategies is essential.

Teachers and school administrators are not fully aware of the inclusive education system in Nepal. As DANIDA notes, “The reportedly somewhat disjointed nature of the inclusive pilot and its overlap with the ongoing strategy of resource center based special education, has contributed to an ongoing conceptual confusion between inclusive education, special education, integrated education, alternative education, flexible schooling, non-formal education etc. The concepts and methodologies are many.”¹⁰⁷

¹⁰⁴ Enabling Education Network, “Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia,” November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 21.

¹⁰⁵ Sightsavers is an international NGO that works to eliminate avoidable blindness and promote equality of opportunity for people with disabilities in the developing world. Sightsavers, “Policy Paper: Making Inclusive Education a Reality,” July 2011, p. 10.

¹⁰⁶ Enabling Education Network, “Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia,” November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 22.

¹⁰⁷ Ministry of Foreign Affairs of Denmark, “DANIDA Assessment: 4 Pilot Processes Reviewed,” 2004, <http://www.um.dk/Publikationer/Danida/English/Evaluations/EvaluationNepal2004/annex4.asp>, (accessed May 26, 2011).

II. Barriers to Inclusive Education for Children with Disabilities

Although there are some schools for mentally retarded children, they are not very proper, not sufficient in number, not properly located to cover all children, teaching materials and methods are not appropriate. Some parents take these children as a burden and do not take them to school.

- MP Pradeep Gyawali, former minister for Culture, Tourism and Civil Aviation and father of a young woman with an intellectual disability, Kathmandu, April 2011

The National Policy and Plan of Action on Disability, adopted in 2006, recognizes the need to improve the access of persons with disabilities to education, health, training, employment, rehabilitation, and communication. According to this policy, the government will focus on inclusive education “to increase educational opportunities for children with disabilities and for quality education.”¹⁰⁸ The plan aims to provide free primary education to 50 percent of school-aged children with disabilities by 2012. The plan also includes teacher training and the development of early identification and intervention programs.¹⁰⁹

The Ministry of Education initiated orientations on inclusive education for district education officers, who are in turn required to organize trainings for school administrators and teachers in each district. According to the Deputy Director of the Ministry of Education, who also serves as the Chief of the Inclusive Education Section, “We have disseminated the idea, but to implement that idea it depends on the school management committee and teachers.”¹¹⁰ It is clear, however, that brief orientation programs do not provide local government officials with the necessary skills to train teachers and other school staff on how to adapt teaching methods, the curriculum and the environment to include children with diverse learning needs. As a result, the government is failing to meet its obligation to ensure inclusive schools for students with disabilities, as dictated by its own inclusive education policy as well as international law.

¹⁰⁸ Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011), section 9.4.5.

¹⁰⁹ The 2010-2013 National Human Rights Action Plan identifies the need for targeted programs benefitting people with disabilities. While the plan contains concrete steps to improve access to education for children with disabilities, it appears to ignore the commitment to inclusive education expressed in the 2006 National Policy and Plan of Action on Disability. *Ibid.*

¹¹⁰ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education of the Government of Nepal, June 7, 2011.

Human Rights Watch found that children with disabilities experience particular barriers that severely restrict their right to an education on an equal basis with other children. In particular, the government of Nepal is failing to ensure an education system that is available, accessible, appropriate and of good quality for children with all types of disabilities. As noted in the appraisal of Nepal’s efforts to implement Education for All:

One particular group that is targeted, but whose reasons for exclusion may not be sufficiently addressed is children with disabilities. There is a lack of a holistic approach to children with disabilities.¹¹¹

Lack of Appropriate Classrooms

Despite the focus on inclusive schools, classrooms that meet the needs of children with disabilities in the communities where they live are in short supply. More than half of the 29 children and young people with disabilities or their family members interviewed by Human Rights Watch did not attend formal school: 5 children and young people with disabilities did not attend any school while 11 attended “day care centers” or informal schools set up by parents as an alternative, where children learn daily life skills and play. Nine attended general school and four went to special schools.

Officials in the Ministry of Education told Human Rights Watch that if there are children with disabilities who want to attend school, then district education officers can demand more resource classes, or special classrooms dedicated to children with specific disabilities located within a general school.¹¹² According to the Deputy Director of the Department of Education, who also serves as the Chief of the Inclusive Education Section, “Only a few districts are demanding so we think we are covering [children with disabilities].”¹¹³ However, local government officials said that they had requested greater support for children with disabilities, including additional resource classes, but they had received no response from the Ministry.¹¹⁴

¹¹¹ Education For All Fast Track Initiative, “Joint Appraisal Document,” 2010, http://issuu.com/efa-fti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 92.

¹¹² Every district has a maximum of 17 resource classes. Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

¹¹³ Human Rights Watch interview with Arun Tiwari, Deputy Director, Dept of Education and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

¹¹⁴ Human Rights Watch interview with Ramhari Das Shrestha, District Education Officer, Dhadeldhura, April 5, 2011. Human Rights Watch interview with Durga Bista, District Education Officer, Mahendranagar, April 4, 2011. Durga Bista has since been posted as the District Education Officer for Darchula District.

In one school in Kanchanpur district in the far-western region, there are as many as 28 students with intellectual disabilities in the resource class. Ministry of Education officials from Kathmandu came to visit, but have not followed up on the matter. The district education officer told Human Rights Watch:

The Ministry may tell you that they'll open a resource class, but they don't do it. We asked the Ministry for resource classes, but they have done nothing. They just tell people like you.

Ministry officials do seem to be aware of the problem since another official told Human Rights Watch that parents in the Terai region and Kathmandu Valley complain that their children with disabilities are not getting placements into resource classes.¹¹⁵

In its National Policy and Plan of Action on Disability, the government acknowledges that children with disabilities who have received primary education cannot easily access secondary level education on an equal basis with other children. For example, accommodations such as sign language instruction and Braille teaching materials are not made for deaf and blind children in secondary school.¹¹⁶ The government has also not provided technical and vocation education for people with disabilities,¹¹⁷ as stipulated in the 1982 Disabled Persons Protection and Welfare Act.¹¹⁸

Lack of Monitoring

Since 2004 the Ministry of Education has issued Flash Reports, based on an Educational Management Information System, to track progress toward achievement of the Education for All Program. The annual document provides information on enrolment, pass rate, repetition and retention rates. While this system gathers some information on children with disabilities, much of the data is not disaggregated by disability (or by type of disability), making it difficult to comprehensively monitor if children with disabilities are receiving a good quality and accessible education.¹¹⁹

¹¹⁵ Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

¹¹⁶ Ministry of Women, Children and Social Welfare, "National Policy and Plan of Action on Disability," 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011), pp. 51-52.

¹¹⁷ *Ibid.*, p. 52.

¹¹⁸ Disabled Persons Protection and Welfare Act, 2039 (1982), art. 8.

¹¹⁹ The EFA Fast Track Initiative Joint Appraisal states that there are no national statistics to measure progress on enrolment of children with disabilities. Education For All Fast Track Initiative, "Joint Appraisal Document," 2010, http://issuu.com/efaffti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 93.

This lack of data has practical consequences. For example, funds are not appropriately allocated for children with disabilities, enough teachers are not trained, and programs and classrooms are not fully inclusive, limiting the right to education for children with disabilities.

According to the Deputy Director of the Department of Education, monitoring is carried out on three levels: in the district, by resource persons, school supervisors and assessment center coordinators; in the region, by the educational directorate; and by the central government, during school visits by Ministry of Education officials. Day care centers or private schools for children with disabilities—some of which are run by parents with limited or no formal training—are not monitored.¹²⁰

Suryabhakta Prajapati, the Director of a national NGO that runs a day care center for children with intellectual and developmental disabilities in Bhaktapur, just outside of Kathmandu, told Human Rights Watch:

Officially, the resource classes and special schools are directly monitored by District Education Office. In practice, it doesn't happen like that. We don't see any supervision. We don't see any visits. They just receive our reports. This is the case for most of Nepal, not just Bhaktapur.¹²¹

A district education officer also told Human Rights Watch that principals and assessment center coordinators do not adequately monitor all resource classes. In fact, there is no incentive for District Education Offices to monitor and report accurately. This official said, "My role is to report to the Education Committee what is happening here. However, if I report properly [that some schools have few students regularly attending and are not managed well], there is a chance that the quota for six resource classes may be cut. It's difficult to balance."¹²²

District education officers told Human Rights Watch that the available funds for resource classes are not used properly.¹²³ Funds are allocated to the schools by the Ministry of

¹²⁰ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011. Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011.

¹²¹ Human Rights Watch telephone interview with Suryabhakta Prajapati, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

¹²² Human Rights Watch interview with Durga Bista, District Education Officer, Mahendranagar, April 4, 2011.

¹²³ Human Rights Watch interview with Ram Prasad Shrestha, District Education Officer, Dhadelhdhura, April 5, 2011. Human Rights Watch interview with Durga Bista, District Education Officer, Mahendranagar, April 4, 2011.

Education, and are overseen by the school management committee. One official told us that some schools “may have leakage.”¹²⁴

The Office of the High Commissioner for Human Rights in Nepal is working with the government and local disability organizations to develop human rights indicators in the areas of education, health and housing, among others, to disaggregate data including by disability. This is a positive step toward better data collection and monitoring.

The Interim Constitution provides that the government may set up special commissions “to safeguard and promote the rights and interests of different sectors of the country” including persons with disabilities.¹²⁵ Several disability and human rights advocates have been calling on the government to set up a Disability Commission, primarily to provide advice on policy and program development and to serve as a redress mechanism when rights are violated.¹²⁶

Lack of Information about Possibility and Availability of Education for Children with Disabilities

Children with disabilities haven’t been able to enjoy even a minimum of their human rights. Our children cannot express what they want, what they feel. We also don’t know how to ask for their rights. It’s even a barrier within the family—since people never think that children with intellectual disabilities can be productive.

- Mukunda Dahal, disability advocate and father of a 13-year-old girl with autism, Kathmandu, March 2011

The CRPD requires governments to adopt “immediate, effective and appropriate measures to raise awareness throughout society, including at the family level, regarding persons with disabilities and to foster respect for [their] rights and dignity.” This provision also obliges governments to combat stereotypes, prejudices and harmful practices, including those based on sex and age, in all areas of life, as well as to promote awareness of the capabilities of persons with disabilities.¹²⁷

¹²⁴ Human Rights Watch interview with Ram Prasad Shrestha, District Education Officer, Dhadedhura, April 5, 2011.

¹²⁵ United Nations Development Programme, “The Interim Constitution of Nepal, 2063 (2007),” 2008, <http://www.ccd.org.np/new/resources/interim.pdf> (accessed May 31, 2011), section 154.

¹²⁶ The government has not ratified the Optional Protocol to the ICESCR, but this would be an important avenue for people with disabilities to seek redress.

¹²⁷ CRPD, art. 8.

Parents and other family members of children with disabilities, particularly from poor and uneducated families, often do not know that their children have the right to attend mainstream public schools and about their educational options. Some parents think that their children are not capable of learning and accept that their child should stay at home.¹²⁸ As one parent explained, “Parents think if we can train normal children well, they will take care of us later. But what will [a child with disability] do studying? So why bother sending a disabled child to school?”¹²⁹ As a result of such attitudes and lack of information, children with disabilities are denied their right to education.

The Nepalese government has not done enough to inform the public about the right to education for children with disabilities. Assessment centers in each district are responsible for reaching out to parents to inform them about resource classes for children with disabilities. However, government officials pointed out that they are not able to carry out this task effectively.¹³⁰ The government makes public service announcements on the radio, and expects teachers to inform parents. “It’s the responsibility of the teachers to tell. The District Education Office can’t visit every parent,” said one official.¹³¹

Low Enrolment

In 2004 the Nepalese Government launched a Welcome to School Campaign that has been successful in increasing enrolment of children in general. The enrolment at primary level in the school year 2009 reached 4.90 million from 4.03 million in the school year 2004, representing a 22 percent increase over five years.¹³²

There are no similar national statistics reflecting any progress in the enrolment of children with disabilities, and the government has not set any targets for improving their

¹²⁸ Human Rights Watch interview with Subarna Chitrakar, mother of 30-year-old woman with intellectual disability and autism. Chitrakar is also the founder of SUNGAVA, a vocational training program for young women and girls with intellectual disabilities, Kathmandu, March 30, 2011. Human Rights Watch interview with Minu Bhatta, parent of 18-year-old boy with intellectual disability, Kathmandu, March 29, 2011. Human Rights Watch interview with Bhimal, brother of 9-year-old boy with physical and possible developmental disability, Dhanghadi, April 6, 2011. Norad, “Joint Evaluation of Nepal’s Education for All 2004-2009 Sector Programme,” March 2009, www.norad.no/en/_attachment/125144/binary/42348?download=true (accessed June 17, 2011), p. lxxxvi.

¹²⁹ Human Rights Watch interview with Dr. Lalitha Joshi, gynecologist and President of Down Syndrome Association, Kathmandu, March 30, 2011.

¹³⁰ Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011. Human Rights Watch interview with Durga Bista, District Education Office, Mahendranagar, April 4, 2011.

¹³¹ Human Rights Watch interview with Durga Bista, District Education Office, Mahendranagar, April 4, 2011.

