



# Legal Country Mapping

For the Rights to Safe Drinking Water and Sanitation and  
the link with the Right to a Healthy Environment

Nepal

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2 Water

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## INTRODUCTION

This analysis follows the mapping methodology used by Human Right 2 Water to assess the integration of the human right to water and sanitation (HRWS) into law and policy at the national level. It has been adapted and extended to give weight to the human right to a clean, safe<sup>1</sup>, healthy, and sustainable environment (HRHE), with the aim of assessing the advantages of recognising both these sets of human rights.

It draws upon the criteria and principles that were originally laid out in General Comment No.15<sup>2</sup> for the human right to water and sanitation, with further elaboration of the right to sanitation after it was recognised as a separate human right in 2015. Alongside this and noting that the HRHE was also recognised as a human right by the General Assembly in July 2022<sup>3</sup>, we have compared the main principles of the HRHE as related to water. For this analysis, we draw upon the Framework Principles from the paper published by the Special Rapporteur on Human Rights and the Environment from 2018<sup>4</sup>, Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment<sup>5</sup>, and the paper titled 'Human Rights Depend on Safe and Sufficient Water', 2021<sup>6</sup>.

In addition to the principles of a human rights-based approach<sup>7</sup>, there are the normative criteria of the human right to water and sanitation which are specific to the realisation of these rights. The substantive elements of the HRHE, as referenced in the Good Practices<sup>8</sup> paper mentioned above, are also considered here, where they are linked to water, specifically element 4 on the access to safe water and adequate sanitation. Given the significant advances in the design and measurement of national indicators for the supply of clean and safe drinking water and sanitation through the Joint Monitoring Programme<sup>9</sup>, General Comment No.15 has been augmented, especially on the topic of sanitation, which was recognised as a separate right in 2015. For the purpose of this analysis, the criteria have been maintained as the five elements of the human right to water and sanitation, and there are additional questions relating to specific environmental aspects that support these rights.

For reference, Annex 2 collates the two sets of human rights principles, and compares how they relate under each category.

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<sup>1</sup> Note that the word 'safe' has been included in several places, including the title of the Special Rapporteur, and the framework principles, but not in the latest UNGA resolution.

<sup>2</sup> General Comment No. 15 on the Right to Water, was adopted in November 2002, by the Committee on Economic, Social and Cultural Rights and then explicitly recognized on 28 July 2010, through [Resolution 64/292](#), the United Nations General Assembly

<sup>3</sup> The human right to a clean, healthy and sustainable environment, July 2022 (A/76/L.75)

<sup>4</sup> Framework Principles from the paper published by the Special Rapporteur to the Healthy Environment from 2018, ARC/37/59

<sup>5</sup> Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

<sup>6</sup> 'Human Rights Depend on Safe and Sufficient Water', 2021, HRC/26/48

<sup>7</sup> The elements of the HRBA are Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality.

<sup>8</sup> Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

<sup>9</sup> JMP, WHO and UNICEF data found at [www.washtdata.org](http://www.washtdata.org)

## Overview of national water governance for NEPAL

### General Legislation

	Supreme Law	<b>Constitution</b>
1.A.1	State Organization	<b>Federal, Democratic</b>
1.A.2	Relationship between International and National Law	<b>Partly monist &amp; dualist</b>
1.A.3	Name of Institution possessing regulation-making authority	<b>Federal Parliament</b>
1.A.5	Popular consultation as part of governing/legislative process	<b>Yes</b>
1.A.8	Member of a regional integration organization	<b>Yes</b>
5.C.1	Independent National Human Rights Institution (NHRI)	<b>Yes</b>

### Water Governance

3.A.1	Right to Water mentioned in Constitution	<b>Yes</b>
3.A.2	Right to Sanitation mentioned in Constitution	<b>Yes</b>
3.A.3	Right to a clean and healthy Environment in Constitution	<b>Yes</b>
3.A.4	A water code or a law specific to water resources	<b>Yes</b>
3.A.5	National Strategy, Policy, Action Plan etc. on Water and Sanitation	<b>Yes</b>
1.A.8	International institution for Transboundary Water Resources	<b>Yes</b>
3.C.7	Priorities in the allocation of water for different uses?	<b>Yes</b>

### Benchmark Scores<sup>10</sup>

Section	Elements included in law	Score
4.A	Availability and Accessibility	
4.B	Quality and Safety	
4.C	Water Pollution Control	
4.D	Affordability	
4.E	Acceptability	
4.F	Non-Discrimination, Equality, Universal Access	
4.G	Right to Information, transparency	
4.H	Public Participation	
4.I	Accountability, remedies and complaints procedures	
4.J	Sustainability	
	<b>TOTAL</b>	

#### KEY

	Mostly included
	More than half
	Partially included
	Few references

<sup>10</sup> Score up to 10 allowed for each element, with a score of 10 suggesting that all relevant laws are fully included, zero suggests there are no laws to fit this criterion, and scores on a scale of 1-10 represent the degree of inclusion of pertinent laws (double click to activate excel sheet for calculation).



## CHAPTER 1. WATER GOVERNANCE OVERVIEW

### A- Preliminary questions:

#### 1. **What type of State is the country? (e.g. Federal, Unitary, etc)**

[Nepal is a Federal Democratic Republican State (Constitution of the Kingdom of Nepal, 2015 (“**Constitution**”), Art. 4). The main structure of the Federal Democratic Republic of Nepal shall be of three levels, namely the Federation, the Province and the Local Level (Constitution, Art. 56). ]

#### 2. **Is there any division of government powers? If yes, please elaborate on their functions.**

[Yes:

**Concurrent Powers of Federation, Province and Local Level:** Water Supply, Water Uses (Constitution, Schedule 9, No. 5 and 7)

**Concurrent Powers of Federation and State:** Water Supply, Provincial boundary river, waterways, environment protection, Utilization of waters stretching in inter-provincial form (Constitution, Schedule 7, No. 13, 18 and 23)

**Federal Powers:** Policies relating to conservation and multiple uses of water resources (Constitution, Schedule 5, No. 11)

**Provincial Powers:** Province level water supply services, use of forests and waters and management of environment within the Province (Constitution, Schedule 6, No. 7 and 19)

**Local Level Powers:** Basic health and sanitation, Water supply, small hydropower projects, alternative energy, conservation of watersheds (Constitution, Schedule 8, No. 7 and 19) ]

#### 3. **Which institutions and levels of government have legislative powers?**

[Federal Parliament, Provincial Assembly and Local Level (Constitution, Art. 109, 197 and 221). A federal law may be made to be applicable to the whole of or any part of Nepal and a provincial law may be made to be applicable to the whole of or any of the Province (Constitution, Art. 231). ]

#### 4. **Who has the power to ratify treaties?**

[The Federation shall have the power to conclude treaties and agreements, however

in concluding a treaty or agreement on a matter falling within the list of powers of Province, the Government of Nepal shall be required to consult the concerned Province (Constitution, Art. 278). The ratification of, accession to, acceptance or approval of, treaties or agreements to which Nepal or the Government of Nepal is to become a party shall be as provided for in the federal law (Constitution, Art. 279). ]

#### 5. **Is there popular consultation as part of governing/legislative process?**

[During the pre-legislative phase, the opinion of ministries should be sought if the legislative matter falls within the jurisdiction of other ministries.

As for public consultation, there is a provision in the Rules of the House of Representatives 2018 and the Rules of the National Assembly 2018 that public opinion should be taken on bills during the formation of the law. This provision is however only superficially followed – currently the task of informing citizens about the pre-legislative and legislative stages of law making (and taking suggestions from them) is weak, as is post-legislative scrutiny. ]

#### 6. **Has the country established one or several basin management agencies? Is it autonomous?**

[The Water and Energy Commission Secretariat (WECS) was created in 1975 to develop water and energy resources in an integrated and accelerated manner. It assists the Government of Nepal with formulating policies and planning projects in the water resources and energy sectors.

The National Water Plan (2005) was the first step in putting into practice the strategy for water resources management – this Plan adopted the key elements of using a river basin management approach and acknowledged that an institutional framework needs to be put in place, i.e., the provision of defined institutional roles to central- and local-level government institutions in relation to river basin management. The Plan also envisages that

river basin management will be established at the basin level and there will be three basin-level offices (Koshi, Narayani and Karnali). The Koshi River Basin Management Program managed by WECS is currently in progress under the framework of the Koshi River Basin Management Strategy. Similarly, WECS has initiated the establishment of River Basin Organizations (RBOs) in Babai and West Rapti Rivers under the World Bank-funded Irrigation and Water Management Project. ]

**7. Does the country have transboundary water resources?**

[Yes. These include rivers shared with India and China such as the Ghaghara (Karnali) and the Gandaki as well as rivers shared solely with India such as the Kosi (Koshi), the West Rapti, the Bagmati, the Sharda and the Kamala. ]

**8. Where transboundary water resources exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?**

[ Yes. The International Centre for Integrated Mountain Development (ICIMOD) is a regional intergovernmental learning and knowledge sharing centre serving the eight regional member countries of the Hindu Kush Himalaya: Afghanistan, Bangladesh, Bhutan, China, India, Myanmar, Nepal, and Pakistan, and is based in Kathmandu, Nepal. The ICIMOD focuses on several regional programs including river basin management e.g. for the Koshi and Indus River basins. The Regional Programme on river basins focuses on multidisciplinary resource management approaches that address climate change and variability; cryosphere dynamics; the hydrological regime and water availability; water-related risk management; mountain community water management; and vulnerability and adaptation.

Projects include the establishment of Community Based Flood Early Systems (CBFES) together with the Department of Hydrology and Meteorology (Ministry of Water Resources and Energy). ]

B- The country is member of a regional integration organisation?

**1. Which countries form part of this organisation?**

[Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka form part of the South Asian Association for Regional Cooperation (SAARC). ]

**2. Are the decisions of the organisation legally binding for the members?**

[ No. The decisions are not binding. However, it fosters cooperation within the framework of the Association in a plethora of spheres of human activity such as health, environment or climate change. ]

**3. What is the mandate of the organisation?**

[According to Art. 1 of the Charter of the SAARC, the objectives of the Association are:

- a. to promote the welfare of the peoples of SOUTH ASIA and to improve their quality of life;
- b. to accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realise their full potentials;
- c. to promote and strengthen collective self-reliance among the countries of SOUTH ASIA;
- d. to contribute to mutual trust, understanding and appreciation of one another's problems;
- e. to promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields;
- f. to strengthen cooperation with other developing countries;
- g. to strengthen cooperation among themselves in international forums on matters of common interests; and
- h. to cooperate with international and regional organisations with similar aims and purposes.]