¹³² Ministry of Education of the Government of Nepal, “Flash I Report 2066 (2009-2010),” November 2009, p. 16-17.

enrolment.¹³³ According to an evaluation of Nepal's EFA program, commissioned by the Norwegian Agency for Development Cooperation, the enrolment of children with disabilities is likely very low and remains a "substantial group of those out of school."¹³⁴ A government official in the Ministry of Education also acknowledged that of the 6.3 percent of children who are out of primary school, in his opinion, a large majority are children with disabilities.¹³⁵ For example, the Nepal Association for the Welfare of the Blind and Nepal Association of the Blind estimates that there are 47,000 children who are blind and who have visual impairment, over 5,000 of whom are attending school.¹³⁶

Because of efforts by NGOs like Handicap International (HI), Save the Children and their local partners,¹³⁷ more children with disabilities have enrolled in school in recent years.¹³⁸ HI's inclusion project coordinator, M.M. Wara, told Human Rights Watch:

Schools were initially not interested in including children with disabilities because they didn't know how and had a negative idea. They thought that children with disabilities cannot participate and would get teased. The teachers didn't have an appropriate attitude.

Local partner organizations raised awareness about children with disabilities among school administrators and teachers to change their attitudes and encourage schools to admit children. They also worked with the school to improve accessibility, for example by building ramps and toilets, and trained 60 teachers in inclusive education. As a result of

¹³³ Norad, "Joint Evaluation of Nepal's Education for All 2004-2009 Sector Programme," March 2009, www.norad.no/en/_attachment/125144/binary/42348?download=true (accessed June 17, 2011), p. 37.

¹³⁴ Ibid.

¹³⁵ Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, "Nepal Development Goals, Progress Report 2010," September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011), p. 29. Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011. According to UNICEF, 60.2% of 3-5 years olds attend early childhood development centers. UNICEF, "Early Childhood Development," 2011, http://www.unicef.org/nepal/5522_Early_Childhood_Development.htm (accessed June 14, 2011). A Save the Children staff member told Human Rights Watch that in the many early childhood education centers across Nepal that he has visited, he had not seen any disabled children. This may be due to limited number of early childhood education centers across Nepal, inadequate training of early childhood education staff and parental choice. Human Rights Watch telephone interview with Deergha Shrestha, Save the Children, May 20, 2011.

¹³⁶ International Council for Education of People with Visual Impairment/World Blind Union, Implementation Plan for Nepal: Education for All Children with Visual Impairment, http://www.icevi.org/efa/EFA-VI_Summary_Report/nepal.html (accessed March 15, 2011).

¹³⁷ Local partners include National Federation of the Disabled Nepal, Nepal Disabled Human Rights Center, Nepal National Social Welfare Association, Resource Center for Rights and Development of People with Disabilities, Resource Center for Rehabilitation and Development (RCRD) and CBR Bhaktapur.

¹³⁸ Save the Children has supported the enrolment of 379 children with disabilities in their working areas in the last six months. Letter to Human Rights Watch from Brian Hunter, Country Director, Save the Children Nepal & Bhutan, August 1, 2011.

this initiative, about 600 children with disabilities were included in schools in the five districts where the program was implemented.

These efforts by international and local NGOs have helped to increase the enrolment of children with disabilities in schools, yet this does not lessen the government's obligation to ensure that children with disabilities are able to participate in mainstream schools in their communities.

High Drop-Out and Low Attendance Rates

In 2010 nearly 78 percent of students remained in school from Grade 1 to Grade 5.¹³⁹ There is no comparative data on the percentage of children with disabilities who remain in school. In each of the resource classes visited, Human Rights Watch found that less than half of the 15-20 students enrolled were in attendance.

Several government officials acknowledged that children with disabilities are more likely to drop out of school and attendance is irregular. An official in the Ministry of Education said, "The drop-out rate for Grade 1 is a huge problem for all children at 8.9 percent. For children with disabilities, it's even more than this percentage."¹⁴⁰

The resource class teacher in the Mahendranagar Secondary School (far-western region) told Human Rights Watch that of the 24 students registered in her resource class for children with intellectual and developmental disabilities, "Sometimes there are two, sometimes 15 children. It's unreliable."¹⁴¹ There were six children in attendance on the day Human Rights Watch visited. The teacher said that student drop-out rate is high since children may perform poorly, get teased by students and teachers or because parents are reluctant to send them.¹⁴² The district education officer responsible for this school told Human Rights Watch, "There is low attendance because the teacher and the management committee are not good."¹⁴³

¹³⁹ Ministry of Education of the Government of Nepal, "Flash I Report 2066 (2009-2010)," November 2009, p. 30. Government of Nepal, National Planning Commission/United Nations Country Team of Nepal, "Nepal Development Goals, Progress Report 2010," September 2010, <http://www.undp.org.np/pdf/MDG-Layout-Final.pdf> (accessed June 4, 2011), p. 25.

¹⁴⁰ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011.

¹⁴¹ Human Rights Watch interview with Lakshmi Joshi, Resource Teacher, Mahendranagar Secondary School, Kanchanpur district, April 4, 2011.

¹⁴² Human Rights Watch interview with Lakshmi Joshi, Resource Teacher, Mahendranagar Secondary School, Kanchanpur district, April 4, 2011. Human Rights Watch interview with M.M. Wara, Inclusion Project Coordinator, Handicap International, Kathmandu, March 29, 2011. Human Rights Watch interview with Padam Maher, founder, District Disabled Welfare Service Committee, Tuphandada, April 5, 2011.

¹⁴³ Human Rights Watch interview with Durga Bista, District Education Officer, Mahendranagar, April 4, 2011.

Susmeera Aryal, an advocate with KOSHISH, an organization working with people with psychosocial disabilities, told us about a boy whom she rescued from the street. She said:

He was in Class 9 and dropped out. He had psychotic symptoms, hallucinations, was hearing voices. He had a great desire to study, but according to the school, he would disturb all so they didn't want to keep him.¹⁴⁴

Girls with disabilities, in particular, often drop out of school once they reach puberty because there are no support services in school (for example, to help them during their period) and the toilets are often not accessible or safe.¹⁴⁵ While this issue impacts all girls, the difficulty that girls with disabilities have in moving, dressing, and using the bathroom independently increases their vulnerability to intrusive personal care or abuse.¹⁴⁶ Subarna Chitrakar, the mother of a young woman with intellectual disability and founder of a vocational training program for young women and girls with intellectual disabilities, told Human Rights Watch:

When [my daughter] was 12, she started getting her periods. I would put the pad on her and she would take it out. She was also attracted to boys. I was scared that something could happen. Something sexual. There are no bolts on the doors. She got no sexual education. Neither do we know how to teach them nor did the teachers in her school. I decided not to send her to school.¹⁴⁷

Bina Silwal, the director of an NGO that works with marginalized women and children, told us about the case of girl with learning disabilities:

¹⁴⁴ Human Rights Watch interview with Susmeera Aryal, KOSHISH, Kathmandu, April 2, 2011.

¹⁴⁵ Human Rights Watch interview with Subarna Chitrakar, mother of 30-year-old woman with intellectual disability and autism, Kathmandu, March 30, 2011. Human Rights Watch interview with Bina Silwal, Executive Director, KOPILA, an NGO working with marginalized women and children, Pokhara, March 31, 2011.

¹⁴⁶ UN Committee on the Rights of the Child, "General comment no. 9 (2006): The rights of children with disabilities," February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011), para. 43.

The problem of support services in schools for girls with disabilities in the developing world has been raised and addressed in several countries. Barbados has a small, successful program for girls with disabilities that teaches them how to get dressed, put on make-up, provides information on sex and sexuality, has and a job training component. N. Groce, "Women with disabilities in the developing world," *Journal of Disability Policy Studies*, 1997, <http://dps.sagepub.com/content/8/1-2/177.full.pdf> (accessed June 6, 2011), pp. 178-192. A program in Pakistan offers a "modesty class" geared to girls with intellectual disabilities to teach female anatomy, sexuality, and sexual abuse. H. Rousso, "Girls and Women with Disabilities: An International Overview and Summary of Research," 2000, New York and Oakland: Rehabilitation International and the World Institute on Disability.

¹⁴⁷ Human Rights Watch interview with Subarna Chitrakar, mother of 30-year-old woman with intellectual disability and autism, Kathmandu, March 30, 2011. To address menstruation and fear of unwanted pregnancy, parents seek out what options are available, including involuntary sterilization. Some parents choose to have their children undergo such procedures. Others told Human Rights Watch that they decided against sterilization since the surgery could also cause trauma and because their daughters may be at even greater risk of rape and sexual violence once family members know that they cannot have children.

When [the girl's] menstrual cycle began, she had blood on the bench. Her friends teased her and the teacher beat her. From the next day, she didn't come again.¹⁴⁸

Other factors leading to drop-out may include lack of accessibility, lack of financial support for transportation and long distances to the school.¹⁴⁹ For example, deaf children are more likely to drop out from general schools because of the lack of sign language instruction.¹⁵⁰

Human Rights Watch documented cases of two boys with physical disabilities who were not able to sit in a wheelchair for four or six hours straight. One boy dropped out and the other cannot attend school on a regular basis.¹⁵¹ The schools did not make any adjustments to meet their needs.

At the Nirmal Bal Vikas School, one of the oldest special schools in the country, less than half of the 104 students with disabilities are attending school regularly in part because of the lack of transportation. The school owns two buses but only one of the buses is functioning due to limited funds and increasing fuel costs. The children are also on a reduced schedule because of the extra time it takes for one bus to pick up and drop off all of the children.¹⁵² While transportation to school is a general problem, this is particularly challenging for children with disabilities who may have difficulty walking to school on their own.

Low Pass Rate

Studies on the efficacy of requiring students to repeat a grade do not show any positive effect on long-term school achievement or adjustment.¹⁵³ Repeating a grade has shown to

¹⁴⁸ Human Rights Watch interview with Bina Silwal, Executive Director, KOPIA, an NGO working with marginalized women and children, Pokhara, March 31, 2011.

¹⁴⁹ Human Rights Watch interview with Birendra Pokharel, President, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011. Human Rights Watch interview with Padam Maher, founder, District Disabled Welfare Service Committee, Tuphandada, April 5, 2011. Human Rights Watch interview with Rana Mayami, Vice Principal, Nirmal Bal Vikas School, Kathmandu, April 7, 2011.

¹⁵⁰ Human Rights Watch telephone interview with Suryabhakta Prajapati, Director, Resource Center for Rehabilitation and Development, June 3, 2011. The organization runs a resource class for the deaf and assists deaf students into joining a special deaf or general school.

¹⁵¹ Human Rights Watch telephone interview with Usha Titikshu, Sangya (a non-governmental organization working with people with spinal cord injury), May 5, 2011. Human Rights Watch interview with Suresh, 16 year-old boy with spinal cord injury, Pokhara, March 31, 2011. Human Rights Watch interview with Bikas, 16 year-old boy with severe cerebral palsy, Pokhara, April 1, 2011.

¹⁵² Human Rights Watch interview with Rana Mayami, Vice Principal, Nirmal Bal Vikas School, Kathmandu, April 7, 2011.

¹⁵³ National Association of School Psychologists (NASP), "Position Statement on Student Grade Retention," 2003, http://www.nasponline.org/about_nasp/pospaper_graderetent.aspx (accessed June 6, 2011). Jimerson, S. R., Anderson, G., & Whipple, A., "Winning the battle and losing the war: Examining the relation between grade retention and dropping out of high school," 2002, *Psychology in the Schools*, 39 (4), 441-457. Human Rights Watch interview with Diane Richler, Past

lead to lower academic and employment status rankings compared to low-achieving students who were promoted to the next grade. Retained students were also more likely to drop out of school compared to students who never repeated a grade.¹⁵⁴

Children with disabilities may be required to repeat a grade because the curriculum is inflexible, because teaching and evaluation methods do not meet their specific needs, or due to a lack of support and accommodations.¹⁵⁵

Human Rights Watch found that children with disabilities in mainstream schools repeatedly fail and are likely to repeat a class. In some instances, children repeated a class several times. Kiran, a 15-year-old boy with a psychosocial disability, told Human Rights Watch, “I spent three years in Class 1, then three years in Class 2, then one year in Class 3. But I don’t know the alphabet. The teacher just wrote my exams. That’s why I passed.”

Srijana, the mother of an eight-year-old boy with a possible hearing impairment and/or learning disability said:

He’s in Grade 1; he’s just going and coming. He failed each time. He started at five so he’s there three years now. Again, he’ll start in Class 1 next week. The other children in his class are five or six [years old]. Other kids his age are in Class 4 or 5.¹⁵⁶

In the long-term, higher rates of repeating a grade lead to greater difficulties in finding employment and lower self-esteem.¹⁵⁷ Balkumari, a 21-year-old woman with a physical disability attending secondary school, told us, “I can’t study or perform well. I am too grown-up for this class. Maybe I’m a slow learner.”¹⁵⁸

President of Inclusion International, New York, May 10, 2011. Inclusion International is a global federation of family-based organizations advocating for the human rights of people with intellectual disabilities worldwide.

¹⁵⁴ National Association of School Psychologists (NASP), “Position Statement on Student Grade Retention,” 2003, http://www.nasponline.org/about_nasp/pospaper_graderetent.aspx (accessed June 6, 2011). Jimerson, S. R., Anderson, G., & Whipple, A., “Winning the battle and losing the war: Examining the relation between grade retention and dropping out of high school,” 2002, *Psychology in the Schools*, 39 (4), 441-457.

¹⁵⁵ Colleen Stump, “Repeating a grade: The pros and cons,” <http://www.greatschools.org/special-education/health/659-repeating-a-grade.gs> (accessed June 6, 2011).

¹⁵⁶ Human Rights Watch interview with Srijana, mother of Sameet, an 8-year-old boy with a possible hearing impairment and/or learning disability, Dadelhura, April 5, 2011.

¹⁵⁷ Gabrielle E. Anderson, Angela D. Whipple, & Shane R. Jimerson, “Grade Retention: Achievement and Mental Health Outcomes,” National Association for School Psychologists, Center for Development and Learning, http://www.cdl.org/resource-library/articles/grade_retention.php (accessed June 6, 2011).

¹⁵⁸ Human Rights Watch interview with Balkumari, a 21-year-old woman with a physical disability, Damouli, April 1, 2011.

Human Rights Watch found that many children with disabilities also start school later than others for a number of reasons: parental attitudes, lack of accessibility, limited classrooms available, and lack of understanding about the disability.

The National Policy and Plan of Action on Disability acknowledges that because of a poor school environment and lack of adequate teacher training, children with intellectual disabilities, in particular in government-run resource classrooms, “have not received class promotion equal to other children.”¹⁵⁹

Inaccessibility of Schools

I stand him at the gate of the school and he enters by crawling.

- Lakshmi, mother to Amman, a 16-year-old boy with difficulties in motor skills and speech, Kanchanpur, Far-western region, April 2011

The CRPD requires governments to enable persons with disabilities, including children, to participate fully in all aspects of life by identifying and eliminating barriers to accessibility.¹⁶⁰ Furthermore, both the CRPD and CRC expressly prohibit discrimination on the basis of disability.¹⁶¹

Accessibility in the context of schools refers to physical access (ramps, toilets and other accessibility needs), communication (sign language instruction and Braille teaching materials) as well as the accessibility of the curriculum for children with different types of disabilities. One of the key provisions of the CRPD is the requirement that governments ensure reasonable accommodation based on individuals’ needs, yet this still needs to be fully implemented.¹⁶²

¹⁵⁹ Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011), p. 52.

¹⁶⁰ CRPD, art. 9.

¹⁶¹ CRPD, art. 5. Discrimination is defined broadly to include “distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” CRPD, art. 2. The CRC is the first human rights treaty to explicitly mention disability as a grounds for discrimination. CRC, art. 2. Furthermore, students with disabilities have the right to non-discriminatory access to education. Convention against Discrimination in Education, 429 U.N.T.S. 93, entered into force May 22, 1962, art. 1 and 4.

¹⁶² CRPD, art. 24(2c). Human Rights Watch interview with Dip Magar, Human Rights Officer, Office of the UN High Commission for Human Rights – Nepal, Kathmandu, April 8, 2011.

Furthermore, discrimination on the basis of disability has been defined to include the denial of reasonable accommodation.¹⁶³ As stated by the High Commissioner for Human Rights at the signing of the CRPD,

The denial of reasonable accommodation for a learner with disability by an educational establishment, [among other examples], are all clear breaches of immediate obligations.¹⁶⁴

Despite its commitment to making inclusive and “child-friendly” schools,¹⁶⁵ the government is failing to make the school environment accessible for children with disabilities, which in many cases effectively denies these children their right to education.¹⁶⁶

Need for Reasonable Accommodation

As defined in Article 2 of the CRPD, reasonable accommodation means “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”¹⁶⁷

There is no universal standard for reasonable accommodation. In the context of education, reasonable accommodation refers to “steps that can be taken without significant difficulty or expense to allow students to get an equal education by limiting as much as possible the effects of their disabilities on their performance.”¹⁶⁸ This may include structural modifications in schools such as ramps and desks and blackboards at appropriate heights. It may include modifications to the curriculum and evaluation methods such as having alternative and differentiated ways to express what they have

¹⁶³ CRPD, art. 5.

¹⁶⁴ Louise Arbour, High Commissioner for Human Rights, Opening Address at the High Level Dialogue, Signing of the Convention on the Rights of Persons with Disabilities, New York, March 30, 2007.

¹⁶⁵ UNICEF has developed a framework for rights-based, child-friendly schools and education systems that are characterized as “inclusive, healthy and protective for all children, effective with children, and involved with families and communities - and children”. UNESCO and Sheldon Shaeffer, “Progress on Programme Priorities: Improving Access to, and Quality of, Education,” Education Update: Curriculum and Learning, 2000. UNICEF, “Life Skills: Child-friendly schools,” http://www.unicef.org/lifeskills/index_7260.html (accessed May 12, 2011).

¹⁶⁶ Human Rights Watch telephone interview with Deergha Shrestha, Save the Children, May 19, 2011.

¹⁶⁷ CRPD, art. 1.

¹⁶⁸ University of Iowa, Office of Equal Opportunity and Diversity, “Assisting Students with Disabilities: A Guide to Instructors,” 2004, <http://www.uiowa.edu/~eod/education/publications/assisting-students.html> (accessed June 18, 2011).

learned or fulfill course requirements, using innovative teaching techniques, and providing supervised tutorial assistance and adaptive technology.¹⁶⁹

Sumita, a young deaf woman studying at Sirjana Deaf School in Pokhara, told Human Rights Watch that she went to public school until Grade 5:

I would write down things even without understanding. That's how I got by until I came here [to the Sirjana Deaf School].¹⁷⁰

The Supreme Court of Nepal has recognized the right to education for people with hearing impairments and directed the Nepalese government to create a more conducive environment in schools and colleges, including through the provision of sign language interpreter and teachers, translation of the curriculum into sign language, and provision of sign language training for teachers.¹⁷¹ Despite this court decision, the government has been slow to implement these accommodations.

Moreover, the 2002 Education Regulation sets out the policy of providing scholarships to at least 5 percent of students who are “poor, disabled, women, dalit (oppressed) and janjati (indigenous groups) community.”¹⁷² Scholarships are given directly to the school itself and according to Ministry of Education officials, the scholarship should be used for expenses related to accommodations. If these funds are not sufficient, schools can submit improvement plans to the District Education Office, which are then considered by the Ministry of Education.¹⁷³

The government does not have a reasonable accommodation policy. A coalition of NGOs in Nepal asked the government to adopt a reasonable accommodation policy in their NGO Submission to the UN Universal Periodic Review in January.¹⁷⁴

¹⁶⁹ Ibid. Special Education Support Service, Department of Education and Skills, Government of Ireland, “What is Reasonable Accommodation in relation to examinations run by the State Examinations Commission?,” 2007, <http://www.sess.ie/faq/what-reasonable-accommodation-relation-examinations-run-state-examinations-commission> (accessed May 27, 2011).

¹⁷⁰ Human Rights Watch interview with Sumita, 19-year-old deaf woman, Pokhara, March 31, 2011.

¹⁷¹ Prakash Mani Sharma Bhushal and others v. Government of Nepal, Writ no. 0283/2006, date of decision April 1, 2008.

¹⁷² Education Regulation 2059 (2003), rule 151(2), as described in Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011).

¹⁷³ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011.

¹⁷⁴ Nepal NGO Coalition for UPR, “Submission to the United Nations Universal Periodic Review,” July 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/NP/NGOCoalitions_JointSubmission-eng.pdf (accessed May 11, 2011).

Physical Accessibility

Under the School Sector Reform Program, there are little or no provisions making schools accessible for children with disabilities, such as having ramps and accessible toilets.¹⁷⁵ One boy with a spinal cord injury told Human Rights Watch about his experience in a mainstream school:

My class is on the second floor. There's a ramp [built by a local NGO] but my friends have to help push me up. There's no toilet that I can use so I have to go to the toilet at home and then wait until I come back from school.¹⁷⁶

Even some special schools for children with disabilities are not accessible. The special school in Kathmandu has no ramp or accessible toilet; the school official told Human Rights Watch that "the students are somehow managing."¹⁷⁷ The government has started to build girl-friendly toilets,¹⁷⁸ yet it is unclear if they are accessible for children with disabilities.¹⁷⁹

The diversity of Nepal's geography, particularly in the country's mountain and hill zones, present clear challenges for children with disabilities, particularly those with physical disabilities. As a result, children with disabilities in the hilly and mountain districts tend to be home because family members cannot carry them to and from school on a regular basis.¹⁸⁰ One disability advocate said:

¹⁷⁵ Education For All Fast Track Initiative, "Joint Appraisal Document," 2010, http://issuu.com/efa-fti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 93. Government of Nepal, Ministry of Education, "School Sector Reform Plan," June 2009, <http://moe.gov.np/new/> (accessed March 10, 2011).

¹⁷⁶ Human Rights Watch interview with Suresh, a 16-year-old boy with spinal cord injury, Pokhara, March 31, 2011.

¹⁷⁷ Human Rights Watch interview with Rana Mayami, Vice Principal, Nirmal Bal Vikas School, Kathmandu, April 7, 2011.

¹⁷⁸ Adolescent girls need facilities that provide privacy and security to avoid risk of harassment. The designs and services should ensure that all school girls have separate latrines from boys, water and soap for washing, and free or subsidized sanitary napkins. Girls should also have space to change or clean in privacy during menstruation or other times of the month. International Water and Sanitation Centre, "Girl-friendly toilets for schoolgirls: helping adolescent girls," 2006, http://www.schools.watsan.net/redirect/content/download/329/2772/file/Ghana%20ofinal%20girl%20friendly%20toilets%20SSHE%20case%20study_WEB.pdf (accessed June 21, 2011). In February 2011, the Government of Nepal allocated Rs 1.1 billion (US\$15 million) to construct girl-friendly toilets in 5500 community schools throughout the country in an effort to enroll more girls. Sanitation Updates, "Nepal: Government to construct girl-friendly toilets in 5500 schools," February 10, 2011, <http://sanitationupdates.wordpress.com/2011/02/10/nepal-govt-to-construct-toilets-in-5500-schools/> (accessed June 21, 2011).

¹⁷⁹ Education For All Fast Track Initiative, "Joint Appraisal Document," 2010, http://issuu.com/efa-fti/docs/np-ssrp-jad-082109-cln/48?mode=a_p (accessed June 16, 2011), p. 96.

¹⁸⁰ Human Rights Watch interview with Ashok Jaiu, Executive Director, National Network for Social Welfare - Nepal, Mahendranagar, April 3, 2011. Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

No matter if you are talking about the blind, children with intellectual disabilities, wheelchair users. In hilly areas, children need to walk one or two hours to reach school. This is just not possible for wheelchair users.¹⁸¹

Some parents raised the concern that many schools have no gates or other boundaries. Parents of children with intellectual or developmental disabilities who are quite active and do not understand danger were reluctant to send their children to schools without boundaries.¹⁸² The Nepal government should provide a safe school environment for all children, including children with disabilities, particularly if the absence of such an environment effectively keeps children from attending school.

Denied Admission

[My son] was admitted to a general school when he was 10. He would give trouble, spit, beat other children, run around. Then the teacher told me politely, “We tried our best but your son cannot cope.” I came back home and cried.¹⁸³

- Minu, mother of an 18-year-old boy with cerebral palsy who now attends a day care center for children with an intellectual disability, Kathmandu, March 2011

International laws expressly prohibit discrimination on the basis of disability.¹⁸⁴ Importantly, both the CRC and the CRPD require states to take steps to eliminate discrimination by not only state actors, but also private actors, including any person, organization, or private enterprise. The 2007 Interim Constitution allows the government to adopt special policies on the basis of “positive discrimination” for persons with disability, among other groups.¹⁸⁵

Government policy also requires that schools must accept children with disabilities.¹⁸⁶ However, in practice, public and private schools reject children with disabilities. A senior

¹⁸¹ Human Rights Watch interview with Shudarson Subedi, Advocate, Disabled Human Rights Centre, Kathmandu, March 29, 2011.

¹⁸² Human Rights Watch interview with Kamala Chatoud, mother of Bupesh, 10 year-old boy with Down Syndrome, Dhangadi, April 6, 2011.

¹⁸³ Interview with Minu Bhatta, mother of an 18-year-old boy with cerebral palsy, Kathmandu, March 30, 2011.

¹⁸⁴ CRPD, art. 5. CRC, art. 2. Furthermore, students with disabilities have the right to non-discriminatory access to education. CADE, art. 1, 4.

¹⁸⁵ United Nations Development Programme, “The Interim Constitution of Nepal, 2063 (2007),” 2008, <http://www.ccd.org.np/new/resources/interim.pdf> (accessed May 31, 2011), section 35(14).

¹⁸⁶ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011.

Ministry of Education official acknowledged, “In the private schools, we can say that it is not strictly followed.”¹⁸⁷

Human Rights Watch documented several cases in which children with disabilities were denied admission to both public and private schools, in both general classes and resource classes.¹⁸⁸ In several instances, school officials told parents of children with intellectual or developmental disabilities that they could not cope with their children in school. The mother of a boy with a developmental disability told us that she took her son to many schools for children with disabilities. Because her son does not sit still and cannot express himself when he needs to use the toilet, the school said they could not take him: “There was no point in taking him to a general school.”¹⁸⁹

Parents said that school officials denied admission to their children on the grounds that other children would learn from their habits and behavior.¹⁹⁰ The father of an 11-year-old boy with autism said:

We tried to take him to one general school, but they didn’t accept him. Then we tried another general school. Same experience. They told us they could not handle this boy.¹⁹¹

An official in the Ministry of Education also admitted that there are also cases where deaf children are denied a seat in general school.¹⁹²

Segregated and Inferior Quality of Education

Until I was 11, I just sat at home. I wanted to go to school with my brothers and sisters. They started school earlier—when they were six or seven years old. Even if I told my father, he would say again and again that I couldn’t walk. My father was told by a teacher [in a resource class for children with

¹⁸⁷ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011.