**4. Does the regional organisation have the authority to regulate or make decisions which affect water, sanitation and a healthy environment? Are there any mechanisms for enforcement?**

[Water and Sanitation are not mentioned

specifically in the areas of cooperation between SAARC-States. However, they are implicit. Health and Environment are considered areas of cooperation which affects water and sanitation.

The SAARC promotes cooperation in the area of 'Health and Population Activities' (as part of the wider 'Social Affairs' focus category) and previous meetings of the SAARC Health Ministers have in this area referred to addressing the challenges of safe drinking water and sanitation.

For example, the SAARC Plan of Action on Poverty Alleviation, which has been developed and implemented, included an internal policy of expanding social safety nets through provision of safe drinking water and sanitation.

An ongoing project of the SAARC Development Fund (which serves as the umbrella financial institution for SAARC projects / programs that are in fulfilment of the objectives of the SAARC Charter) is 'Strengthening of Water, Sanitation and Hygiene (WASH) services in selected areas of SAARC Countries'.

#### C- Water governance and administration:

##### 1. What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?

###### a. At national/federal level?

[**Concurrent Powers of Federation, Province and Local Level:** Water Supply, Water Uses (Constitution, Schedule 9, No. 5 and 7)

**Concurrent Powers of Federation and State:** Water Supply, Provincial boundary river, waterways, environment protection, Utilization of waters stretching in inter-provincial form (Constitution, Schedule 7, No. 13, 18 and 23)

**Federal Powers:** Policies relating to conservation and multiple uses of water resources (Constitution, Schedule 5, No. 11) ]

###### b. At the intermediate level (state, river basin, other) [ **Provincial Powers:**

Province level water supply services, use of forests and waters and management of environment within the province (Constitution, Schedule 6, No. 7 and 19) ]

###### c. At the local level? [ **Local Level Powers:**

Basic health and sanitation, Water supply, small hydropower projects, alternative energy, conservation of watersheds (Constitution, Schedule 8, No. 7 and 19) ]

##### 2. Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation and a healthy environment?

[**National Planning Commission (NPC):** The NPC is responsible for national planning and coordination of all sectors, including water.

##### **National Water Resources Development Council (NWRDC):**

The NWRDC has the highest authority for decision making on water related issues. Members of political parties, senior government officers and non-government officers are all represented in the NWRDC.

##### **Water and Energy Commission (WECS):**

The WECS is a central level government organization under the Ministry of Energy – it works on sustainable development and management of the Water Resources and Energy sector in Nepal.

##### **Ministry of Water Supply and Sanitation (MoWSS):**

MoWSS is the sector ministry responsible for the formulation of WaSH policies and plans as well as planning, implementation, regulation, monitoring and evaluation of programmes.

##### **Department of Water Supply and Sewerage (DWSS):**

Under MoWSS, DWSS is the lead agency in the sector exclusively dedicated to planning and implementation of both rural and urban WaSH projects. With offices at the centre, 5 regions, and Divisional/Sub-

divisional offices throughout 75 Districts, DWSS has strength of around 1700 staff who have proven expertise in technical, social, finance, administration and management of WASH services. It is implementing several rural & urban WASH projects throughout Nepal. It is responsible for the projects with population above 1000.

**Ministry of Urban Development (MoUD):** MoUD is responsible for integrated urban planning and development in Municipalities.

**Department of Urban Development & Building Construction (DUDBC):** Under MoUD, DUDBC implemented ADB-financed Secondary Towns Integrated Urban Environmental Improvement Project (STIUEIP) and Integrated Urban Development Project (IUDP) in which water supply, sewerage and drainage were key components. But DUDBC has not a single Water Supply or Environmental Engineering professional to look after projects.

**Ministry of Federal Affairs and Local Development (MoFALD):** MoFALD is responsible for local governance and development as per Local Self-governance Act, 1999. MoFALD is another key Ministry planning and implementing rural WASH projects with population below 1000.

**Department of Local Infrastructure Development and Agriculture Roads (DoLIDAR):** DoLIDAR is the main implementing agency through District Technical Office (DTO) at the local level. DoLIDAR was engaged in the implementation of two Finnish grant-funded programmes, the Rural Water Supply and Sanitation Programme-Western Nepal (RWSSP-WN II) and Rural Village Water Resources Management Programme-III (RVWRMP-III), which are both now complete. While RWSSP-WN II was completely a WASH sector initiative, RVWRMP-III was a multi-sector programme with WaSH as a key component.

**Ministry of Health:** Its main role on WASH is to promote health and hygiene through water quality surveillance and emergency response. As an agency responsible for water quality surveillance, the Ministry has formulated water surveillance guidelines for use at the local levels.

**Ministry of Education:** The key role of Ministry of Education is to promote WASH in Schools (WinS). The concept of child-friendly schools (2010) introduced by the Ministry highlights child friendly standards on WASH services and hand washing practices which is being further strengthened through WASH in Schools (WinS) Programme.

**Ministry of Population and Environment:** Areas such as Environmental impact assessment and wastewater quality (discharge) standards are looked after through this Ministry. ]

3. **Which national government agency is responsible for the environment? What are its responsibilities with respect to water?**

[Ministry of Forests and Environment is responsible for the conservation of forests and managing the environment in the country. ]

4. **Which national government agency is responsible for drinking water? What are its responsibilities?**

[Ministry of Water Supply is the lead ministry for Water, Sanitation and Hygiene (WASH) and is responsible for providing effective, sustainable and quality water and sanitation in Nepal.

In 2016, the Ministry published the 'Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (2016 – 2030)', which is aligned with working to achieve the UN Sustainable Development Goals. ]

5. **Which national government agency is responsible for sanitation? What are its responsibilities?**

[Ministry of Water Supply is responsible for providing effective, sustainable and quality water and sanitation in Nepal.



The Department of Water Supply and Sewerage Management sits under the Ministry of Water Supply and has responsibility for planning, implementation,

operation, repair and maintenance of water supply and sanitation systems throughout Nepal.]

## CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

1. **What international or regional treaties has the country ratified? Please insert the date of the signature/ratification/accession.**
2. **What declaration or reservation has the country entered to these instruments?**

### A. Regional Multilateral/Bilateral Treaties

*Table 1. Regional multilateral and bilateral treaties*

<b>Instrument</b>	<b>Participating States</b>	<b>Entry into force</b>
Charter of the South Asian Association for Regional Cooperation	SAARC-States <sup>11</sup>	08.12.1985
SAARC Convention on regional arrangements for the promotion of Child Welfare in South Asia	SAARC-States	05.01.2002
SAARC Plan of Action on Poverty Alleviation	SAARC-States	06.01.2004
Charter of the SAARC Development Fund (SDF)	SAARC-States	03.08.2008
SAARC Convention on Cooperation on Environment	SAARC-States	29.04.2010
SAARC Agreement on Rapid Response to Natural Disasters	SAARC-States	26.05.2011

<sup>11</sup> Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

## B. International Treaties

Table 2. International binding instruments

Instrument	Signature	Ratification by Nepal
International Covenant on Civil and Political Rights (1966)	N/A	Acceded: 14.05.1991
Optional Protocol to the International Covenant on Civil and Political Rights (1966)	N/A	Acceded: 14.05.1991
International Covenant on Economic, Social and Cultural Rights (1966)	N/A	Acceded: 14.05.1991
Optional protocol to the International Covenant on Economic, Social and Cultural Rights (2008)	-	-
Convention on the Elimination of All Forms of Discrimination against Women (1979)	05.02.1991	22.04.1991
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)	N/A	15.06.2007
Convention on the Rights of the Child (1989)	26.01.1989	14.09.1990
The Convention on the Rights of Persons with Disabilities (2006)	03.01.2008	07.05.2010
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)	N/A	07.05.2010
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	N/A	Acceded: 14.05.1991
Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998)	-	-
Geneva Convention (III) relative to the Treatment of Prisoners of War (1949)	N/A	07.02.1964
Geneva Convention (IV) relative to the protection of Civilian Persons in Time of War (1949)	N/A	07.02.1964
Protocol Additional (I) to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977)	-	-
Protocol Additional (II) to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (1977)	-	-
Convention on the Law of the Non-Navigational Uses of International Watercourses (1997)	-	-
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	N/A	Acceded: 30.01.1971

## C. Regional

*Table 3. Regional instruments*

<b>Instrument</b>	<b>Parties</b>	<b>Date of Instrument</b>
Treaty Between His Majesty's Government of Nepal and The Government of India Concerning the Integrated Development of the Mahakali River including Sarada Barrage, Tanakpur Barrage and Pancheshwar Project	India, Nepal	12.02.1996
Agreement Between His Majesty's Government of Nepal and the Government of India on the Gandak Irrigation & Power Project	India, Nepal	04.12.1959
Agreement Between the Government of India and the Government of Nepal on the Kosi Project	India, Nepal	25.04.1954



## CHAPTER 3: DOMESTIC LEGISLATION ON WATER

### A. Water law

#### 1. Is the right to water mentioned in the Constitution?

[Yes. In 2015 Nepal joined the exclusive list of countries who have explicitly recognized the right to water in their national constitution. Art. 35(4): “Every citizen shall have the right of access to clean drinking water and sanitation”. ]

#### 2. Is the right to sanitation mentioned in the Constitution?

[Yes. Art. 35(4): “Every citizen shall have the right of access to clean drinking water and sanitation”. ]

#### 3. Does the Constitution otherwise reference water and sanitation?

[Yes. The Constitution further states that services such as water supply belong to the Concurrent powers of Federation, State and Local Level. Moreover, the Constitution affirms rights which have been connected to HRWS, such as the right to food (Art. 36), the right to housing (Art. 37) and the right to a clean environment (Art. 30). ]

#### 4. Is there a water code or a law specific to water resources? Please specify.

[Yes. The following laws specifically mention water resources:

- Water Tax Act, 1966
- Nepal Water Supply Corporation Act, 1989
- Water Resources Act, 1992
- Local Self Governance Act, 1999
- Water Tariff Fixation Commission Act, 2006
- Water Supply Management Board Act, 2006
- Solid Waste Management Act, 2011
- Environment Protection Act, 2019 ]

#### 5. Is there national strategy / policy, action plan or similar document on water? Does it include the management of wastewater and sanitation?