¹⁸⁸ Human Rights Watch interview with Balkumari, a 21-year-old woman with a physical disability, Damouli, April 1, 2011.

¹⁸⁹ Human Rights Watch interview with Radha (not real name), mother of a 12-year-old boy, Krishna (not real name), with a developmental disability, Bhaktapur, April 8, 2011.

¹⁹⁰ Human Rights Watch interview with Seema Oja, mother of Akash, a 9-year-old boy with an intellectual disability, Dhangadi, April 6, 2011.

¹⁹¹ Human Rights Watch interview with Rajeev Singh, father of an 11-year-old boy with autism, Kathmandu, April 2, 2011.

¹⁹² Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

intellectual disabilities]: ‘we’ll teach your daughter.’ People in the community said this school was for mentally retarded children, not for a child like me.

- Balkumari, a young woman with a physical disability that limits the movement of one side of her body, Damouli, Midwestern region, April 2011

The government promotes an inclusive education system, yet supports a system of segregated resource classes and separate schools for children with disabilities without a clear plan for how to integrate these children, particularly with intellectual or developmental disabilities, into mainstream schools. Special classes for children with disabilities are often inadequately staffed, have no flexible curriculum and limited teaching materials, causing them to receive an inferior quality of education compared to other children. Even the principal of one of the first special schools in Nepal said:

In comparison to those for other children, the facilities provided by the government for children with disabilities are very low. These schools are not equal to other [general] schools.¹⁹³

At another special school for children with disabilities in Kathmandu, the school does not even have sufficient water for sanitation. The vice principal told Human Rights Watch:

School is going poorly day-to-day. I have told the president 10 times, but he tells me to keep quiet and he has no time.... The toilet has no water. We are buying water from a donation.¹⁹⁴

Lack of Adequately Trained Teachers

Teachers say to the students in a resource class for intellectually disabled children, “You are in grade one, you are in grade two,” but they are all in the same class. Teachers who are committed want to do good but don’t know how.

- Usha Titikshu, SANGYA,¹⁹⁵ Kathmandu, May 2011

¹⁹³ Human Rights Watch interview with Pashupathi Parajuli, Principal, Khagendra New Life Special Education High School Jorpati, Kathmandu, April 8, 2011.

¹⁹⁴ Human Rights Watch interview with Rana Mayami, Vice Principal, Nirmal Bal Vikas School, Kathmandu, April 7, 2011.

¹⁹⁵ SANGYA is a nongovernmental organization working with people with spinal cord injury in NEPAL.

Although the 2006 National Policy and Plan of Action on Disability includes teacher training, most teachers are not adequately trained to manage children with disabilities, thereby significantly impeding their right to education.¹⁹⁶

The government provides special education teachers (either in resource classes or in special schools) with one month to 45 days of training in special education, yet not all such teachers are trained.¹⁹⁷ For example, teachers in Sirjana Deaf School in Pokhara (mid-western region) do not receive any sign language training from the government. A local deaf organization provides four months of training for the teachers.¹⁹⁸ Staff at NGO- or parent-run day care centers for children with intellectual or developmental disabilities do not receive any training from the government.¹⁹⁹

The general education system is intended to integrate children with disabilities (particularly deaf and blind) into mainstream schools.²⁰⁰ While the limited training general school teachers receive is a useful first step, the government should be doing more to give all teachers the adequate skills for teaching diverse students.²⁰¹ For example, teachers in mainstream schools do not receive any sign language training. This is particularly problematic for deaf students who join a mainstream school after completing Class 5 in a special school or resource class.

In most schools, since teachers are accustomed to the lecture method of teaching, there is a strong need for training of teachers on teaching methodologies that are effective for

¹⁹⁶ As of 2006, some 2,000 primary teachers have received awareness and basic training about special education. Ministry of Women, Children and Social Welfare, “National Policy and Plan of Action on Disability,” 2006, <http://rcrdnepa.files.wordpress.com/2008/05/national-policy-and-plan-of-action2006-eng.pdf> (accessed June 17, 2011).

¹⁹⁷ Ministry of Education of the Government of Nepal, “Flash I Report 2066 (2009-2010),” November 2009. The government reports that about 70% of all teachers are trained, but this is not disaggregated for teachers in special schools or resource classes. Several school administrators and teachers confirmed that not all special teachers are trained. Human Rights Watch interview with Pashupathi Parajuli, Principal, Khagendra New Life Special Education High School Jorpati, Kathmandu, April 8, 2011. Human Rights Watch interview with Jagat Bahadi Chandar, Assistant Head Teacher, Mahendranagar Secondary School, Mahendranagar, April 4, 2011.

¹⁹⁸ Human Rights Watch interview with Ganesh Prasad Adhikari, Principal, Sirjana School for the Deaf, Pokhara, March 31, 2011.

¹⁹⁹ Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

²⁰⁰ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011. Human Rights Watch interview with Roopa Rai, Dhangadi, April 6, 2011. Human Rights Watch interview with Baikuntha Prasad Aryal, District Education Officer, Pokhara, March 31, 2011.

²⁰¹ One Ministry of Education official said, “Especially in the blind sector, teachers complain that it’s difficult to teach. For deaf and hard of hearing [children], there is a problem of language. The teachers know limited words [in sign language].” Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011. UNICEF, “Inclusive Nepal,” <http://www.unicef.org/rosa/InclusiveNep.pdf> (accessed March 6, 2011), p. 13. Ministry of Foreign Affairs of Denmark, “DANIDA Assessment: 4 Pilot Processes Reviewed,” 2004, <http://www.um.dk/Publikationer/Danida/English/Evaluations/EvaluationNepal2004/annex4.asp>, (accessed May 26, 2011).

diverse learners.²⁰² Teachers in classes for students with intellectual or developmental disabilities also expressed the challenges teaching such children through current methodologies: “If we give pressure to read, the children come to beat us.”²⁰³

There is also a lack of motivation and awareness among special education teachers.²⁰⁴ Balkumari, who attended a resource class for children with intellectual or developmental disabilities, told us that her teacher would often sleep in class. Instead, the caretaker, who receives no training from the government, would teach them the alphabet. “I didn’t feel like I learned anything there,” she said.²⁰⁵

The National Center for Education Development (NCED) is the entity within the Ministry of Education that is responsible for teacher training. The NCED’s Director Laxmiram Paudel, told Human Rights Watch, “Teachers [in mainstream schools] have general knowledge of special needs children, but it is not enough.”²⁰⁶ According to Arun Tiwari, the deputy director of the Special Education Section in the Ministry of Education and chief of the section on inclusive education, the NCED has not developed a training package on how to integrate children with disabilities in the classroom “because we already have the concept that disabled children are enrolled in resource classes or special schools.”²⁰⁷ He acknowledged that such training for general teachers would be important for children with disabilities who enroll in general schools.

Santosh, a deaf student at Sirjana Deaf School, had previously attended a general school. He told Human Rights Watch:

When I went to school with hearing kids, the teachers would write on the board and didn’t pay attention to us. We only copied from the students sitting next to us. I didn’t learn anything. I didn’t have any friends. No one came to interact with me.²⁰⁸

²⁰² UNICEF, “Inclusive Nepal,” <http://www.unicef.org/rosa/InclusiveNep.pdf>, (accessed March 6, 2011), p. 13.

²⁰³ Human Rights Watch interview with Prem Raj Pathak, Principal Teacher, Balmandir School, April 5, 2011, Tuphandada, Dhadeldhura.

²⁰⁴ UNICEF, “Inclusive Nepal,” <http://www.unicef.org/rosa/InclusiveNep.pdf> (accessed March 6, 2011), p. 13.

²⁰⁵ Human Rights Watch interview with Balkumari, a 21-year-old woman with a physical disability, Damouli, April 1, 2011.

²⁰⁶ Human Rights Watch telephone interview with Laxmiram Paudel, Director, National Center for Education Development, July 8, 2011.

²⁰⁷ Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 7, 2011.

²⁰⁸ Human Rights Watch interview with Santosh Pariyar, 23-year-old deaf young man, Pokhara, March 31, 2011.

One of the biggest challenges to creating an effective inclusive education environment is teaching the teachers to teach differently. Disability experts argue that if you teach different types of children, modifying the instruction and the curriculum will challenge those children who are more advanced and be relevant for those children who need more support. This approach not only benefits children with disabilities, but differentiated instruction can reach a broader range of students.²⁰⁹

Inflexible Curriculum and Evaluation System

Although the 2003 UNICEF study noted that the school curriculum is not flexible and does not meet the learning needs of children with different abilities, the government has failed to modify the curriculum accordingly.²¹⁰

As a result, teachers of children with intellectual or developmental disabilities often make up their own curriculum and lessons plans, focusing on teaching daily life skills. One resource class teacher explained:

I teach those with interest in reading and writing. Those who don't, I provide blocks for playing. Also we do physical exercises. We don't use the curriculum from the school. Instead I use what I learned in the training as the curriculum. We give them only practical knowledge.²¹¹

Children with disabilities should also be assessed differently.²¹² For example, some experts argue that students with disabilities should be offered alternative or modified school leaving certificates to increase graduation rates and help students feel more successful. Modifications may include reducing or modifying graduation requirements, revising performance criteria, providing accommodations in coursework and on exams, and altering curricula.²¹³ Multiple school completion options are considered “a reasonable and fair approach to accommodating the diversity in student abilities without diluting the standard diploma.”²¹⁴

²⁰⁹ Human Rights Watch interview with Diane Richler, Past President of Inclusion International, New York, May 10, 2011.

²¹⁰ UNICEF, “Inclusive Nepal,” <http://www.unicef.org/rosa/InclusiveNep.pdf> (accessed March 6, 2011), p. 13.

²¹¹ Human Rights Watch interview with Lakshmi Joshi, Resource Teacher, Mahendranagar Secondary School, Kanchanpur district, April 4, 2011.

²¹² Human Rights Watch interview with Birendra Pokharel, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011.

²¹³ National Center on Secondary Education and Transition, “Diploma Options for Students with Disabilities,” February 2005, <http://www.ncset.org/publications/viewdesc.asp?id=1928> (accessed June 13, 2011).

²¹⁴ Ibid.

While reasonable accommodations²¹⁵ have been made in Nepal to give blind students extra time for exams, similar modifications for deaf children and children with intellectual disabilities have not yet been made. For example, in secondary school, deaf students automatically lose 20 percent of their exam score because they are not able to take the oral exam that involves listening to a cassette and answering questions.²¹⁶ One parent of a child with autism said:

If a child with an intellectual disability learns to wear clothes, then that is an achievement. But the government doesn't recognize that as a grade.²¹⁷

Resource classes are intended as a transition to mainstream schools. However, because of the inflexible curriculum and evaluation system, children in classes designated for “mentally retarded children” often stay in the same resource class for years.²¹⁸ Children in these classes range in age from 6 to 17, some are even in their 20s.

Many teachers also do not have enough or appropriate teaching materials to facilitate education for children with disabilities. For example, due to regular changes in the curriculum, Braille books are delayed because of the extra time and expenses of updating, printing and distribution.

Learning in Segregated Settings

Despite the government's emphasis on inclusive classrooms, the older school system based on special schools and resource classes for children with disabilities continues to operate without a clear plan on how to integrate the children, particularly with intellectual or developmental disabilities into mainstream schools.²¹⁹ In effect, the government-run special schools (for blind, deaf, and intellectually and physically disabled children) form a parallel segregated school system.

²¹⁵ “‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms[.]” CRPD, art. 2.

²¹⁶ Human Rights Watch interview with Birendra Pokharel, President, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011.

²¹⁷ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011.

²¹⁸ Human Rights Watch interview with Birendra Pokharel, President, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011. Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

²¹⁹ Ministry of Foreign Affairs of Denmark, “DANIDA Assessment: 4 Pilot Processes Reviewed,” 2004, <http://www.um.dk/Publikationer/Danida/English/Evaluations/EvaluationNepal2004/annex4.asp>, (accessed May 26, 2011).

This parallel system involves, for the most part, residential living.²²⁰ Only students with disabilities attend special schools or resource classes. While on the one hand, this system gives children living in rural areas an opportunity to attend school, it requires children with disabilities to live separately from their families, often hours away from their homes. Uprooting children from their families and communities to live in a hostel at the school leads to a “host of problems and dangers including lack of supervision, physical neglect, opportunities for abuse, alienation from their parents, etc.”²²¹ For example, there is only one caretaker for up to 10 children with disabilities living in a residential facility. The Deputy Director of the Ministry of Education confirmed to Human Rights Watch that caretakers receive no training.²²² Yet this person is with the children all day in the classroom as a support person for the resource class teacher. At night, she is the only one with them.²²³

The government’s vision of inclusive education includes the notion that children with disabilities may have a separate building, residential facility and specially trained teachers, but located in or near a general school where they can interact with other children.²²⁴ In their view, this system would allow other children to learn how to interact with children with disabilities.

However, Human Rights Watch found that, in government-run special schools and resource classes, children with disabilities have little to no interaction with other children. Teachers explained that there is “no link” between children with disabilities and other children and that children with disabilities “are not able to understand.”²²⁵

Most parents of children with intellectual and developmental disabilities (such as autism) want their children to attend mainstream schools. As one parent explained:

²²⁰ In fact, government scholarships for school are only given to residential students. Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

²²¹ Ministry of Foreign Affairs of Denmark, “DANIDA Assessment: 4 Pilot Processes Reviewed,” 2004, <http://www.um.dk/Publikationer/Danida/English/Evaluations/EvaluationNepal2004/annex4.asp>, (accessed May 26, 2011).