[Plans:

- National Water Plan, 2005
- Nepal’s Sanitation and Hygiene Master Plan, 2011

- Nepal Water Supply, Sanitation and Hygiene Sector Development Plan, 2016

#### Policies / Strategies:

- National Water Resource Strategy, 2002
- Rural Water Supply and Sanitation National Policy and Strategy, 2004
- National Urban Water Supply and Sanitation Sector Policy, 2009
- Nepal’s Energy Sector Vision 2050, 2013
- National Water Supply and Sanitation Sector Policy, 2014
- National Climate Change Policy, 2019 ]

#### 6. Are there any other major regulations, decrees, orders, circulars, or similar official documents (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation?

#### [Regulation (Rules):

- Water Resource Regulation, 1993
- Drinking Water Regulation, 1998
- Kathmandu Valley Water Supply Management Board Rules, 2007
- Environment Protection Rules, 2020

#### Formation Orders:

- Rural Water Supply Sanitation Fund Development Board (Formation Order 1995)
- Melamchi WS Development Board (Formation Order, 1998)
- High Powered Committee for Integrated Development of the Bagmati Civilization (Formation Order, 1998)

#### Standard, Directives, Guidelines:

- National Drinking Water Quality Standards and Implementation Directives, 2005 ]

### B. Environmental law

#### 1. Is the right to a healthy environment mentioned in the Constitution?

[Yes. The Constitution provides that every citizen shall have the right to live in a clean and healthy environment (Art. 30). ]

2. **Does the Constitution otherwise reference a safe, clean and healthy environment?**

[The Constitution provides that the State will pursue a policy to “conserve, promote, and make sustainable use of, forests, wildlife, birds, vegetation and biodiversity, by mitigating possible risks to environment from industrial and physical development, while raising awareness of public-in-general about environment cleanliness” (Art. 51(g)(5)). ]

3. **Is there an environmental code or law that references water?**

[Yes – Environment Protection Rules, 2020. The Environment Protection Act 2019 does not refer to water.]

4. **Is there a national strategy, policy, action plan or similar document on the environment?**

[Nepal Environmental Policy and Action Plan, 1993

National Climate Change Policy, 2019 ]

5. **Are there any other major regulations, decrees, orders, circulation or similar documents related to the right to a healthy environment (such as resource consents, public domain occupation etc)?**

[Environment Protection Rules, 2020 ]

C. Extraction and/or use of water

1. **Does the legislation regulate the right to abstract water? (Surface, groundwater etc.)?**

[Yes – the Water Resources Act 1992 (WRA) covers “Water Resources”, which is defined in the Act as “the water that is available in Nepal in the form of surface water, underground water or in whatsoever form”.

Sec. 7 (8) (c) of the Water Supply Management Board Act enables the Kathmandu Valley Water Management Board to regulate, control or prohibit the extraction and use of water from groundwater resources within its geographical area, and as to give license, as prescribed, to extract or use such water.

However, it does not apply if it is mentioned otherwise in the prevailing law. ]

2. **Does the legislation distinguish between the extraction of drinking water and water for other uses?**

[Yes – Section 7 of the WRA sets out a priority order of the uses of water and ‘drinking water and domestic users’ is listed as being of highest priority. ]

3. **Is the right to use water connected to land ownership?**

[No – The ownership of the water resources available in Nepal shall be vested in Nepal (WRA, Section 3).

However, water resources confined to a land can be used by the owner of such land without a licence (WRA, Section 4(2)(e)). The person making use of water resources shall make its beneficial use without causing damage to others (Section 4(3)). ]

4. **Are permits/licenses required for water use (e.g. domestic, agricultural, industrial)?**

[Yes – No person shall be entitled to utilise the water resources without obtaining a licence, subject to certain exceptions:

- (a) For one’s own drinking and other domestic use on an individual or collective basis,
  - (b) For the irrigation of one’s own land on an individual or collective basis,
  - (c) For the purpose of running watermill or water-grinder as cottage industry,
  - (d) For the use of boat on personal basis for local transportation,
  - (e) For the use, as prescribed, of the water resources confined to a land by the owner of such land.
- (WRA, Section 4)]

5. **Can permits/licenses be suspended? Under what circumstances?**

[If the licensee performs any act contrary to the Water Resources Act 1992 or Rules made under such act, the prescribed officer may issue an order to the concerned licensee by prescribing necessary improvements to be

made on such activity within the specified period. If the licensee makes no improvement within the prescribed period, the prescribed officer may cancel the license of such person. (WRA, Section 21) ]

**6. Can water abstraction licenses be transferred? Is transferability subject to restrictions?**

[In case a licensee wishes to sell or otherwise transfer its license, it shall be required to obtain the approval from the prescribed officer or authority (WRA, Section 8(6)). ]

**7. Are there priorities in the allocation of water for different uses?**

[Yes – The WRA establishes in Section 4 and 7 that drinking water and water for domestic purposes should be given priority over other uses. Section 7 establishes a priority order which in general shall be followed while utilizing water resources: (1) drinking water and domestic users, (2) irrigation, (3) Agricultural uses such as animal husbandry and fisheries, (4) hydroelectricity, (5) cottage industry, industrial enterprises and mining

uses, (6) navigation, (7) recreational uses, and (8) other uses. ]

**8. Are there any regulations for monitoring the volume of water extracted from groundwater?**

[Licenses can be granted with a specified quantity of water resources allowed to be utilised (Water Resources Rules 1993, Schedule 6). ]

**9. Are there any restrictions for releasing contaminants/pesticides/fertilisers/farm animal effluent/industrial waste or other pollutants to rivers, lakes, seas, or groundwater?**

[The Government may prescribe the pollution tolerance limit for water resources, and no one shall pollute water resources by way of using or putting any litter, industrial wastes, poison, chemical or toxicant to the effect that the pollution tolerance limit of the water resources as prescribed by the Government is exceeded (WRA, Section 19(2)).

## CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6 TARGETS <sup>12</sup> including elements of the Human Right to a Healthy Environment

A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

1. **What laws or regulations ensure that a minimum essential level of water is available to all?**

[Our research did not find any answers in this regard.]

2. **What are the standards/policies on the amount of water to be made available?**

[Our research did not find any specific answer in this regard. However, one of the objectives of the National Urban Water Supply and Sanitation Sector Policy 2009 is to ensure the availability of basic safe, accessible and adequate water supply and sanitation services to all urban populations for an improved quality of life. Similarly, the objectives under the Rural Water Supply and Sanitation National Policy 2004 include providing safe, accessible and adequate water supply with sanitation facility to all Nepalese people on priority basis especially targeted to the backward people and ethnic groups.]

3. **In cases where water is not available on premises, what mechanisms are in place to ensure collection times do not exceed 30 minutes including wait times and queuing?**

[Our research did not find any answers in this regard.]

4. **Does the law ensure continuous supply of water for all? [ ] In instances where water availability is not continuous, what measures are implemented?**

[The strategies identified in the National Urban Water Supply and Sanitation Sector Policy 2009 include gradually improving the distribution system capacity to provide safe, reliable and continuous water supply under acceptable pressure.]

5. **How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed**

**rural areas?**

[See response 2 to Question 2 above, with respect to the Rural Water Supply and Sanitation Policy 2004. The theme objectives under the Nepal Water Supply, Sanitation and Hygiene Sector Plan (2016-2030) also includes increasing access to WASH services, which ensures reaching the unreached and ensures effective utilisation of available services and benefits. Further, the draft National Water Supply and Sanitation Policy 2014 seeks to ensure equal accessibility of water supply and sanitation services for all.

The strategies and policies listed in para 8.7 of the Climate Change Policy 2019 include increasing access to, and availability of, drinking water.]

6. **Does the law/policy prioritize water for domestic uses over other uses?**

[Yes. When utilizing water resources, the Water Resources Act establishes in sec. 7 that drinking water and water for domestic purposes should be given priority over other uses.]

7. **What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?**

[There are several laws that allow service disconnections. Section 6 of the Water Tax Act, 2023 (1966) states that if the taxpayer does not pay the tax and the additional fee payable within the timeline prescribed, the distribution of water shall be stopped from the tap registered in his or her name.

The Water Supply Management Board Act, 2063 (2006) states that “the Board or service provider, [...] may suspend or terminate the service of any user who defaults on payment

<sup>12</sup> See Table of the Targets and Indicators of SDG 6, page 9



of the tariff fixed pursuant to this Act or the prevailing laws or on payment of the tariff within the prescribed time” (sec. 26 (1)). However, if the user pays the terminated tariff and other fees as required the service shall be provided again (sec. 26(2)).

The Solid Waste Management Act 2068 (2011) states in sec. 40 (1) that “the Local Body may block any service or facility to any person who defaults to pay or disobeys to pay the prescribed service charges under this Act and, in addition to that the Local Body may block electricity and telephone services and house and land transaction by sell or otherwise in his/her name by writing to the concerned body. However, before writing as above, the concerned person shall be given information in writing.”

The Water Resources Act, 2049 (1992) also states in sec. 14 that services may be stopped to such a person who is in default of payment of the charge for the utilization of services or utilizes the services unauthoritatively or misuses the services or acts in contravention of the terms and conditions.