²²² Human Rights Watch correspondence with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, June 8, 2011.

²²³ Human Rights Watch interview with Lakshmi Joshi, Resource Teacher, Mahendranagar Secondary School, Kanchanpur district, April 4, 2011. Human Rights Watch interview with Prem Raj Pathak, Principal Teacher, Balmandir School, Tuphandada, Dhadeldhura, April 5, 2011.

²²⁴ Human Rights Watch interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

²²⁵ Human Rights Watch interview with Jagat Bahadi Chandar, Assistant Head Teacher, Mahendranagar Secondary School, Mahendranagar, April 4, 2011.

We want him in mainstream school because there he can integrate with other children. If we isolate [him] now, he'll be isolated from society.²²⁶

However, given the lack of awareness among parents about the right to education, and limited access to and lack of specialized instruction and care in general schools, local organizations of people with developmental disabilities and their families in Nepal question whether an inclusive education system is viable in Nepal.²²⁷ Parents expressed a desire for special schools and vocational training, where their children could learn skills to live independently.²²⁸ In fact, the Disabled Welfare and Protection Act requires that government-run vocational training programs include people with disabilities.²²⁹ However, young people with disabilities are not integrated into these programs. As a result, many parents were concerned about how their children with intellectual or developmental disabilities will be cared for in the future.

Resource classes are intended as a transition to mainstream schools, but children in classes designated for “mentally retarded children” often stay in the same resource class for years.²³⁰ Children in these classes range in age from 6 to 17, some are even in their 20s. In effect, these resource classes perpetuate segregation.

Resource classes and special schools for deaf and blind students are only up to Class 5, at which point these students must join a mainstream school, often with teachers who have little or no training on how to adapt teaching methodologies.²³¹ While deaf children and their parents in Nepal, in principle, support an inclusive approach to education, they have concerns about how this will work in practice. Sumitra, a young deaf woman studying at Sirjana Deaf School, said: “I would like to go to school with hearing kids but I can’t. We don’t share a common language.”²³² Organizations of deaf people in Nepal support separate schools for deaf children. Birendra Pokharel, the President of the National Federation of the Disabled Nepal explained, “The Deaf Federation believes in special education. They are

²²⁶ Human Rights Watch interview with Rajeev Singh, father of an 11-year-old boy with autism, Kathmandu, April 2, 2011.

²²⁷ Atlas Alliance/Norwegian Association for Persons with Developmental Disabilities (NFU), “External Midterm Evaluation of the Development Collaboration between the Nepal Parents’ Network (NPN) and NFU,” 2010, Atlas Alliance.

²²⁸ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011. Human Rights Watch interview with Kripa, mother of 6-year-old boy with autism, Kathmandu, March 29, 2011. Human Rights Watch interview with Rajeev Singh, father of an 11-year-old boy with autism, Kathmandu, April 2, 2011. Human Rights Watch interview with Kamala, mother of 10-year-old boy with Down’s Syndrome, Dhanghadi, April 6, 2011.

²²⁹ Disabled Persons’ Protection and Welfare Act, 2039 (1982), section 8.

²³⁰ Human Rights Watch interview with Birendra Pokharel, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011.

²³¹ Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

²³² Human Rights Watch interview with Sumitra, 19-year-old deaf young woman, Pokhara, March 31, 2011.

afraid of sending children to general stream schools because their drop-out rate is higher.”²³³ There is no official data on the drop-out rate disaggregated by type of disability.²³⁴

Ineffective Social Support

According to the Interim Constitution, children with intellectual or developmental disabilities, among other marginalized groups, are entitled to “special privileges from the State to ensure their secure future.”²³⁵ The National Planning Commission has developed a comprehensive social protection policy, which includes social protection mechanisms for children with disabilities, women and other marginalized groups. Programs are carried out at the village level and include cash transfers, employment, income-generating activities, community-based rehabilitation and the distribution of assistive devices (such as wheelchairs, canes and prosthetic limbs).²³⁶

The Nepalese government issues identity cards on the basis of four classifications of disability, which entitle children to free education, discounted bus fares, monthly allowances and other services provided by the state. Individuals with a “profound disability” receive a red identity card, those with a “severe disability” receive a blue card, those with a “moderate disability” receive a yellow card, and those with a “mild disability” receive a white card.²³⁷ Based on the classification, children with disabilities receive monthly allowances (ranging from 50 rupees to 1000 rupees per month), as part of the government’s social security scheme.²³⁸

Barriers to Getting Disability Allowances

Many children with disabilities, particularly in rural areas, are not benefitting from these allowances because of long distances to the District Administration Office (where the cards are

²³³ Human Rights Watch interview with Birendra Pokharel, President, National Federation for the Disabled Nepal, Kathmandu, April 2, 2011.

²³⁴ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011.

²³⁵ United Nations Development Programme, “The Interim Constitution of Nepal, 2063 (2007),” 2008, <http://www.ccd.org.np/new/resources/interim.pdf> (accessed May 31, 2011), section 18, 22(4), 35(9).

²³⁶ Human Rights Watch interview with Surya Prasad Shrestha, Undersecretary and CRPD Art 33 Focal Point, Social Protection Section, Ministry for Women, Children and Social Welfare, Kathmandu, April 7, 2011.

²³⁷ Asia Pacific Network for Independent Living Centres, “Activity Report from Nepal,” April 13, 2010, <http://apnil.org/category/nepal/> (accessed May 12, 2011).

²³⁸ Parents and disability advocates have argued that the monthly allowances are too low and have not been updated since they were set some 14-15 years ago. The Ministry of Education is currently reviewing the allocations. Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011. Human Rights Watch telephone interview with Suryabhakta Prajapati, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

distributed), high transportation costs, parental attitudes that such cards will further marginalize and thus foster discrimination against their children and wrong or no diagnoses.²³⁹

As noted by the CRC Committee, “[t]he question of children with disabilities living in poverty should be addressed by allocating adequate budgetary resources as well as by ensuring that children with disabilities have access to social protection and poverty reduction programmes.”²⁴⁰ The CRPD requires that education and health services should be provided in or near the communities in which people live.²⁴¹ The CRC Committee has urged governments “to make public transportation safe, easily accessible to children with disabilities, and free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child.”²⁴²

An official in the Ministry of Women, Children and Social Welfare admitted, however, that there is no proper planning for the significant amount of money budgeted for these programs.²⁴³ In Dadeldhura district, for example, where there is a quota of 70 children with disabilities in schools, only 47 students were getting allowances and attending residential schools. The other 23 children were not getting benefits and thus not attending school.²⁴⁴

While financial support can facilitate education for children from families with limited resources, the distribution of allowances to children with disabilities does not address other underlying causes of exclusion and discrimination.²⁴⁵ The government and international donors have acknowledged that, while scholarships and other incentives to encourage the participation of marginalized children, including children with disabilities, has generally been positive, the quotas and amount distributed to individual students is inadequate.²⁴⁶

²³⁹ Human Rights Watch interview with M.M. Wara, Inclusion Project Coordinator, Handicap International, Kathmandu, March 29, 2011.

²⁴⁰ UN Committee on the Rights of the Child, “ General comment no. 9 (2006): The rights of children with disabilities,” February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011).

²⁴¹ CRPD, art. 24(2b), 25(c).

²⁴² UN Committee on the Rights of the Child, “ General comment no. 9 (2006): The rights of children with disabilities,” February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011), para. 39.

²⁴³ Human Rights Watch interview with Surya Prasad Shrestha, Undersecretary and CRPD Art 33 Focal Point, Social Protection Section, Ministry for Women, Children and Social Welfare, Kathmandu, April 7, 2011.

²⁴⁴ Human Rights Watch interview with Padam Maher, founder, District Disabled Welfare Service Committee, Tuphandada, April 5, 2011.

²⁴⁵ Enabling Education Network, “Report to Norad on desk review of inclusive education policies and plans in Nepal, Tanzania, Vietnam and Zambia,” November 2007, http://www.eenet.org.uk/resources/docs/Policy_review_for_NORAD.pdf (accessed June 17, 2011), p. 26.

²⁴⁶ Norad, “Joint Evaluation of Nepal’s Education for All 2004-2009 Sector Programme,” March 2009, www.norad.no/en/_attachment/125144/binary/42348?download=true (accessed June 17, 2011), p. 28.

Some parents told Human Rights Watch about a range of problems they encountered while trying to register for the identity cards, including refusal to register and misclassification. Subarna, the mother of a young woman with an intellectual disability and autism, said that when she asked for the appropriate card for her daughter, the government officials at the District Administration Office told her, “She has ears, eyes. Why does she need a red card?” They were told to go to the doctor first and come back. Subarna explained that it is difficult for her to take her daughter to the doctor because she is very active. Sometimes they have waited for hours only for the doctor to ask them to come another day.²⁴⁷

Mayakuna, the mother of a six-year-old girl who does not have full control of her limbs on her right side, told us that she was issued an identity card indicating that she has Down’s syndrome.²⁴⁸ Another child who is autistic was issued an identity card stating that he is deaf. “[The officials] said a person who can’t talk is deaf,” his mother told Human Rights Watch.²⁴⁹

Some parents did not want to register for the identity cards because of concerns of added stigma in the community. The mother of an eight-year-old with possible hearing impairments and learning disability told Human Rights Watch that she hoped her son would improve his hearing, so she did not apply for a card:

If I get the identity card, people will say “this is a disabled child,” so there may be more teasing. There is another woman in the community who has deaf/dumb children and people say “*latto*.” It’s a disgusting word. If I get the card, then it’s a license for people to use such words.²⁵⁰

To address these challenges, District Administration Offices should distribute the identity cards closer to village communities and have a doctor present when the identity cards are being issued.

²⁴⁷ Human Rights Watch interview with Subarna Chitrakar, mother of 30-year-old woman with intellectual disability and autism and founder of SUNGAVA, a vocational training program for young women and girls with intellectual disabilities, Kathmandu, March 30, 2011.

²⁴⁸ Human Rights Watch interview with Mayakuna, mother to a six-year-old girl with physical disability and possible developmental disability, Kanchanpur district, April 4, 2011.

²⁴⁹ Human Rights Watch interview with Seema Oja, mother to Akash, a 9-year-old boy with an intellectual disability, Dhangadi, April 6, 2011.

²⁵⁰ Human Rights Watch interview with Srijana, mother to Sameet, an 8-year-old boy with a possible hearing impairment and/or learning disability, Dadeldhura, April 5, 2011.

School Fees

The cost of education can be a significant barrier for children with disabilities, some of whom face significant economic burdens because of their disabilities.

According to both international law and national policy, children with disabilities are entitled to free primary education.²⁵¹ However, Human Rights Watch found that, in some instances, families are requested to pay fees for admission, exams or uniforms for government-run schools, leading some parents not to enroll their children in school.²⁵² For example, in a resource class for the blind in Dhangadi, the children are required to pay as much as 300 rupees (about US\$4) per year for exam fees.²⁵³

Mayakuna, the mother of a six-year-old girl with a physical disability and possible developmental disability, said:

I want to get the allowance from the government. Then I can add more money from the family and pay for school. There are admission fees. Also fees for exams. I know the ID card is there but I don't know what it is. I have no information about the benefits.

The Disability Human Rights Centre, a disability advocacy and litigation organization, is still receiving complaints from parents who are paying school fees for their children.²⁵⁴

The CRC Committee and the UN Special Rapporteur on Education, among others, affirm that free basic education should be provided to all children, including children with disabilities.²⁵⁵ Indeed, this is the decision of the Supreme Court, in the case of *Shudarson*

²⁵¹ Disabled Welfare and Protection Act of Nepal 2039 (1982), Special Education Policy (2053/1997), provisions in the Education Act (2028/1971), Education Regulations (2049/1992), 1994 Disabled Protection and Welfare Regulation, Paragraph 15 (1) and (2). The 1994 Protection and Welfare of Disabled Persons Act states that the government should give assistance to institutions providing education and training to people with disabilities and that free education up to a specific level will be provided to up to two children of a person with disability.

²⁵² Human Rights Watch interview with M.M. Wara, Inclusion Project Coordinator, Handicap International, Kathmandu, March 29, 2011. Human Rights Watch interview with Prabha (not real name), mother of 20-year-old man with mild intellectual disabilities, Kathmandu, April 3, 2011. Human Rights Watch interview with Mayakuna, mother of a 6-year-old girl with physical disability and possible developmental disability, Kanchanpur district, April 4, 2011. Human Rights Watch interview with Manju, 17-year-old girl with a physical disability, Pokhara, March 31, 2011. Human Rights Watch interview with Indra, 10 year old boy with a physical disability, Dhadedhura district, April 5, 2011.

²⁵³ Human Rights Watch interview with Roopa Rai, teacher for the blind resource class, Dhangadi, April 6, 2011. The exam fees are 100 rupees for exam for 3 exams. Per capita income in Nepal is \$440. Asian Development Bank, "Factsheet on Nepal," December 31, 2010, http://www.adb.org/Documents/Fact_Sheets/NEP.pdf (accessed June 6, 2011).

²⁵⁴ Human Rights Watch interview with Shudarson Subedi, Advocate, Disability Human Rights Centre, Kathmandu, March 29, 2011.

²⁵⁵ UN Committee on the Rights of the Child, "General Comment No. 9 (2006): The rights of children with disabilities," February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011), para. 39.