Drinking Water Rules, 2055 (1998) state in sec. 34 that the water supplier may stop the service provided to the consumer in the certain conditions (e.g. default of payment, violation of agreement, with notice to be provided to the concerned person.) ]

8. **What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?**  
[See our response to Question 7 above.]
9. **Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?**  
[Our research did not find any answers in this regard.]
10. **Does law/policy provide guidance on:  
The number of water outlets? [See below.]  
The safety, distance and time from a dwelling or structure to reach water outlet**

**or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)? [See below.]**

**Technical safety of water outlets or sanitation facilities (e.g., law requiring that certain standards are applied in the construction of those facilities or of buildings)? [See below.]**

The Sanitation and Hygiene Master Plan 2011 lays out that the communities will be given informed choices of various types of toilets that are low cost, hygienic, users friendly and sustainable. The toilet will be as per the definition given by the Joint Monitoring Program (JMP) of UNICEF and WHO. The Master Plan however, suggests any one of the locally appropriate improved toilet options with permanent structures at least up to the plinth/ floor level for durability and sustainability of the structure. The Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (2016-2030) lays down sanitation service levels with detailed indicators, such each family dwelling has one or more toilets in the compound and easy access for all family dwellings; each public place or institution has adequate number of toilets and comfortable access for all, etc. (table 15). ]

11. **Are there any standards that protect healthy natural water bodies to guarantee sustainable sources of water for drinking or other household uses?**  
[Under the Public Health Act, 2075 (2018), the Government of Nepal may, in order to control or cause to be controlled the adverse effect to the human health by environmental pollution and waste, make necessary standards in accordance with federal law. Further, under the Environmental Protection Act, 2019, the Government of Nepal can determine necessary standards for the mitigation or doing away with impacts of pollution from disposal or emission of any hazardous substance (sec. 15). ]
12. **Do groundwater sources and aquifers have an allocation of water volume protected**

**from extraction to ensure long term sustainability?**

[Our research did not find any answers in this regard.]

13. **Is there any provision in the law/policy for the availability and accessibility of clean and healthy environmental spaces in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**

[The Sanitation and Hygiene Master Plan 2011 states that within the designated community, all the institutions including schools, health post, VDC, municipality building, community buildings and other public offices/ places must have hygienic toilets. These toilets should be users friendly in the local context as far as possible. The school toilets must have Child, Gender and Differently-abled (CGD) friendly water, toilet and hand washing with soap facilities including menstrual hygiene facilities. Further, it states that provision of toilet facilities must be made mandatory to all new houses in urban, semi-urban, and district headquarters. Locally required and appropriate toilets with adequate capacity and hygiene facilities will also be promoted in public places such as bus stands, recreational spots, local Haat Bazaar areas, housing areas, dense settlements, roadside hotels/motels/restaurants etc. It will be encouraged to adopt on-site sanitation with septic tank in these new built-up buildings. However, new commercial buildings such as hotels, apartments, cinema halls, supermarkets, government buildings etc. must have septic tank within the complexes. This provision is expected to decrease load to sewer systems. In case of sanitation system within the complexes is to be connected to sewer, the wastewater should be disposed after proper treatment as per the prevailing environmental and engineering norms, rules and regulations. Solid waste management should also be properly adopted.

The Nepal Water Supply, Sanitation and Hygiene Development Plan (2016-2030) lists out strategic actions with respect to WASH in community

institutions and other public places, including school.]

14. **Is there any provision in the law/policy for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**<sup>13</sup>

B. Quality and safety (SDG 6.1, 6.2, 6.3)

1. **Are there parameters of quality and safety for drinking water established under law?**

[Yes. Pursuant to sec. 18(1) of the Water Resources Act, 2049, the Government of Nepal has issued the Implementation Directives for National Drinking Water Quality Standards, 2062 (2005). The parameters for quality and safety of drinking water are clearly prescribed, for urban as well as rural surface water supply systems. Under paragraph 2, the directives are to be applied by, among others, agencies responsible for providing drinking water service, government agencies related with drinking water supply, the consumers of the drinking water supply, health related agencies and any agencies, private industry, organisations or individuals related with health service and drinking water supply.]

2. **Is monitoring of drinking water quality or wastewater required by law/policy? If so, which actor is required to monitor it and how often (according to the law/policy)?**

[Yes. Paragraph 4 of the Implementation Directives for National Drinking Water Quality Standards, 2062 establishes clear guidelines on the monitoring and surveillance of drinking water sources. The “water suppliers” themselves are hereby responsible for water quality monitoring (sub-para. 11). The frequency of monitoring depends on the physical, chemical and microbiological parameters being monitored. Details are available at sub-para. 12. The water supplier is also required to monitor all the components of the water supply system from the perspective of sanitation and risk to health, to supervise

<sup>13</sup> **Note to Draft:** Q13 is repeated here as Q14.

inspect and maintain the water supply systems and to develop necessary infrastructure for quality control (sub-para. 13).

Besides the monitoring by the Water Supplier, the Ministry of Health and Population and its line agencies are responsible for surveillance of drinking water quality (sub-para 19, 25). The frequency of monitoring depends similarly on the different bacteriological, physical and chemical parameters as well as the source and mode of supply. Details available at sub-para. 19, table 2.]

3. **Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become contaminated?**

[See Question 2 of Section C below.]

4. **Do laws/regulations include guidance on the safe construction of water and sanitation Infrastructure (e.g. to ensure no contact with excreta, ventilation, respect construction guidelines)?**

[Yes. The Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (2016-2030) details service level classification for water supply service level and sanitation service level (chapter 7.3).]

5. **Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?**

[Yes. The Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (2016-2030) details the strategic action for faecal sludge and septage management (chapter 8.1.1.5).]

6. **Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)**

No. There are no specific targets or implementation measures on household water treatment and self-storage. However, the National Hygiene Improvement Project (launched in 2006), did promote treatment and safe storage of drinking water.

Further, the National Water Policy includes three broad implementation measures that involve specific action: setting up an enabling environment of water management and supply, designing a clear and effective institutional framework, and launching several management instruments considering local communities' participation (NWP pg. 8). The Rural Water Supply and Sanitation Programme, the Small Towns Water Supply and Sanitation Programme, the Major Towns Water Supply and Sanitation Programme, and the Water Supply and Sanitation Institutional Strengthening Programme uptake these measures (NWP pg. 30-32). Implementing agencies are required to issue demand driven projects complying with given requirements (NWP pg. 30). Investment and fund allocation mechanisms for cost sharing are also forecasted for water strategies implementation (NWP pg. 83). ]

### C. Water pollution control (SDG 6.3, 6.6)

1. **Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?**

[Yes. The Solid Waste Management Act, 2068 (2011) prescribes provisions regarding waste disposal activities. The local body is responsible for construction and operation of waste management infrastructure (sec. 3 (1), 20 (1)) and management of solid waste collected such that the adverse effects on the environment are minimized as less as possible (sec. 20 (1)). Moreover, the Solid Waste Technical Cooperation Centre shall extend necessary technical co-operation to the local body for management of solid waste in a pollution free manner (sec. 20 (2), 26). The local body refers to concerned municipalities, sub-municipalities, cities and Village Development Committees (sec. 2 (aa)). Solid Waste includes domestic, industrial, chemical harmful and health related waste as well as materials that cannot be used presently, in solid, liquid, gaseous, thick liquid, smoke or dust form emitted out damaging the environment (sec.2 (o)).]

The local body can cause solid waste management works from the private sector or community sector organisations, by calling a tender and then selecting a manager and awarding the function of management (Sec. 15). The local body may also, within the provisions of applicable law, make works on solid waste management, forging a partnership with the private sector, community and non-governmental body or organisations.

The Water Resources Act, 2049 (1992), states in sec. 19 (2) that “no one shall pollute water resource [...]” and in sec. 19 (3) that “the prescribed officer may, as required, examine or cause to be examine to determine as to whether or not the water resource has been polluted or the quality standard as prescribed [...] has been maintained”.

Under the Environmental Protection Act 2054 (2019), the Government of Nepal can determine necessary standards for the mitigation or doing away with effects from the disposal or emission of any hazardous substance. Further, no person shall create pollution in such a manner as to cause significant adverse impacts on the public life, public health or environment or do, or cause to be done, any act contrary to the standards determined by the Government of Nepal (sec. 15(2)).

2. **Is there legislation which regulates the contamination of groundwater? How is it addressed in practice?**

[Yes. The Water Resource Act, 2049 (1992) states in sec. 19 (2) that no one shall pollute water resources by way of using or putting any litter, industrial wastes, poison, chemical or toxicant to the effect that the prescribed pollution tolerance limit of the water resource is exceeded. The Government of Nepal can fix the necessary quality standard of water resources for various uses (sec. 19(1)).

Further, one of the objectives of the National Urban Water Supply and Sanitation Sector

Policy (2009) is to protect, harness, develop and manage surface and ground water sources serving urban centres in an efficient manner.

Furthermore, the strategies and working policies of the Climate Change Policy 2019 also mention that standards will be developed and implemented for sustainable use of groundwater resources in urban areas; and rainwater harvesting ponds will be constructed for groundwater recharge and their multiple use (para 8.3).

3. **Do laws/regulations provide constraints on the levels of nitrates and phosphates that are released into groundwater through agricultural land use?**

[See answer to Question 2 above.]

4. **Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?**

[Yes. Sec. 13 (1) of the Solid Waste Management Act 2070, (2013) states that nobody shall, without obtaining a license from the local body, carry out activities relating to the management of solid waste. If a national or foreign company, body or organisation wishes to carry out management of solid waste then his application for license shall be as prescribed in this act and therefore include details such as a solid waste management plan, details of manpower and technology relating to the management of solid waste (sec. 13 (2)). The concerned local body then may issue a license (sec. 3). Sec. 13 (4) states that the local body may issue a license only after obtaining permission from the Government of Nepal on condition that the technology shall be transferred by the foreign company, organisation or body within the time period mentioned in the agreement in case of non-availability of technology necessary for the management, recycle use, processing or disposal of solid waste.

Further, in case of demand by the private sector for a landfill site, processing site or other structure to be constructed for the management of solid waste, the local body



may permit the construction and operation of such plant (sec. 16(1)). ]

5. **Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?**

[Under the Solid Waste Management Act (sec. 19 (1)), the local body may suspend or terminate the services of service users relating to the management of solid waste, in cases of defaulter of service charges. Any person, organisation or body entrusted with the responsibility of solid waste management can also suspend or terminate the services of defaulters, and such information of suspension or termination shall be given to the local body (sec. 19(2)). In instances of termination or suspension, the concerned house owner shall make management of the solid waste produced from the house by himself or herself (Sec. 19(3)).

Further, in cases where a local body finds non-observation of prescribed standards for construction and operation of solid waste management plants by private sector players that is not subsequently cured, the permission granted to such person or company may be revoked (sec. 16(3)). ]

6. **Are instances of pollution of water sources subject to penalties / fines? Which institution is in in charge of the administration of the penalties?**

[The Water Resources Act in sec. 22 (1), mentions that the prescribed officer may impose a fine on any person who acts in contravention of this Act or Rules made thereunder. This includes polluting water resources (art. 19 (2)), causing substantial adverse effects on the environment (art. 20) and causing several other water-related harms (art. 22 (3), (4)). The prescribed officer also realizes compensation from the person that has caused damage to anybody due to such act. ]

D. Affordability (SDG 6.1)

1. **How does law/policy address affordability of water supply and sanitation services?**

[The National Water Plan 2005, states in terms of affordability that a water bill less than 3% of household income is considered affordable (NWP pg. 80). However, the plan further stipulates that the cost of drinking water supply and sanitation systems should eventually be borne by the users themselves (Art. 3.3.2.). ]

2. **What mechanisms must be established by law/policy to ensure affordability of water and sanitation services?**

[To ensure affordability, the Water Tariff Fixation Commission Act, 2063 (2006) establishes in sec. 10 that the Commission shall fix the tariff on the basis of depreciation, appropriate profit, cost of operation of the service, change in consumer price index, royalty, policies of the Government of Nepal in relation to water supply or sanitation services, exchange rate of convertible foreign currency and matters set forth in sec. 11 of the same act. The Commission shall also have regard to the overall interest of the users and quality of water, purchasing power of users and standards of services. ]

3. **How are tariffs established and what is the process for updating these tariffs?**

[The process of establishing and updating tariffs is laid out in the Water Tariff Fixation Commission Act, 2063 (2006). First, the service provider shall make a detailed application pursuant to sec. 11. Then, the Commission shall make necessary examination of the application pursuant to sec. 12 and fix the tariff in accordance with the rate of tariff proposed by the applicant or with amendment, within sixty days after the date of application pursuant to sec. 13. The rate of tariff fixed pursuant to sec 13 has to be published for the information of the public generally. ]

4. **Does the tariff vary depending on the regions/circumstances?**

[Yes. Tariffs vary depending on different circumstances. As mentioned before, a tariff is to be fixed on the basis, among others, of the criterion laid out in the Water Tariff Fixation Commission Act, sec. 10. The Commission may also fix different tariffs for

users who purchase the bulk water supply and the ordinary users (sec 13).]

**5. Which actors are responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?**

[The Water Tariff Fixation Commission is formed for the protection of the interests of consumers by providing qualitative and reliable water supply and sanitation service to the consumers at a reasonable price, by fixing the tariff of water supply and sanitation service (Water Tariff Fixation Commission Act, 2063 (2006), sec. 3, (1)). Duties and powers of the Commission include fixing the tariffs for services (sec. 6, (a)), and determining and implementing criteria for fixation of tariff (sec. 6, (f)). ]

**6. Is disconnection from water supply and sanitation services for non-payment allowed? What procedures must be followed in such cases prior to disconnecting the supply and service? Are there any further consequences (other than shutoffs) for bill non-payment?**

[See our response to Question 7 in Section A above. ]

**E. Acceptability (SDG 6.1, SDG 6.2)**

**1. Is there provision in the law or contracts with service providers that relate to the need to take into account cultural and social dimensions of acceptability (e.g. colour or odour of water, or the positioning of a facility)?**

[Yes. The National Drinking Water Quality Standards and Directives, 2062 (2005) establishes standards for drinking water supplied by water suppliers. Parameters (physical, chemical and microbiological) are laid down for urban as well as rural water supply systems. ]

**2. Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g., in workplaces, but also in the design of shared sanitation facilities for certain communities)?**

[Yes. The Sanitation and Hygiene Master Plan states that all institutions including schools, health institutions, municipality

buildings, community buildings and other public offices / places must have hygienic toilets, that are users friendly in the local context as far as possible. School toilets must have child, gender-friendly and differently abled (CGD) friendly features as indicated (including menstrual hygiene facilities). Separate toilets for girls in schools may also be provided as appropriate. ]

**3. Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

[See our response to Question 2 in Section F below. ]

**F. Non-discrimination, equality, and universal access (SDG 6.1, 6.2)**

**1. Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?**

[Yes. With regards to the basic human rights principle of non-discrimination, the Constitution recognises the right to equality, Article 18: "All citizens shall be equal before law. No person shall be denied the equal protection of law. There shall be no discrimination in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health condition, marital status, pregnancy, economic condition, language or geographical region, ideology and such other matters."

Article 24 further stipulates rights opposing untouchability and discrimination that becomes important in ensuring availability and accessibility of water and sanitation services: "in producing or distributing any goods, services or facilities, no person belonging to any particular caste or tribe shall be prevented from purchasing or acquiring such goods, services or facilities nor shall such goods, services or facilities be sold, distributed or provided only to the persons belonging to any particular caste or tribe."

Further the National Water Policy includes social inclusion key element of the country's commitment to shared growth.

Sec. 39 (2) of the Children's Act, 2048 (1992) mentions that preventing children from drinking water is not justifiable for punishment to maintain discipline. ]

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

[One of the objectives of the Water Resources Policy 2020 is to develop water resources with minimal negative impact to the environment. Further, the Water Resources Policy 2020's working strategies includes that the water resource project affected areas shall be cared for and protected; and the water resources shall be developed by minimizing the negative impacts on society, culture and the environment. ]

3. **Are there any legal measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities?**

[Article 30 of the Constitution provides that each person shall have the right to live in a healthy and clean environment. The victim of environmental pollution and degradation has the right to be compensated by the pollutant as provided for by law. ]

4. **Is there any legal recognition for women in the empowerment, leadership, decision-making and full, equal and meaningful participation of women and girls, and the role that women play as managers, leaders and defenders of natural resources and agents of change in safeguarding the environment and water resources?**

[Under the National Urban Water Supply and Sanitation Sector Policy 2009, one of the objectives is to ensure the participation of users, especially women and the vulnerable groups, in articulation of their concerns and in decision making at all practical levels. Similarly, the Rural Water Supply and Sanitation National Strategy 2004 includes

enhanced participation by gender, caste and disadvantaged groups. ]

## G. Right to information, Transparency (SDG 6.b)

1. **Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

[Yes. Article 27 of the Constitution lays down that every citizen shall have the right to seek information of any matter of concern to her / him or the public.

Further, the Right to Information Act, 2064 (2007) addresses the right to seek, receive and impart information held by public authorities. It provides provisions regarding the flow of information, the National Information Commission, the protection of information and punishment and compensation. ]

2. **Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

[Yes. Sec. 8 (1) of the Right to Information Act states that the applicant shall pay fee as prescribed while requesting information. The fee must be based on the actual cost of providing information (Sec. 8 (2)). Otherwise, if the fee is deemed more than the actual price, the concerned person may file a petition before the Commission (sec. 8 (3)). The "Commission" means the National Information Commission pursuant to sec. 11. A public body also must publish information regarding fee and time limit required for service (sec. 5 (3), (f)). ]

3. **Are there any exceptions with regard to who or what type of water and environment related information held by public authorities can be accessed?**

[No. There are no exceptions regarding what type of water and environment related information can be accessed. Every citizen shall have the right and access to information held in the public bodies (sec. 3 (1), (2) Right to Information Act). However, there are

exceptions mentioned in sec. 3 (3), e.g. information that affect the protection of economic interest, trade privacy or the relationship among communities or that interferes in individual privacy. ]

4. **Which institutions are required by law/policy to make information on water public? Does it reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of certain circumstances, etc.)?**

[Public bodies, or institutions that are water-related are required to make information on water public (sec 4, 5 of the Right to Information Act). To respect and protect the right of information of citizen, a public body has the responsibility to update information frequently and make them public, make the citizens' access to information simple and easy and to conduct its functions openly and transparently (sec. 4 (1), (2); sec. 5 (1), (4)). ]

5. **Are there requirements in relation to the language, locations, format, timing and means used for providing water and environment related information to the public? What mechanisms are in place to ensure information is made available to all including to minorities?**

[Sec. 4 (3) of the Information Act states that a public body may use different national languages and mass media while publishing, broadcasting or making information public in accordance with its prescribed responsibilities to respect and protect the right to information. Access to information is also required to be easy and simple (sec. 4 (2), (b)). ]

6. **Are there any mechanisms to ensure that education on the importance of a healthy environment is included in school curricula, and that the link is made with sustainable drinking water supplies?**

[Health, Population and Environment is a compulsory subject in schools as part of the curriculum, for grades 9-10. For grades 11-

12, teaching of environmental education is optional. Further, the Nepal National Framework for Sustainable Development Goal 4: Education 2030 lists one of the targets as education for sustainable development and global citizenship and seeks to ensure that all learners acquire knowledge and skills needed to promote sustainable development (target 4.7). ]

7. **Are there any legal provisions requiring certain authorities to educate the population on water related issues?**

[The approved National Framework of Child-friendly School for Quality Education of the Ministry of Education (2010) points out the necessity to highlight child friendly standards on WASH services and hand washing practices in schools which is being further strengthened through WASH in Schools (WinS) Programme. ]

8. **Are there any requirements in relation to access to information in contracts with water and sanitation operators?**

[To acquire information with public bodies, (such as water and sanitation operators, see sec. 2 (a), Right to Information Act) there are no requirements except being a Nepali Citizen and to submit an application to the concerned Information Officer as prescribed (sec. 7 (1)). ]

#### H. Public participation (SDG 6.5.1, 6.b)

1. **Is there a law/policy which addresses public participation?**

[Art. 42 (1) of the Constitution stipulates the right to participate with regards to marginalised and vulnerable groups: "The socially backward women, Dalit, indigenous people, indigenous nationalities, Madhesi, Tharu, minorities, persons with disabilities, marginalized communities, Muslims, backward classes, gender and sexual minorities, youths, farmers, labourers, oppressed or citizens of backward regions and indigent Khas Aryashall have the right to participate in the State bodies on the basis of inclusive principle."

Further, the National Water Plan 2005 includes participation of and consultation with all stakeholders as a policy principle for



water sector development (Art. 3.2). Increased gender-balanced participation and attention to marginalised and vulnerable groups is also listed among the social development principles.

The Water Resources Policy 2020's working strategies includes encouragement and increase of participation of related stakeholders and private sector for the conservation and development of water resources. Similarly, in its environmental sustainability principles, the Water Resources Strategy 2002 includes public participation in environmental protection, conservation and management as essential for the sustainable development of water resources. ]

2. **What are the criteria listed in the law/policy in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?**

[Our research did not find any answers in this regard. ]

3. **Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the applicable services are delivered?**

[Sec. 12 of the Water Resources Act, 2049 (1992) establishes that the government can enter into a contract with any national or foreign company, corporate body or person to develop, utilize and extend the services of any water resources on such terms and conditions as mentioned in such contract. However, our research has not indicated that a contract between governmental authorities and operators of water ought to impose an obligation to ensure public participation at any levels. ]

4. **Is the establishment of an IWRM mechanism including regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?**

[Yes. Several laws regulate the establishment

of various associations and groups of water users.