*Subedi & Ors. v. Govt of Nepal, Council of Ministers & Ors.*²⁵⁶ The court issued a directive order for free education to students with physical, sensory or intellectual disabilities at all levels in public schools, universities and training centers, finding that the 1990 Constitution itself has provisions for the special treatment of persons with disabilities.²⁵⁷ While the Court case was significant in promoting the right to education for the disability community, the government has been slow in addressing the problems.²⁵⁸

Impact of Lack of Access to Health Care

International law requires that all children, including children with disabilities, have a right to health care services that are accessible, available, acceptable, and of good quality.²⁵⁹ In addition, children with disabilities are entitled to access to health care without discrimination on the basis of disability as well as early identification and intervention programs, and “services designed to minimize or prevent further disabilities.”²⁶⁰ Failure to ensure appropriate, available, accessible and quality medical care has direct and indirect consequences on schooling and access to education. Thus, the CRC Committee has called on governments to establish links “between early intervention services, pre-schools and schools to facilitate the smooth transition of the child.”²⁶¹

United Nations Human Rights Council, “The Right to Education of persons with disabilities: Report by the UN Special Rapporteur on the Right to Education Vernor Muñoz,” February 19, 2007, A/HRC/4/29, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/108/92/PDF/G0710892.pdf?OpenElement> (accessed June 17, 2011).

²⁵⁶ Shudarson Subedi & Ors. v. Govt of Nepal, Council of Ministers & Ors., SCN, November 2003, Writ No. 3586 of 2057.

²⁵⁷ Ibid. Constitution of the Kingdom of Nepal, 2047 (1990).

²⁵⁸ Human Rights Watch interview with Dip Magar, Human Rights Officer, Office of the UN High Commission for Human Rights – Nepal, Kathmandu, April 8, 2011. Human Rights Watch interview with Mahesh Ghimine, Founder, Disabled Human Rights Centre, Kathmandu, March 29, 2011.

²⁵⁹ Committee on Economic, Social and Cultural Rights, “General Comment No. 14: The Right to the Highest Attainable Standard of Health,” December 4, 2000, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En) (accessed June 18, 2011), para. 12. The highest attainable standard of health is a fundamental human right enshrined in numerous international and regional human rights instruments, including the Universal Declaration of Human Rights, the ICESCR, the CRC, and the CRPD. The ICESCR, which Nepal has ratified, specifies that everyone has a right “to the enjoyment of the highest attainable standard of physical and mental health,” and the CRPD further clarifies that this right must be upheld “without discrimination on the basis of disability.” CRPD, Article 25. Physical accessibility requires that health facilities, goods, and services be within safe physical reach for all sections of the population, especially vulnerable and marginalized groups such as children with disabilities. Physical accessibility requires equitable distribution of health facilities and personnel within the country. Likewise, the CRPD also requires that states provide health facilities close to communities, even in rural areas. CRPD, Article 25(c). Equal access may require the government to take extra measures to ensure that facilities and services are accessible for all. The CRPD further requires that accessible information be provided to people with disabilities about assistance, support services, and facilities.

²⁶⁰ CRPD, art. 5, 25(b). UN Committee on the Rights of the Child, “General Comment No. 9 (2006): The rights of children with disabilities,” February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011). One of the core principles of international law on accessibility to health services is that of non-discrimination, especially for “the most vulnerable or marginalized sections of the population.” Committee on Economic, Social and Cultural Rights, “General Comment No. 14: The Right to the Highest Attainable Standard of Health,” December 4, 2000, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En) (accessed June 18, 2011), para. 12(b).

²⁶¹ UN Committee on the Rights of the Child, “General comment no. 9 (2006): The rights of children with disabilities,” February 27, 2007, CRC/C/GC/9, <http://www.unhcr.org/refworld/docid/461b93f72.html> (accessed 17 June 2011), para. 56.

Children with disabilities face a number of difficulties in accessing health care including: discrimination, physical barriers, lack of accessible information about available services, and/or limited financial resources for doctor's fees, medicines and transport, and for some children with intellectual, developmental or physical disabilities, difficulty waiting in doctors' offices for long periods of time.²⁶² As a result, they often do not get proper diagnoses or treatment and are not put into the appropriate school program.

Community disability workers, who provide community-based rehabilitation services and raise awareness about disability at the district level, are given three months of training so they do not have the skills to diagnose many disabilities.²⁶³

In some instances, for example, deaf children are diagnosed as having intellectual disabilities. These misdiagnoses can have a serious impact on their education.

For example, Human Rights Watch learned of cases where children with physical disabilities were sent to a class for "mentally retarded" children or placed in a day care center because general schools would not admit them.²⁶⁴ These children did not see a doctor for a proper diagnosis but were placed in such classes by the parents or the school. The brother of a nine-year-old boy with physical disability told us:

[Suraj] can speak; he can understand. He can't walk or use his left hand and arm, and lower legs since birth. We haven't taken him to the doctor because of the cost. He didn't go to school. My parents thought that no school would admit him. Before, he would just stay at home, but now he comes here [to the day care center].²⁶⁵

Lack of regular access to health care services is a particular challenge for children with disabilities. Parents of children with intellectual or developmental disabilities told us about the challenges of taking their children to visit the doctor.²⁶⁶ Mukunda, the father of a 13-year-old girl with autism, said:

²⁶² Ibid, para. 51.

²⁶³ Human Rights Watch interview with M.M. Wara, Inclusion Project Coordinator, Handicap International, Kathmandu, March 29, 2011. Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

²⁶⁴ Human Rights Watch interview with Balkumari, a 21-year-old woman with a physical disability, Damouli, April 1, 2011. Human Rights Watch interview with Bhimal, brother of Suraj, 9-year-old boy with physical disability, Dhangadi, April 5, 2011.

²⁶⁵ Human Rights Watch interview with Bhimal, brother of Suraj, 9-year-old boy with physical disability, Dhangadi, April 5, 2011.

²⁶⁶ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011. Human Rights Watch interview

In the hospital, even doctors are not disability-friendly. The system where you need to stand in a queue for hours. It's not possible to stand for hours with a child with intellectual disability. So we're not able to get good medical care.²⁶⁷

Parents also told Human Rights Watch that doctors did not treat them well, making rude remarks about the disabilities and questioning why the child should even go to school.²⁶⁸

Children with disabilities in rural areas face additional barriers associated with long distances to medical care and lack of transportation.

Stigma against Children with Disabilities and Their Families

In the village, other people used to tease me by calling me a buffalo, telling me to find my shepherd.

- Santosh, 23-year-old deaf student studying at a special school for the deaf, Pokhara, April 2011

There is a strong belief in Nepal that disability is due to sins in a past life. In fact, nearly 30 percent of the parents of persons with disabilities surveyed for the 2001 study reported that the disability of their child was due to fate and God's will.²⁶⁹ These beliefs often prevent them from accessing appropriate education or health care for children with disabilities because families are ashamed of their children or do not see the benefit of sending them to school.

Children with disabilities experience stigma and verbal abuse in the school and the community. They are called “dumb”, “stupid”, “*langand*” (disabled, someone who has a

with Subarna Chitrakar, mother of 30-year-old woman with intellectual disability and autism and founder of SUNGAVA, a vocational training program for young women and girls with intellectual disabilities, Kathmandu, March 30, 2011.

²⁶⁷ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011.

²⁶⁸ Human Rights Watch interview with Prabha (not real name), mother of 20-year-old man with mild intellectual disabilities, Kathmandu, April 3, 2011.

²⁶⁹ National Planning Commission/UNICEF/New Era, “A situation analysis of disability in Nepal,” 2001, <http://rcrdnepa.files.wordpress.com/2008/05/a-situation-analysis-of-disability-in-nepal-2001.pdf> (accessed May 27, 2011).

lost a leg), “*kujji*,” (disabled, a person who cannot move their limbs),²⁷⁰ “*danne*” (someone who takes donations),²⁷¹ and “*rach ko chora*” (illegitimate child).²⁷²

In many instances, children with disabilities are stared at or teased. Lalitha, the mother of a young man with Down’s syndrome, told Human Rights Watch, “They look at them like they are aliens from another world.”²⁷³ Lakshmi, mother of 16-year-old Amman, told us that he is forced to sit on a smaller chair in the corner because the other children do not want to sit with him.²⁷⁴

While teaching is generally a respected profession, special education teachers are also subjected to verbal abuse by people in the community. One teacher in a day care center for children with intellectual and developmental disabilities told Human Rights Watch:

They use the term “dominate,” which means that we are trodden, we feel like we should bow our heads.²⁷⁵

Special education teachers are also hired under special contracts that do not include pension benefits. A government working group is looking into this discrepancy.²⁷⁶

In schools, siblings of children with disabilities sometimes do not acknowledge that they have a sister or brother with a disability because other children will make hurtful remarks. As Mukunda explained:

Generally, for all children with disabilities, it’s not a disability-friendly environment. For example, they are taught a poem in school that says: ‘I am more clever than the deaf one.’ How will they understand?²⁷⁷

²⁷⁰ Human Rights Watch interview with Mayakuna, mother of a 6-year-old girl with physical disability and possible developmental disability, Kanchanpur district, April 4, 2011.

²⁷¹ Human Rights Watch interview with Indra, 10 year old boy with a physical disability, Dhadeldhura district, April 5, 2011.

²⁷² Human Rights Watch interview with Kiran, 15 year old boy with a possible psychosocial disability, Dhadeldhura bus station, April 5, 2011.

²⁷³ Human Rights Watch interview with Dr. Lalitha Joshi, gynecologist and President of Down Syndrome Association, Kathmandu, March 30, 2011.

²⁷⁴ Human Rights Watch interview with Lakshmi Chaudhari, mother of Amman, a 16 year old boy with a physical disability, Mahendranagar, April 4, 2011.

²⁷⁵ Human Rights Watch interview with Meena Kasey, founding member and teacher, National Association for the Intellectual Disabled (NAID), March 30, 2011.

²⁷⁶ Human Rights Watch interview with Ganesh Paudel, Department of Education, Kathmandu, April 7, 2011.

²⁷⁷ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011.

Mothers of children with disabilities are often stigmatized or pitied both within the family and the community. As one mother of a nine-year-old autistic boy said, “Everybody expresses a sense of pity; ‘*bichara*’ is the Nepali word for, ‘Oh, pity him or her.’ I don’t think that.”²⁷⁸ Mothers of children with intellectual or development disabilities in particular told us how their mothers- and fathers-in-law did not speak to them for years and refused to interact with their children.

If children with disabilities are to be fully included in schools and the community, the government should raise public awareness of disability rights and inclusive education in particular. Such awareness-raising campaigns should also address bullying and teasing by teachers, family members and children.

²⁷⁸ Human Rights Watch interview with Kripa, mother of 6-year-old boy with autism, Kathmandu, March 29, 2011.

III. Abuses at Home: Cause and Consequence of Lack of Access to Education

For many parents, the fact that their children with disabilities are not admitted to school presents profound dilemmas. Due to a lack of options available under the education system or information about these options, some parents believe that they have no choice but to lock their children with disabilities in a room or tie them to a post in order to fulfill other responsibilities (to take care of other children, do daily chores, work, etc.). Human Rights Watch research indicates that this is most often the case for children with intellectual, developmental, psychosocial or multiple disabilities.²⁷⁹

Human Rights Watch documented cases where children with disabilities are kept in a room, and provided with food and other daily needs. The children are not brought outside of the home. In one case, the mother of a 12-year-old boy with a developmental disability explained:

If we take him out, that's the only time he's out of the room. We take him to see the sun in the winter. Then he's back in his room.²⁸⁰

In many cases, schools not only provide education and basic life skills for the children but serve as a respite for parents. Parents told Human Rights Watch that if their children are enrolled in school, it can support the family as a whole since the parents will have time to work on the land, prepare meals, do housework, etc.²⁸¹

Children with disabilities are also subjected to abuse by their families or caretakers. In some cases, children with disabilities are not given sufficient food and water in order to control their bowel movements when the parents are not at home. One disability

²⁷⁹ Human Rights Watch interview with Manish Prasain, Information and Advocacy Officer, Resource Center for Rehabilitation and Development, Bhaktapur, March 29, 2011. Human Rights Watch interview with Minu Bhatta, mother of 18-year-old boy with intellectual disability, Kathmandu, March 30, 2011. Human Rights Watch interview with Jaya Prasad Lamsal, Inclusive Education Section, Ministry of Education, Kathmandu, April 2, 2011.

²⁸⁰ Human Rights Watch interview with Radha (not real name), mother of a 12-year-old boy, Krishna (not real name), with a developmental disability, Bhaktapur, April 8, 2011.