WUSCs: Water Users Associations (WUAs) are governed by the Water Resource Act 1992, Water Resource Rules 1993 and Drinking Water Rules 1998 and come into effect once registered at the District Water Resource Committee (DWRC). As WUA's executive body, Water Users and Sanitation Committees (WUSCs) have several roles such as operator, service provider, regulator, monitor, fund raiser and manager. WUSCs include at least 33% representation of women and representation from disadvantaged groups. Water Users Committees have formed their Federations from district to National level. Users Committees registered in DWRC will be eligible for membership to Federation of Water Users.

Nepal Water Supply Corporation: is a public utility organization formed under Nepal Water Supply Corporation (NWSC) Act, 1989. The NWSC currently operates and maintains water supply systems in 22 towns and 1 VDC outside Kathmandu valley. Its functions overlap with that of the DWSS and Water Boards in some of the towns.

Rural Water Supply and Sanitation Fund Development Board (RWSSFDB): It is an autonomous body under MoWSS operating under its formation order. It facilitates implementation of small rural water and sanitation projects, through WB financing, under which communities are supported in the planning, management and monitoring of WaSH services through Service Organisation or Service Agencies.

Water Supply Management Boards: Urban areas covering Metropolis, Sub-metropolis and Municipalities are to be governed by the Management Boards as per the WSMB Act, 2006. The Boards can formulate specific policies to improve WatSan system in the area of their jurisdiction. Based on the WSMB Act, Kathmandu Valley WSMB as well as few more Boards (Bharatpur, Hetauda, Dharan, Kavre Valley) have been established

till now. KUKL has been formed under the Company Act in 2006 for the operation and management of water and wastewater services in the Kathmandu valley. It has concluded a License and Lease Agreement with the KVWSMB for 30 years and operates under PPP modality. It is responsible for the maintenance of all assets received on lease from KVWSMB.

**Non-Governmental Organisations:** The Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (SDP) envisages three critical roles for NGOs: (a) providing pro-poor WaSH services to unreached areas, (b) building partnerships with users and civil society to influencing policy and practices and holding the public sector accountable, and (c) bringing knowledge and innovations in the sector.

**Nepal WaSH Alliance:** It brings together a wide group of more than 60 Sector Actors, national and international NGO partners, and individuals for coalition building and advocacy for water and sanitation to increase public awareness. It shares of information and promotes use of knowledge on sector development.

1. **How does legislation/policy ensure that water and sanitation services are delivered in an improved and sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations?**

[**The Nepal Water Supply, Sanitation and Hygiene Sector Development Plan (2016)** opts to provide a framework of planning, implementing, coordinating and monitoring all activities in the water supply and sanitation sector, with improved sector governance and effectiveness through a coherent, consistent, harmonized national WASH programme. It further opts to put into practice the principles laid out in the rural and urban water supply and sanitation policies. It identifies priority areas for future

**Users' Federations:** Federations of Drinking Water and Sanitation Users represent users. It lobbies for inclusive, transparent and accountable sector development. Their mission is to protect the rights of drinking water and sanitation users' organizations throughout Nepal by raising their awareness and organizing and empowering them to secure their rights on WaSH, and by advocating for users' access to policy formulation and decision-making. Its success depends on inclusive participation with all Sector Actors working together to ensure functionality and sustainability of drinking water and sanitation services.]

**Civil Society:** The concept of "Civil Society" includes the whole range of private, voluntary, non-profit, community and self-help organizations, and formal and informal groups in existence. Civil society differs from the non-governmental organization in the sense that former can be the loose groups or network of individuals and institution without any formal requirement for registration, whereas the NGOs are required to be registered under the law of the land as approved organization with focused objective (Acharya, M.R., 2013).

- i. **Sustainability (SDG 6.4, 6.5, 6.6)** interventions and spells out several approaches that these will have to use.

**The National Water Plan (2005)** is mainly focused on environmental concerns and thus introduces IWRM into its strategy to enable adequate and sustainable supply of and access to quality potable water, sanitation and hygiene. It is comprised of short term (5-year strategy), medium term (15-year strategy) and long term (25-year strategy) action plans for the water resource sector

**The Rural Water Supply and Sanitation Strategy/Policy** aims to increase water supply services for rural areas, establish a development fund related to rural water, educate and involve rural communities in gender sensitisation among other aspects,

establish an Operation and Management (O&M) fund, and establish social and economic mechanisms to assist poor populations.

The Government of Nepal issued also a **Small-Town Water Supply and Sanitation Program** that is intended to improve the level of water supply services provided, formalise ownership and O&M of water systems by municipalities train and carry out capacity building in local institutions to enable and empower them, and implement mechanisms allowing O&M cost recovery. ]

2. **How does legislation/policy ensure that water and sanitation services are delivered in a sustainable manner to rural and deprived urban areas?**

[See Question #1 of Section 4(I), particularly our answers with respect to the Rural Water supply and Sanitation Strategy/Policy. ]

3. **How does the legislation/policy ensure that delivery of water and sanitation services are economically sustainable, with sufficient expenditure for operation and maintenance and the protection of the environment?**

[The Nepal WSSH Sector Development Plan (2016) ensures access and sustainable management of water and sanitation for all through a sector financing strategy. Its main objective is to generate financial resources and draw investments and create market thrust for a financially self-sustained WASH

sector. The Plan also estimates the costs and risks for being implemented and draws up an investment plan. Further, to achieve a better water structure management and higher cost recovery, involvement of the private sector and of NGOs in investment, planning, implementation, operation, data collection and research, is encouraged by water policies. This trend has been specifically supported by the enactment of the Water Resources Act and the related Regulations and the Local Self-Governance Acts. The National Water Plan, further, stresses the importance of capacity building especially on local institutions as a key aspect of the decentralisation strategy adopted by the Government of Nepal. It also states that measures and funds have been deployed for national and local institutional strengthening and development. ]

4. **How does the legislation/policy reduce the number of people suffering from water scarcity by optimising water use efficiency across all sectors, and ensuring sustainable withdrawals?**

[Our research did not find answers in this regard. ]

5. **Is there any legislation/policy to protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes?**

[Our research did not find answers in this regard. ]

## J. Accountability/ Remedies and complaint procedures

1. **Are there remedies provided by law/regulations to file complaints or other ways of accessing justice in reference to water, sanitation and a healthy environment? Who may file them? Are the decisions appealable?**

[Yes. The principle of accountability is incorporated into the Constitution by stating that “[t]here shall be a right to obtain constitutional remedies in the manner set forth in Article 133 or 144 for the enforcement of the rights conferred by this Part.” In addition, the right to clean environment incorporates that “[t]he victim

*shall have the right to obtain compensation, in accordance with law, for any injury caused from environmental pollution or degradation.” ]*

2. **Are there possibilities for financial assistance for legal counsel in cases concerning water, sanitation and a healthy environment?**

[Yes. The Legal Aid Act, 2054 (1997) provide legal provisions regarding legal aid for persons who are unable to protect their legal rights due to financial and social reasons). ]

**3. Who monitors water & sanitation service providers?**

[See Question #7 of Section 5(B). ]

**4. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**

[See Question #8 of Section 5(B). ]

**5. Are there any protective mechanisms to ensure that there is a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation**

**and violence?**

[Our research did not find answers in this regard. ]

**6. Is there any legislation to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters?**

[Our research did not find answers in this regard. ]

## CHAPTER 5. JUDICIARY SYSTEM

### A. Preliminary questions

#### 1. What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?

[In Nepal, there has been dominance of both monistic and dualistic schools of thoughts.

On the one hand, the Nepal Treaties Act, 1990 explicitly provides a guarantee for the enforcement of the Convention or treaty to which Nepal is a party. Section 9 of the Act provides that *“in case any provision of a treaty to which the Kingdom of Nepal has become a party following its ratification, accession, acceptance or approval by the Parliament, contradicts with the provisions of current laws, the latter shall be held invalid to the extent of such contradiction for the purpose of that treaty, and the provisions of the treaty shall be applicable in that connection as law of Nepal”*. The Act also provides provisions for domesticating the provisions of international instruments into national situation.

On the other hand, Article 1 of the Constitution stipulates the supremacy of the Constitution, and it declares that all other laws inconsistent with it are void to the extent of such inconsistency.]

#### 2. What is the hierarchical structure of the legal system?

[Article 127 of the Constitution states that there are following courts in Nepal:

- The Supreme Court which has the final authority (art. 128 (2), 128 ff.)
- The High Courts which are subordinate to the Supreme Court (art. 128 (2), 139 ff.)
- The District Courts which are subordinate to the other courts (art. 139 (2), 148 ff.)
- Judicial Bodies to try cases under law or other bodies to pursue alternative dispute settlement disputes, which are subordinate to the district courts (art. 148 (2)). ]

#### 3. Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?

[Nepal has ratified 6 of the 9 Individual Complaints Procedures, such as:

- The International Covenant on Civil and Political Rights, 1966
- The International Covenant on Economic, Social and Cultural Rights, 1966
- The Convention on the Elimination of All Forms of Discrimination against Women, 1979
- The Convention on the Rights of the Child, 1989
- The Convention on the Rights of Persons with Disabilities, 2006
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

However, Nepal accepts only 3 individual complaints procedures. These are:

- The Optional Protocol to the International Covenant on Civil and Political Rights, 1966
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999
- The Optional Protocol to the Convention on the Rights of Persons with Disabilities

Further, Nepal accepts only 3 inquiry procedures. These are:

- The inquiry procedure under the Convention against Torture
- The inquiry procedure under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- The inquiry procedure under the Convention on the Rights of Persons with Disabilities.]