²⁸¹ In some cases, however, parents just drop off their children at the school and do not visit their children for six months or one year. Some parents do not even come to get their children from the residential school during holidays. Human Rights Watch interview with Prem Raj Pathak, Principal Teacher, Balmandir School, Tuphandada, Dhadeldhura, April 5, 2011. The Disabled Human Rights Centre (DHRC) is currently working with the government on how to address this problem. Human Rights Watch interview with Shudarson Subedi, Advocate, Disabled Human Rights Centre, Kathmandu, March 29, 2011.

advocate told Human Rights Watch about a case where a family starved a child with a disability to death.²⁸²

Parents question why they have such children and whether the children should live. In one case, the mother of a child with autism said: “If such children don’t know what to do, how to speak, can’t the state just give them a lethal injection to die?”²⁸³

Mayakuna, the mother of a six-year-old girl with a physical disability and possible developmental disability, explained to Human Rights Watch:

Sometimes I am very angry. I think: why is this type of child with me? I feel that I should give her something to eat so she can die. I want to slap her... without slapping her, how can I get cool [calm down]?²⁸⁴

Some children and parents told Human Rights Watch that they were subjected to beating and harassment by teachers, fellow classmates and parents.²⁸⁵ Nishal, a young man with a mild intellectual disability, told us:

When they harass me, they told me that I was not good. They also beat me. I felt so badly. They beat me everyday—with their hand—on my back and my hand.²⁸⁶

Studies by UNICEF and other organizations in Nepal indicate that corporal punishment is common among all children both in schools and at home.²⁸⁷ There is no explicit prohibition of corporal punishment in schools in the 1971 Education Act or the 2002 Education

²⁸² Human Rights Watch interview with Dr. Lalitha Joshi, gynecologist and President of Down Syndrome Association, Kathmandu, March 30, 2011. Human Rights Watch correspondence with Nir Prakash Giri, member of the Nepal Mental Health Foundation, March 18, 2011.

²⁸³ Human Rights Watch interview with Mukunda Dahal, founder of a day care center for children with developmental and intellectual disabilities and father of a 13-year-old with autism, Kathmandu, March 30, 2011.

²⁸⁴ Human Rights Watch interview with Mayakuna, mother of a 6-year-old girl with physical disability and possible developmental disability, Kanchanpur district, April 4, 2011.

²⁸⁵ Human Rights Watch interview with Nishal, a 20-year-old man with a mild intellectual disability, Kathmandu, April 3, 2011. Human Rights Watch interview with Srijana, mother of Sameet, an eight-year-old boy with a possible hearing impairment and/or learning disability, Dadeldhura, April 5, 2011. Human Rights Watch interview with Kiran, 15-year-old with psychosocial disability, Dhadeldhura bus station, April 5, 2011.

²⁸⁶ Human Rights Watch interview with Nishal, a 20-year-old man with a mild intellectual disability, Kathmandu, April 3, 2011.

²⁸⁷ Centre for Victims of Torture (CVICT), in collaboration with UNICEF, “Existing Systems of Discipline in Schools”, CVICT: Monthly Update, June 2004. UNICEF ROSA, “Corporal Punishment in Schools in South Asia: Submission to the Committee on the Rights of the Child,” September 28, 2001, Kathmandu: UNICEF ROSA, cited in Jabeen, F., “Corporal/physical and psychological punishment of girls and boys in South and Central Asia Region,” 2004. One study found that 82 percent of students in schools in Kathmandu experience some form of physical punishment, Reported in The Rising Nepal, December 24, 2006.

Regulation, though severe punishment is prohibited under the Children’s Act.²⁸⁸ While corporal punishment harms all children, damaging their education and making it harder for them to thrive, students with some disabilities may find it particularly difficult to cope with such abuse.²⁸⁹

²⁸⁸ “Global Initiative to End All Corporal Punishment of Children,” Analysis of Nepal, May 2011, <http://www.endcorporalpunishment.org/pages/progress/reports/nepal.html> (accessed June 6, 2011).

²⁸⁹ See Human Rights Watch, “Impairing Education: Corporal Punishment of Students with Disabilities in US Schools,” August 2009, <http://www.hrw.org/en/reports/2009/08/11/impairing-education-o> (accessed June 18, 2011).

IV. International Donors' Lack of Attention

When we initially discussed our strategy for the region, children with disabilities were consistently left out. It's discrimination upon discrimination.

- Senior official, UNICEF, March 2011

International donors are uniquely placed to facilitate the full implementation of an inclusive education system. In addition to calling on the Nepal government to respect its human rights obligations to persons with disabilities, international donors should ensure that their own development assistance strategies and policies hold up to the principles of non-discrimination, inclusion and equality articulated in the Convention on the Rights of Persons with Disabilities and other treaties.

International donors including the World Bank, the Asian Development Bank, the European Union, the Australian Agency for International Development, the Danish International Development Agency, Japan International Cooperation Agency, the United Kingdom Department for International Development, the Norwegian Agency for Development Cooperation, and UNICEF, among others, are investing in Nepal's Education For All campaign and its efforts to reach the millennium development goals. For example, in April 2011, the World Bank reported that Nepal was allocated US\$120 million from the Education for All-Fast Track Initiative's Catalytic Fund, which many of these donors support.²⁹⁰ While funding for education is not particularly targeted for children with disabilities, donors have an obligation to ensure that this funding is distributed without any form of discrimination against children with disabilities.

²⁹⁰ World Bank, "Fast Track Initiative Catalytic Fund: Annual Progress Report 2010," April 21, 2011, <http://www.educationfasttrack.org/media/Misc./CF%20WB%20Progress%20report%20April%202011.pdf> (accessed May 13, 2011). Disabled Peoples Organizations – Denmark, "Country Strategy of the Danish Council of Organization of Disabled People: October 2007 – September 2012," September 12, 2007, <http://www.disability.dk/partner-countries/nepal/country-strategy> (accessed May 13, 2011). The Education for All - Fast Track Initiative (EFA FTI) is a global partnership between developing countries and donors, multilateral institutions, civil society organizations, and the private sector dedicated to ensuring that all children receive quality basic education. All low-income countries that demonstrate serious commitment to achieve universal primary education can join EFA FTI. World Bank, Fast Track Initiative, Frequently Asked Questions, <http://www.educationfasttrack.org/faqs/#faqTwo> (accessed June 22, 2011). A breakdown of the disbursements by donor is available from World Bank, "Fast Track Initiative Catalytic Fund: Annual Progress Report 2010," April 21, 2011, <http://www.educationfasttrack.org/media/Misc./CF%20WB%20Progress%20report%20April%202011.pdf> (accessed May 13, 2011), p. 85.

NORAD, in its 2009 evaluation of implementation of EFA goals in Nepal, concluded, “There apparently remain huge inequalities in provision, with schools serving the poorest and most marginalised communities being the least well staffed, resourced or supported.”²⁹¹

Funds from DANIDA are channeled directly through the Ministry of Education for implementation of the School Sector Support Program, capacity development, pilot projects and technical assistance.²⁹² In response to a request for the most updated assessment of how these funds are used, Human Rights Watch learned from DANIDA that it follows the government’s reporting procedures and does not have its own reporting requirements or monitoring mechanism. Instead, we were asked to contact the Nepal government to request the reports.²⁹³

Education strategies by national governments and international donors may use specific criteria to target services in ways that differ from a strictly equitable allocation of resources. However, given the lack of available, accessible and good quality education for children with disabilities compared with the general population, making concerted efforts to include children with disabilities in the education system meets both human rights and education targets.

Recognition of the importance of protecting human rights and promoting inclusive education is often expressed by international agencies, and people with disabilities are often cited as a “vulnerable” or “marginalized” population.²⁹⁴ Yet, despite this rhetorical commitment by the Nepalese government and international donors, limited efforts have been made to ensure that children with disabilities have access to quality and inclusive education on an equal basis as other children. Although there is increasing focus on Education For All in Nepal, children with disabilities remain a limited priority and of negligible concern. For example, NORAD noted that the Nepalese government has made

²⁹¹ Norad, “Joint Evaluation of Nepal’s Education for All 2004-2009 Sector Programme,” March 2009, www.norad.no/en/_attachment/125144/binary/42348?download=true (accessed June 17, 2011), p. xiv.

²⁹² Development assistance to the Government of Nepal for the education sector was 83 million Danish Krone (more than US\$15 million) in 2009. Danida, “Extension of the Interim Strategy: Danish development assistance to Nepal 2008-2010,” December 2008, <http://amg.um.dk/NR/rdonlyres/F1F1F6A-933D-4D00-9904-AE93E3EEE7AE/o/extendedinterimstrategy2008.pdf> (accessed June 10, 2011).

²⁹³ Human Rights Watch correspondence with Mira Ghale Gurung, Education Officer, Embassy of Denmark, Kathmandu, June 20, 2011.

²⁹⁴ AusAid reports that “Despite the progress achieved in Asia and the Pacific, it is unlikely that many of the global goals for education will be met by 2015. Particular attention needs to be focused on improving access to education for children most likely to remain out of school or drop out after only a few years of schooling. This includes children in rural and remote areas, those with a disability and, more generally, those from disadvantaged groups and poorer families.” Australian Agency for International Development, “Annual thematic performance report: Education 2008-10,” May 2010, <http://www.ausaid.gov.au/publications/pdf/atpr-education-0809.rtf> (accessed June 16, 2011), p. 14.

excellent progress in collecting information “including good attention to disaggregation.”²⁹⁵ However, much of the information is not disaggregated by disability so this remains a major gap in data collection.

UNICEF has made limited efforts to integrate children with disabilities; for example, by training engineers to design girl-friendly and disability-friendly toilets. However, staff admitted that children with disabilities are not specifically addressed in their overall strategy in Nepal because of a lack of expertise and data. A senior official at UNICEF told Human Rights Watch:

With great embarrassment, it’s an issue that we’re not very much engaged on. I have to be honest. Throughout the sector-wide approach appraisal, the issue was raised, but we never managed to make an objective with teeth, with realistic goals. Then it fell between the cracks.²⁹⁶

Save the Children provides teacher training in 43 districts across Nepal.²⁹⁷ Until 2009 they had a special project targeting children with disabilities in five districts, where they trained teachers in inclusive education methods. However, Save the Children has failed to integrate the disability component into the general teacher training program citing a lack of technical expertise in the other districts. The education officer for Save the Children told Human Rights Watch, “If we try to put disability in the main program, the issue of disability will be diluted.”²⁹⁸ The Save the Children Nepal country director, Brian Hunter, further clarified that it is their experience that “without a specific focus on integration of children with disabilities, inclusive education programs will not be effective in accomplishing this objective. More concerted efforts and specific focus is needed for effective integration.”²⁹⁹

The National Center for Education Development, an organ of the Ministry of Education, is currently in the process of revising the general teacher training materials, with support from Save the Children. The teacher training materials do not include adequate information on inclusive education methodologies, including how to teach children with diverse disabilities.³⁰⁰ Similarly, the Curriculum Development Center is undergoing a

²⁹⁵ Norad, “Joint Evaluation of Nepal’s Education for All 2004-2009 Sector Programme,” March 2009, www.norad.no/en/_attachment/125144/binary/42348?download=true (accessed June 17, 2011), p. xiv.

²⁹⁶ Human Rights Watch interview with senior official, UNICEF, Kathmandu, March 30, 2011.

²⁹⁷ Human Rights Watch telephone interview with Deergha Shrestha, Education Officer, Save the Children Nepal, May 27, 2011.

²⁹⁸ Human Rights Watch telephone interview with Deergha Shrestha, Education Officer, Save the Children Nepal, May 27, 2011.

²⁹⁹ Letter to Human Rights Watch from Brian Hunter, Country Director, Save the Children Nepal & Bhutan, August 1, 2011.

³⁰⁰ Human Rights Watch telephone interview with Deergha Shrestha, Education Officer, Save the Children Nepal, May 27, 2011. Human Rights Watch telephone interview with Arun Tiwari, Deputy Director, Department of Education, and Chief of the

review of the national curriculum. The Nepalese government, together with international donors and NGOs, has an important opportunity to influence these processes and implement the government's obligations to ensure inclusive education for all children, including those with disabilities.

Inclusive Education Section, Ministry of Education, June 7, 2011. Human Rights Watch telephone interview with Laxmiram Paudel, Director, National Center for Education Development, July 8, 2011.

V. Providing Inclusive Education with Limited Resources

Be it education or health, each right does have its minimum core that the government must do. Regarding the right to education, every child with a disability should have access.

- Dip Magar, Human Rights Officer, Office of the United Nations High Commissioner for Human Rights in Nepal³⁰¹

Resource constraints are the most widely cited excuses for not promoting inclusive practice, even in the most well-resourced educational settings.³⁰² However, according to UNESCO, it costs governments less to educate all students together under an inclusive education approach, than to manage a system of separate schools for different children.³⁰³

The perception that a lack of resources prevents schools from adopting inclusive education stems from the treatment of inclusion as an add-on program, and thus a luxury in contexts where there is no funding for extra initiatives.³⁰⁴ According to a study by the World Bank, however, making buildings accessible represents less than 1% of total construction costs.³⁰⁵ According to Diane Richler, past President of Inclusion International, “governments need to take interim steps. It’s important to start toward an inclusive education system, and not wait for the system as a whole to transform.”³⁰⁶

Governments and donors also argue that barriers caused by lack of funding—such as large class sizes—make inclusive education impossible, particularly for children with disabilities, who are perceived as needing expensive equipment and one-on-one support.³⁰⁷ However, where attitudes are positive and welcoming, children with disabilities

³⁰¹ Human Rights Watch interview with Dip Magar, Human Rights Officer, Office of the UN High Commission for Human Rights – Nepal, Kathmandu, April 8, 2011.

³⁰² Susie Miles, “Overcoming Resource Barriers: The challenge of implementing inclusive education in rural areas,” 2000, http://www.eenet.org.uk/resources/docs/bonn_1.php (accessed June 1, 2011).
<http://unesdoc.unesco.org/images/0012/001252/125237e0.pdf>

³⁰³ UNESCO, “Policy Guidelines on Inclusion in Education,” 2009, www.unesdoc.unesco.org/images/0017/001778/177849e.pdf (accessed August 3, 2011), p. 9.