### B. Remedies and complaint procedures/accountability

#### 1. Are there remedies provided by law to file complaints or other ways of accessing

**justice in reference to water and sanitation and a healthy environment? Who may file them? Are the decisions appealable?**

[Yes. The principle of accountability is incorporated into the Constitution by stating that “[t]here shall be a right to obtain constitutional remedies in the manner set forth in Article 133 or 144 for the enforcement of the rights conferred by this Part.” In addition, the right to clean environment incorporates that “[t]he victim shall have the right to obtain compensation, in accordance with law, for any injury caused from environmental pollution or degradation.” ]

**2. Are such complaint procedures required to be provided in conformity with human rights principles (such as non-discrimination, equity)?**

[Yes. Since human rights such as non-discrimination and equality (art. 18) and rights relating to justice (art. 20) are imbedded in the Constitution, complaint procedures must comply with such principles. ]

**3. Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation or access to a healthy environment?**

[Yes. The Legal Aid Act, 2054 (1997) provides legal provisions regarding legal aid for persons who are unable to protect their legal rights due to financial and social reasons. ]

**4. Who monitors the administrative level bodies and/or service providers?**

[The Water Users Association, established pursuant to Section 5 of the Water Resource Act, is being monitored by the prescribed officer which may cancel licenses (sec. 21) and impose fines (sec. 22) in case it performs any act contrary to this Act or Rules made under this Act.

The Water Supply Management Board, established pursuant to sec. 3 of the Water Supply Management Board Act, is being formed and thus monitored by the Government (sec. 234 of the Local Self-Governance Act, 2055 (1999)). It submits annual reports to the Government (sec. 32

WSMBA) and maintains contact through the Ministry of Physical Planning and Works (sec. 34 WSMBA). It also gives licenses to the service providers for providing the services (sec. 6 (j)). Thus, the service providers must comply with the terms and conditions of the Board.

The Kathmandu Valley Water Management Board, established pursuant to sec. 7 of the Water Supply Management Board Act, is being formed and thus monitored by the Government (sec. 234 of the Local Self-Governance Act, 2055 (1999)). It submits annual reports to the Government (sec. 32 WSMBA) and maintains contact through the Ministry of Physical Planning and Works (sec. 34 WSMBA). It also gives licenses to the service providers for providing the services (sec. 6 (j), 7 (8)). Thus, the service providers must comply with the terms and conditions of the Board.

The Local Bodies, meaning concerned municipalities, sub-municipalities, cities and Village Development Committees (sec. 2 (aa) of the Solid Waste Management Act), can make use of the private sector in managing solid waste (sec. 14, 17) and monitor them respectively. Local Bodies are accountable before the Government (sec. 234 of the Local Self-Governance Act, 2055 (1999)).

The Water Tariff Fixation Commission, established pursuant to sec. 3 of the Water Tariff Commission Act, is being monitored by the Government (sec. 234 of the Local Self-Governance Act, 2055 (1999)). The service providers are in turn accountable to the Commission and must abide by its direction and decisions pursuant with this Act and apply the tariff fixed by the Commission (sec. 6, 13 (6), 17 (3), 18 of the Water Tariff Commission Act).]

**5. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**

[The Water Resources Act states in sec. 23



that an appeal is possible for “any person who is not satisfied on the decision of the compensation [...] or the decision of the cancellation of license [...] or an order of the punishment issued by the prescribed officer [...], an appeal against such decision or order may lie in an appellate court within a period of thirty-five days.” Further, the Water Supply Management Board Act, mentions in sec. 6, l, that it is the duty of the Board to hear grievance of any user when providing service by the service provider and to provide appropriate remedy respectively. The Water Tariff Fixation Commission Act, states in sec. 17 (1) that any user who is not satisfied with the service provided by the service provider may make a complaint to the Commission, as prescribed in sec. 17. If any service provider does not apply the tariff fixed by the Commission, the Commission may fine such a service provider as prescribed in sec. 18. ]

**6. What remedies are available at an administrative level?**

[Several Remedies are available at an administrative level

**Water Supply Management Board Act**

- Sec. 6 (l) provides appropriate remedy if any user is aggrieved while providing the service by the service provider,
- Sec. 7 (8)(b) provides appropriate remedy when affected by a diversion of water of a natural source,
- Sec. 23 (2) grants reasonable compensation if any loss or damage is caused to a private building or land of any person in any manner by laying pipelines or making other structures relevant,

**Water Resources Act**

- Sec. 10 (3) grants compensation to the concerned person for the land, building, equipment and structures relating to the utilization of the water resources by the Government,
- Sec. 15 provides compensation for any loss or damage caused by the entering

into others premises by the licensee or the Government,

- Sec. 16 (3) provides compensation for any loss or damage caused by the prohibition to use the premises of a house or land located in the area where construction work for the development and utilization of water resources takes place,

Sec. 22 (1) provides compensation for damage caused by anyone by acting in contravention to this Act and Rules made under this Act. ]

**7. Who monitors these administrative level bodies?**

[See Question #7 of Section 5(B). ]

**8. Are such administrative bodies legally independent entities according to the law?**

[See Question #2 of Section 5(D). ]

**9. Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social or cultural rights?**

[Yes. The Nepal Treaty Act, 2047 (1990), states that in cases where domestic legal provisions are inconsistent with the provisions of an international treaty that Nepal is party to, the provisions of the treaty prevail over the inconsistent laws (sec. 9 (1)). Nepal has acceded to the International Covenant on Economic, Social and Cultural Rights. Thus, courts are required to enforce, economic, social or cultural rights as well. ]

**10. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to water, sanitation and a healthy environment? Is there any existing case law?**

[Yes. The Nepal Treaties Act, (2047) 1990 explicitly provides a guarantee for the enforcement of the Convention or treaties to which Nepal is a party. Courts thus have jurisdiction to hear cases regarding the obligations Nepal has taken upon itself by acceding/ratifying those very treaties. Nepal has acceded/ratified several treaties that implicitly or explicitly obligate to respect, protect and fulfil human rights to water and sanitation. These include but are not limited

to e.g. the Convention on the Rights of the Child, art. 24, 27; the Convention on the Elimination of all Forms of Discrimination against Woman, art. 14; the Convention the Rights of Persons with Disabilities, art. 28; the International Covenant on Civil and Political Rights, art. 6; and the International Covenant on Economic, Social and Cultural Rights, art. 1, 2, 11, 12. See Chapter 2 on more information on treaties. ]

11. **Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to a healthy environment? Is there any existing case law?**

[See Question #13 of Section 5(D).]

12. **Provide a brief overview of the judicial procedure involving a human rights violation case.**

[Our research did not find answers in this regard.]

13. **Is there a Constitutional /Supreme Court? Are cases heard as the last appeal or may cases be referred directly?**

[Yes, there is a Supreme Court. The Constitution states in art. 133 (4) that it has jurisdiction to hear both original and appellate cases, examine decisions referred to for confirmation of sentences, review cases, and hear petitions as specified by law. Under extraordinary jurisdiction, it has the power to hear petitions and issue orders of habeas corpus, mandamus, certiorari, prohibito, and quo warranto (art. 133 (3)). It may review its own judgments, revise decisions of a Court of Appeals, or decide the constitutionality of a law. It also has the power to make rules for administering the courts and formulating policies (art. 133 (4)). ]

14. **Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies (with reference to water, sanitation and the environment)?**

[Yes. Domestic Courts are required and have applied international human rights law in past cases. Sec. 9 (1) of the Nepal Treaty Act, 1990 states that “in case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification

*accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing law, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws”.* ]

15. **Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?**

[Specific laws concerning languages in court proceedings have not been found so far. However, art. 51 (b) (3) of the Constitution, and sec. 9 (1) of the Nepali Treaty Act, 1990 obligates the state to pursue policies to implement international treaties and agreements. Art. 14 (3) (a) and 3 (2) of the Convention on Civil and Political Rights requires charges in court proceedings to be in a language the one being charged can understand and grants him equal access to a lawyer without discrimination based on language. Further, art. 18 of the Constitution prohibits discrimination based on language and art. 32 grants every person and community the right to use their languages which includes minority and indigenous languages. The law also requires that information is made available in local languages. Sec. 4 of the Right of Information Act, 2064 (2007) states that the Public Body must respect and protect the right to information of citizen and may thus use different national languages while publishing, broadcasting or making information public (sec. 4 (3)). ]

16. **Have domestic courts applied (or referenced) recommendations of national human rights institutions?**

[Yes. However, NHRI recommendations have often not been implemented on a significant number of final decisions of the courts of law. ]

### C. National human rights institutions

#### 1. Is there an independent national human rights institution?

[Yes. The National Human Rights Commission, Nepal (“**Nepal NHRC**”) is an independent national human rights institution in Nepal which is a constitutional body under Article 248 of the Constitution. It is accredited with A status and thus is in full compliance with the Paris Principles. ]

#### 2. Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social and cultural rights?

[Yes. The functions, duties and powers of the Nepal NHRC are laid out in Article 249 of the Constitution and Section 4 of the National Human Rights Commission Act, 2068 (2012) (“**Nepal NHRC Act**”) and cover the entire human rights framework. ]

#### 3. Is the national human rights institution authorized to receive and adjudicate complaints of violations of human rights to water, sanitation and a healthy environment?

[Yes. Section 10 of the Nepal NHRC Act states that “*in case of violation of human rights or abetment thereof the victim himself or herself or anyone on behalf of him or her, may lodge a complaint as prescribed by the Commission*”. However, Section 5 thereto states that those complaints regarding incidents of human rights violation or its abetment shall have to be lodged at the Commission within a period of six months from the date on which the incident took place or within a period of six months from the date on which a person, under control of someone else, got released and became public. ]

#### 4. Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?

[Yes. Article 249 (2) and (3) of the Constitution and Sections 4 – 7 & 12 of the Nepal NHRC Act enables the NHRC to initiate various actions to address human rights violations. These include investigating

complaints, making recommendations, coordinating and collaborating with civil society to enhance awareness, publishing names of perpetrators of human rights, conducting inspections, among others.]

#### 5. What type of remedies does the national human rights institution have the authority to impose?

[Under Article 249(3) of the Constitution, the Nepal NHRC may, among other things:

- Provide rescue by entering any government premises or other places, without prior notice, in case the Nepal NHRC has received information that violation of human rights of a person is occurring thereon and immediate action is required; and
- order compensation for the victims of human rights violations in accordance with law.]

#### 6. Is the institution allowed to initiate investigations/hearings?

[Yes. Article 249 (2) (a) of the Constitution and Sections 4 (1) (b) and 12 of the Nepal NHRC Act enable the Nepal NHRC to initiate investigations with the permission of the court or on grounds of a complaint of a human rights violation. ]

#### 7. Does the national human rights institution have the authority to monitor how remedies for violations of rights to water, sanitation and a healthy environment are implemented by governmental authorities, service providers or other agencies/entities?

[Our research did not find any answers in this regard. ]

### D. Regulation

#### 1. Is there a water regulator established by law?

[Yes. Several water and sanitation regulators are established.

**Water Users Association:** The Water Resources Act, 2049 (1992) states in Section 5(1) that “*persons willing to make use of water resources for collective benefits on an institutional basis may form a Water Users Association*”.

**Water Supply Management Board:** The Water Supply Management Board Act, 2063 (2006) states in Section 3(1) that: *“The Government of Nepal may [...] form a Water Supply Management Board, as required, to effectively operate and manage, or caused to be effectively operated and managed, the service system within One or more than one Municipality, [...]”* Functions, powers and duties are laid out in Section 6 and include preventing the misuse and pollution of potable water (Section 6 (c)), formulating and implementing or causing to be implemented, short-term and long-term policies on the service system (Section 6 (e)) and to give licenses to the service providers for providing the service or providing service by entering into an agreement with the service providers (Sections 6 (j) and 8).

**Kathmandu Valley Water Management Board:** Furthermore, the Water Supply Management Board Act, states in Section 7 (1) that: *“[...] the Government of Nepal may form a separate Kathmandu Valley Water Management Board in order to operate the water supply service and sanitation service in the municipal areas within the Kathmandu Valley in a regular, systematic and effective manner.”* Functions, powers and duties are laid out in Sections 6 and 8 respectively, which includes the regulation, control and prohibition of the extraction and use of water from groundwater resources within its geographical area and giving license to extract or use such water (Section 8 (c)).

**The Water Tariff Fixation Commission** is formed for the protection of the interests of consumers by providing qualitative and reliable water supply and sanitation service

to the consumers at a reasonable price, by fixing the tariff of water supply and sanitation service (Water Tariff Fixation Commission Act, 2063 (2006), Section 3 (1)). Duties and powers of the Commission include setting the tariffs for services (Section 6, (a)) and approving policies and procedures by the service providers (Section 6 (b)). ]

2. **Is the water regulator an independent entity?**

[**Water Users Association:** Yes. It is an autonomous body (Section 6 (1)) and thus independent.

**Water Supply Management Board:** Yes (Section 4 Water Supply Management Board Act). However, according to Section 31 *“the Government may give necessary direction to the Board in relation to the maintenance of quality of service, protection of environment and maintenance of quality of potable and sanitation, and it shall be the duty of the Board to abide by such direction.”*

**Kathmandu Valley Water Management Board:** Yes (Section 4, Water Supply Management Board Act). However, according to Section 31, the Government may give necessary direction which shall be implemented by the board.

**Water Tariff Fixation Commission:** Yes. (Section 5, Water Tariff Fixation Commission Act) ]

3. **What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?**

[Our research did not find any answers in this regard. ]

## ANNEX 1: TARGETS AND INDICATORS OF SDG 6

TARGET	INDICATOR (CUSTODIAN AGENCIES)
6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all	6.1.1 Proportion of population using safely managed drinking water services (World Health Organization (WHO)/United Nations Children's Fund (UNICEF))
6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations	6.2.1a Proportion of population using safely managed sanitation services (WHO/UNICEF) 6.2.1b Proportion of population using a handwashing facility with soap and water available (WHO/UNICEF)
6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally	6.3.1 Proportion of wastewater safely treated (WHO/United Nations Human Settlements Programme (UN-Habitat)/United Nations Statistics Division (UNSD)) 6.3.2 Proportion of bodies of water with good ambient water quality (United Nations Environment Programme/UNSD)
6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity	6.4.1 Change in water-use efficiency over time (Food and Agriculture Organization of the United Nations (FAO)) 6.4.2 Level of water stress: freshwater withdrawal as a proportion of available freshwater resources (FAO)
6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate	6.5.1 Degree of integrated water resources management implementation (0–100) (United Nations Environment Programme) 6.5.2 Proportion of transboundary basin area with an operational arrangement for water cooperation (United Nations Educational, Scientific and Cultural Organization (UNESCO)/United Nations Economic Commission for Europe (UNECE))
6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes	6.6.1 Change in the extent of water-related ecosystems over time (United Nations Environment Programme/Ramsar Convention)
6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies	6.a.1 Amount of water- and sanitation-related official development assistance that is part of a government-coordinated spending plan (WHO/United Nations Environment Programme/Organization for Economic Cooperation and Development (OECD))
6.b Support and strengthen the participation of local communities in improving water and sanitation management	6.b.1 Proportion of local administrative units with established and operational policies and procedures for participation of local communities in water and sanitation management (WHO/United Nations Environment Programme/OECD)

Source: Sustainable Development Goal 6 - Synthesis Report on Water and Sanitation (2018), Table 1



## ANNEX 2: The human rights to water and sanitation and the right to a healthy environment compared

Table 1: Comparison of the human rights principles

Principles of the Human Right to a Healthy Environment (from Framework Principles)	Principles of the Human Rights to Water and Sanitation (from General Comment No.15)
<b>Human Rights</b>	
<p>Principle 1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.</p>	<p>GC 1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.</p> <p>GC 20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.</p>
<b>Sustainable environment</b>	
<p>Principle 2. States should respect, protect and fulfil human rights in order to ensure <u>a safe, clean, healthy and sustainable environment</u></p>	<p><i>Respect:</i> GC 21: The obligation to <i>respect</i> requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; <u>unlawfully diminishing or polluting water</u>, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.</p> <p><i>Protect:</i> GC 23. The obligation to <i>protect</i> requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the</p>

	<p>necessary and effective legislative and other measures to restrain, <u>for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.</u></p> <p><i>Fulfill:</i> GC 26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. . . . and facilitating improved and <u>sustainable access to water, particularly in rural and deprived urban areas.</u></p> <p>GC 11. The manner of the realization of the right to water must also be <u>sustainable, ensuring that the right can be realized for present and future generations.</u></p>
<b>Non-Discrimination</b>	
<p>Principle 3. States should <u>prohibit discrimination</u> and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.</p>	<p>GC 15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to <u>prevent any discrimination</u> on internationally prohibited grounds in the provision of water and water services.</p>
<b>Safety and freedom of expression</b>	
<p>Principle 4. States should provide <u>a safe and enabling environment</u> in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence</p>	<p>GC 44,b Violations of the obligation to protect follow from the failure of a State to <u>take all necessary measures to safeguard persons</u> within their jurisdiction from infringements of the right to water by third parties.</p>
<p>Principle 5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.</p>	

Public Awareness and education	
<p>Principle 6. States should provide for <u>education and public awareness on environmental matters.</u></p>	<p>GC 25. The obligation to fulfil can be disaggregated into the obligations to facilitate, promote and provide. The obligation to promote obliges the State party to take steps to ensure that there is <u>appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.</u></p> <p>Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to “To ensure that <u>all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation.</u>”</p>
Access to Information	
<p>Principle 7. States should provide <u>public access to environmental information</u> by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. <u>Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</u></p>
Accountability	
<p>Principle 8. To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.</p>	<p>GC 56. Before any action that interferes with an individual's right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed</p>

	<p>actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies</p> <p>GC 24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment.</p>
<b>Public Participation</b>	
<p>Principle 9. States should provide for and facilitate <u>public participation in decision-making related to the environment</u> and take the views of the public into account in the decision-making process.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. <u>The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water.</u> Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</p>
<b>Remedies</b>	
<p>Principle 10. States should provide for <u>access to effective remedies for violations</u> of human rights and domestic laws relating to the environment</p>	<p>GC 55. Any persons or groups who have been denied their right to water should have <u>access to effective judicial or other appropriate remedies</u> at both national and international levels</p>
<b>Standards and Indicators</b>	
<p>Principle 11. States should establish and maintain <u>substantive environmental standards</u> that are non-discriminatory,</p>	<p>GC 53. To assist the monitoring process, <u>right to water indicators should be identified in the national water strategies or plans of action.</u> The</p>

<p>non-retrogressive and otherwise respect, protect and fulfil human rights.</p>	<p>indicators should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1, and 12. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control.</p>
<p><b>Violations</b></p>	
<p>Principle 12. States should ensure the effective enforcement of their environmental standards against public and private actors.</p>	<p>GC 55. All victims of violations of the right to water should be <u>entitled to adequate reparation</u>, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.</p>
<p><b>International Cooperation</b></p>	
<p>Principle 13. States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.</p>	<p>GC 30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the right to water.</p> <p>GC 38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations indicated in paragraph 37 above.</p>
<p><b>Non-Discrimination</b></p>	
<p>Principle 14. States should take additional measures to <u>protect the rights of those who are most vulnerable to, or at particular risk from, environmental</u></p>	<p>GC 16. Whereas the right to water applies to everyone, States parties should give <u>special attention to those individuals and groups who have traditionally faced difficulties in exercising</u></p>



<p><u>harm</u>, taking into account their needs, risks and capacities.</p>	<p><u>this right</u>, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees.</p>
<p>Principle 15. States should ensure that they <u>comply with their obligations to indigenous peoples</u> and members of traditional communities, including by:</p> <ol style="list-style-type: none"> <li>a. Recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used.</li> <li>b. Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources.</li> <li>c. Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories, and resources.</li> <li>d. (d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories, or resources.</li> </ol>	<p>GC 7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No.12 (1999)). Attention should be given to <u>ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology</u>. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is <u>adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples</u>.</p> <p>GC 16 (d) 16... In particular, States parties should take steps to ensure that:</p> <p>...(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status; (d) <u>Indigenous peoples’ access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;</u> (e) Nomadic and traveler communities have access to adequate water at traditional and designated halting sites; (f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in</p>

	<p>camps or in urban and rural areas. Refugees and asylum-seekers should be granted the right to water on the same conditions as granted to nationals;</p>
<p><b>Sustainability</b></p>	
<p>Principle 16. States should respect, protect and fulfil human rights in the actions they take to <u>address environmental challenges and pursue sustainable development.</u></p>	<p>GC 11. The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of <u>the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.</u></p> <p>GC 26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; <u>and facilitating improved and sustainable access to water</u>, particularly in rural and deprived urban areas.</p>