³⁰⁴ Results Education UK, “Department for International Development, Disability and Education: Bridging the Implementation Gap,” January 2010, <http://results.org.uk/sites/default/files/DFID,%20disability%20and%20education%202010.pdf> (accessed August 5, 2011), p. 10

³⁰⁵ World Bank, “Education for All: The Cost of Accessibility,” August 2005, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2007/03/01/000310607_20070301144941/Rendered/PDF/388640EdNotes1August2005CostOfAccess12.pdf (accessed July 29, 2011).

³⁰⁶ Human Rights Watch interview with Diane Richler, Past President of Inclusion International, New York, May 10, 2011.

³⁰⁷ Save the Children, “Making Schools Inclusive: How Change Can Happen,” 2008, <http://www.savethechildren.org.uk/en/docs/making-schools-inclusive.pdf> (accessed March 10, 2011), p. 14.

can be successfully integrated and supported by school administrators and teachers, even in large classes.³⁰⁸

An inclusive approach requires focused and strategic investment of existing resources to enable teachers to understand and respond to the needs of all the children in their classroom. For example, UNESCO noted that “the financial resources aimed at the students who repeat could be better spent on improving the quality of education for all, especially if we consider the low impact of repetition on the level of students’ outcomes and its negative effect on students’ self-esteem. Such investment would include teachers’ training, supply of material, ICTs [information and communication technologies] and the provision of additional support for students who experience difficulties in the education process.”³⁰⁹

Inclusive education does not have to be costly or involve extensive infrastructural change. Some countries have developed cost-effective measures to promote inclusive quality education with limited resources such as “multi-grade, multi-age and multi-ability classrooms, initial literacy in mother tongues, training-of-trainer models for professional development, linking students in pre-service teacher training with schools, peer teaching and converting special schools into resource centres that provide expertise and support to clusters of regular schools.”³¹⁰

Modifications to the material set-up of schools are sufficient or in some cases, it can be as simple as allocating classrooms on the ground floor to accommodate the needs of some students. Parents can and should play a critical role in developing community-based education for their children. For example, parent networks can serve as mutual support groups and parents can be trained in skills to work with their own children. Parents can also act as advocates in their dealings with schools and authorities.³¹¹

In any setting, school officials, teachers and parents can become more aware of the different needs of learners, and act on this to enable all children to learn more effectively.³¹²

³⁰⁸ Save the Children, “Making Schools Inclusive: How Change Can Happen,” 2008, <http://www.savethechildren.org/en/docs/making-schools-inclusive.pdf> (accessed March 10, 2011), p. 14.

³⁰⁹ UNESCO, Policy Guidelines on Inclusion in Education, 2009 <http://unesdoc.unesco.org/images/0017/001778/177849e.pdf> (accessed August 3, 2011), p. 11.

³¹⁰ Ibid.

³¹¹ UNESCO, “Open File on Inclusive Education: Support Materials for Managers and Administrators,” <http://unesdoc.unesco.org/images/0012/001252/125237eo.pdf> (accessed June 1, 2011), p. 38.

³¹² Save the Children, “Making Schools Inclusive: How Change Can Happen,” 2008, <http://www.savethechildren.org/en/docs/making-schools-inclusive.pdf> (accessed March 10, 2011), p. 14.

Models of Inclusive Education in Nepal

A project funded by the Danish government in the southern part of Nepal (Banke district) demonstrates that inclusive education can be achieved with limited resources. The teachers adopted different teaching methods, including working in groups so students at different skill levels could assist and encourage each other. The schools also benefited from international technical assistance, which monitored and followed up on progress and constraints. As a result of these efforts, children with sensory and intellectual disabilities were integrated with the rest of the class, and teachers reported that inclusive teaching methods improved discipline and the general working atmosphere.³¹³

A comprehensive approach that includes community-based rehabilitation is essential for the full implementation of the right to education. For example, the Resource Center for Rehabilitation and Development, which is part of the Community-Based Rehabilitation Organization, runs a day care center for children with intellectual, developmental and multiple disabilities in Bhaktapur district, just outside of Kathmandu. The organization provides rehabilitation services, including assistive devices, and trains teachers and administrators of mainstream schools on basic techniques to make classrooms inclusive. They have used a range of strategies to create awareness among teachers, parents and students about the need to bring children with disabilities into mainstream schools, including through meetings and child-to-child interactions in class and on the playground.³¹⁴ They have helped over 30 students with mild to moderate intellectual disabilities integrate into general schools.³¹⁵

³¹³ Ministry of Foreign Affairs of Denmark, “DANIDA Assessment: 4 Pilot Processes Reviewed,” 2004, <http://www.um.dk/Publikationer/Danida/English/Evaluations/EvaluationNepal2004/annex4.asp>, (accessed May 26, 2011).

³¹⁴ UNICEF, “Inclusive Nepal,” <http://www.unicef.org/rosa/InclusiveNep.pdf> (accessed March 6, 2011), p. 26.

³¹⁵ Human Rights Watch telephone interview with Suryabhakta Prajapathi, Director, Resource Center for Rehabilitation and Development, June 3, 2011.

VI. Detailed Recommendations

Office of the Prime Minister

- Establish a Disability Commission within the government to advise on policy and program development and serve as a redress mechanism when rights are violated.
- Appoint a focal point within each relevant Ministry to improve coordination and information-sharing, to develop plans of action and implement the Convention on the Rights of Persons with Disabilities.
- Establish new or strengthen existing channels for people with disabilities to lodge complaints on laws that are not implemented or enforced.
- Increase public expenditure to implement and support inclusive education practices in the National Planning Commission's upcoming Three Year Interim Plan.

Ministry of Education

- Work with the National Center for Educational Development to:
 - Revise the teacher training materials to reflect inclusive education methods and adequate information on children with disabilities.
 - Train all teachers, school administrators, caregivers and community development workers on inclusive education methods, including basic sign language and how teachers should avoid and address bullying, teasing or other discriminatory and degrading treatment of children with disabilities. Provide training in counseling for teachers and community development workers in each district to enable them to support children with diverse disabilities and their families. Provide training on how to address bullying or teasing by other children in the classroom and rest of the school.
- Train and support parents of children with disabilities, including through regular parents' meetings to exchange information and provide peer support.
- Develop and implement a longer-term inclusive education plan that clarifies the concept of inclusive education in line with the CRPD and outlines steps to integrate children with disabilities, particularly intellectual, developmental or psychosocial disabilities, into mainstream schools.
- Develop or strengthen early identification and intervention programs consistent with the inclusive education approach and take steps to ensure access to children with disabilities to early childhood development programs.
- Develop guidelines and standards on inclusive classrooms for teachers and school administrators and develop procedures to ensure that they are met.

- Work with the Curriculum Development Centre to:
 - Develop an appropriate curriculum and assessment system for children with intellectual or developmental disabilities.
 - Develop the curriculum for children learning in sign language and Braille.
- Collect data on the enrolment, drop out, and the pass rates of children with disabilities in the Education Management Information System and disaggregate data by type of disability and gender.
- Strengthen and regulate monitoring of schools, including special schools and resource classes, by district education officers and assessment center coordinators to ensure that the inclusive education approach is implemented.
- Involve children with disabilities and their parents or family members in consultations and decision-making and monitoring processes. Develop strategies to increase community and family participation in school management committees and district assessment centers.
- Allocate adequate funding for inclusive education, including targeted funding for children with disabilities, in budgets and requests for development assistance.
- Implement the Supreme Court decision on the right to education for people with hearing impairments and the directive order on free education for children with disabilities.
- Improve the transcription, production and distribution of Braille and large print textbooks, including by using information and communication technologies.
- Provide residential facilities for children with disabilities in hilly/mountain areas to enable them to attend school.
- Encourage persons with disabilities and other qualified individuals to apply for positions in the education field and make necessary reasonable accommodations for them.
- Ensure that schools do not request fees from children with disabilities for admission, exams, books or uniforms.

Ministry of Women, Children and Social Welfare

- Comprehensively review all domestic legislation, propose amendments to fully comply with the CRPD, and implement compliance and enforcement mechanisms.
- Revise the National Policy and Plan of Action on Disability in line with the CRPD, together with DPOs and other stakeholders. Together with other relevant ministries, adopt a reasonable accommodation policy in line with the CRPD.
- Improve data collection on children with disabilities, and disaggregate data by type of disability and gender.

- Carry out a situation analysis to map out where children with disabilities are, how they access schools and how they learn, among other issues.
- Together with the Ministry of Education, carry out awareness-raising campaigns on the right to education, non-discrimination, and other rights of persons with disabilities, targeting the public at large, teachers, school administrators and parents.
- Adopt national accessibility standards and ensure compliance in schools.
- Issue disability identity cards to children with disabilities at the district administration office and work with the Ministry of Health to make doctors' services available for assessment at the district office.
- Re-assess and increase the monthly allowances given to children with disabilities.

Ministry of Health

- Make health services, including mental health, available to children with disabilities in or near their communities, in compliance with the CRPD.
- Together with the Ministry of Education, establish links between early intervention services, pre-schools and schools to facilitate the smooth transition of the child.
- Incorporate information on how to respect the rights and dignity of persons with disabilities, including children, into existing trainings of healthcare workers and other medical professionals.
- Partner with disabled persons' organizations in planning meetings to ensure that the perspectives of persons with disabilities, particularly children with disabilities, are included in all aspects of health programs.
- Ensure that there are functioning, accessible grievance mechanisms to report barriers to health care and mistreatment by health facility staff.

Constituent Assembly

- Explicitly include disability as prohibited grounds for discrimination committed by public and private actors, in constitutional provisions on non-discrimination and in specific anti-discrimination laws or legal provisions.

Members of Parliament

- Comprehensively review all domestic legislation and make amendments to fully comply with the CRPD, including revision of the definition of disability in the Disabled Welfare and Protection Act of Nepal 2039 (1982).
- Provide for effective remedies in case of violations of the rights of children with disabilities, and ensure that those remedies are easily accessible to children with disabilities and their parents and/or caregivers.

- Remove derogatory language used to refer to persons with disabilities in laws and policy frameworks.
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
- Consult persons with disabilities and represent their views.
- Establish a parliamentary committee to oversee issues related to people with disabilities and other marginalized groups.

National Human Rights Commission

- Establish a disability desk or appoint a focal point within the commission.
- Ensure the accessibility of children with disabilities and their parents to the premises of the commission for the purpose of lodging complaints or seeking any other support.
- Proactively investigate violations of the rights of children with disabilities and monitor government implementation of recommendations.
- Raise awareness of human rights violations of persons with disabilities, with a focus on children with disabilities.

Multilateral and Bilateral Donors, UN agencies and International NGOs

- Integrate children with disabilities into existing and future programs and policies, especially teacher training.
- Strengthen the capacity of the Nepalese government to implement an inclusive education approach through the development of stronger planning, implementation and monitoring and evaluation processes and by encouraging greater collaboration among relevant ministries.
- More closely monitor the implementation of inclusive education by encouraging the government to collect and disaggregate data, including on the enrolment rate, repetition rate, and the pass rate of children with disabilities.
- Ensure sufficient financing for inclusive education. Consider funding the government, disabled peoples organizations and NGOs for programs to support children with disabilities and realize their rights, particularly the right to education.
- Strengthen data collection on children with disabilities, including in birth registration.
- Support the Ministry of Education in developing clarity over the concept of inclusive education by developing, distributing and raising awareness of appropriate and easy-to-use inclusive education materials and encouraging public discussion.
- Ensure that donor agency staff has the capacity to support the Ministry of Education to achieve EFA goals.

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Futures Stolen

Barriers to Education for Children with Disabilities in Nepal

Children with disabilities are entitled to attend school like all other children. Yet, tens of thousands of children with disabilities in Nepal are either deprived of this right or relegated to inferior, segregated education. The government of Nepal promotes an inclusive education system, whereby children with and without disabilities attend school together in their communities. However, in practice, Nepal has a system of separate schools for deaf, blind, and children with physical and intellectual disabilities and segregated classes for children with disabilities in mainstream schools. While international donors have contributed significantly towards the improvement of education in Nepal over the past decade, Nepal and its international partners should do more to ensure that children with disabilities are attending school and that the education system is accessible, appropriate, and of good quality for children with disabilities, particularly those with intellectual and developmental disabilities.

In *Futures Stolen: Barriers to Education for Children with Disabilities in Nepal* Human Rights Watch examines the barriers that children with disabilities in Nepal face in attending school and obtaining quality education. These children were often denied admission or had to leave school prematurely because of inaccessible schools, inadequately trained teachers, or lack of awareness among parents. Some parents of children with disabilities who were unable to find schools or support to educate their children claimed that they had no choice but to lock their children in a room or tie them to a post while they went to work or completed daily chores.

Nepal has ratified the United Nations Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child and is obligated to ensure that children with disabilities can attend school with their peers. Domestic laws and policies further promote the right to an inclusive education for all children in Nepal.

Human Rights Watch calls on the government of Nepal, with the support of donors, to make schools inclusive and accessible and to honor its obligations to protect the right of all children with disabilities to receive a quality education without discrimination.

A resource class for children with intellectual disabilities at Mahendranagar Secondary School in the far western region of Nepal. The number of students in this class varies from 2 to 15. Human Rights Watch research found that children with disabilities have lower attendance and higher drop out rates than other children due to inadequately trained teachers, lack of appropriate teaching materials, lack of awareness of the right to education among parents and negative parental attitudes about the learning capabilities of their children, among other factors.

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