

## Face Equality International (FEI) Research Project

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### Nepal

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Yes – though limited as further described below.</p> <p>a. The key problem is that not all facial disfigurements fall under the definition of a disability under Nepalese law. Disability is limited to facial disfigurement that impacts “the operation of a physical part, use and movement of a person due to problems in nerves, muscles and composition and operation activities of bones and joints”.</p> <p>b. The relevant laws that mention the legal protections against such discrimination are as follows:</p> <ul style="list-style-type: none"> <li>- The Act Relating to Rights of Persons with Disabilities</li> <li>- The Nepalese Constitution of 2015</li> <li>- The Civil Service Act 1993</li> </ul>
2.	<p>a. What is this country's legal definition of disability?</p> <p>b. When do people with a facial disfigurement fit within that definition?</p> <p>c. How does being excluded from that</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>a. Guidance on the legal definition of disability can be determined from the following laws:</p> <p>i. The Act Relating to Rights of Persons with Disabilities offers some clarity that certain types of facial disfigurement may be classified as a disability if it impacts “the operation of a physical part, use and movement of a person due to problems in nerves, muscles and composition and operation activities of bones and joints”</p> <p>ii. The Nepalese Constitution of 2015 provides safeguards to protect the rights of individuals generally, including those with disabilities, such as the right to education, work, and social inclusion.</p>

	<p>definition affect the protection of their rights?</p>		<p>iii. The Civil Service Act 1993 provides that out of 45% of the civil service positions that are required to be fulfilled by open competition, 5% are to be reserved and fulfilled by persons with disabilities only, who will be subject to a separate open competition.</p> <p><u>Extracts</u></p> <p>A. The Act Relating to Rights of Persons with Disabilities, 2074 (2017) (<i>Note that this replaces the Disabled Protection and Welfare Act 1982 ("DPW Act")</i>).</p> <p><b>Schedule (Related to sub-section (1) of Section 3): Classification of Disabilities</b></p> <p>(a) <i>Persons with disabilities according to the problem and difficulty in any organ or system of the body:</i></p> <p>1. <i>Physical disability: Problem that arises in operation of physical parts, use and movement in a person due to problems in nerves, muscles and composition and operation activities of bones and joints (for example, disability that arises due to polio, lack of a physical organ, effect of leprosy, muscular dystrophy, permanent problem associated with joints and backbone, reversal of clubfeet, problem associated with rickets bones), and a person whose height is excessively lower than the average height that a person having attained sixteen years of age has according to the age.</i></p> <p>Legal protections include:</p> <p><b>Section 4: Provisions relating to disability identity card:</b></p> <p>(1) <i>In order to obtain a disability identity card, a person with disability himself or herself or any of his or her family members or guardian shall make an application, along with recommendation of the concerned Ward Office to the Local Level.</i></p> <p><b>Section 7: Entitlement to enjoy rights under the prevailing law</b></p> <p><i>Persons with disabilities shall have the right to enjoy the rights granted under the prevailing law on an equal basis with others, in addition to the rights granted by this Act.</i></p> <p><b>Section 8: Right against discrimination</b></p> <p>(1) <i>No person with disability shall be subjected to discrimination on the basis of disability or be deprived of personal liberty.</i></p>
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			<p>activities of bones and joints” to qualify as a disability. If it does, such facial disfigurement may fall under the “physical disability” classification, where people with such disability are entitled to apply for a disability card and enjoy legal protections against discrimination.</p> <p>b. As not all facial disfigurements fall under the definition of a disability, the legal protection against discrimination is limited in Nepal. If the facial disfigurement in question does not fall within the above definition, a person does not benefit from any protection of their rights.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Yes.</p> <p>Specifically, the Civil Service Act 1993 provides that out of 45% of the civil service positions that are required to be fulfilled by open competition, 5% are to be reserved and fulfilled by persons with disabilities only, who will be subject to a separate open competition. However, the definition of disability is ambiguous.</p> <p>Generally the Nepalese Constitution of 2015 which provides safeguards to protect the rights of individuals, including those with disabilities, such as the right to education, work, and social inclusion. However, as above the definition of disability is ambiguous.</p>
4.	<p>a. How effective are the legal protections? Please describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information</p>		<p>a. Legal protections do not appear to be effective or adopted in practice:</p> <ul style="list-style-type: none"> <li>- The Civil Service Act related provisions do not appear to be fully adopted in practice – a researcher visited 5 different courts of Kathmandu valley and research indicated that out of 1,074 employees working in these courts, there were only 8 disabled people (instead of at least 24 employees). The Public service commission, the main constitutional body involved in selecting candidates for the civil service vacancies, has not published any annual data or provided any specific information on the hiring process, making it difficult to determine whether Section 7 of the Civil Service Act is properly adopted.</li> <li>- The UNCRPD requires state parties to take appropriate measures to ensure that persons with disability enjoy access to transportation, information and the workplace. While various policies and plans were adopted to make the courts more disability friendly (e.g. The National Policy and Plan of Action on Disability, Second Five-year Plan of Nepalese Judiciary 2066-2071), not</li> </ul>

	<p>and resources guaranteed by law are actually available to disabled persons?</p>		<p>much progress appears to have been made based on interviews and investigations with the relevant authorities that we have been able to find.</p> <ul style="list-style-type: none"> <li>- Not having proper access to education remains a problem despite various court decisions pushing for such initiatives:             <ul style="list-style-type: none"> <li>o Despite the Supreme Court of Nepal issuing a directive to make sure that disabled persons shall not be charged with any type of fees in public school, universities and training centres within the territory of Nepal, the number of students with disability in higher education remain very low (<i>Shudarson Subedi and Babu Krishna Maharjan v. HMG et. Al</i>)</li> <li>o Despite the Supreme Court ordering the government to form a committee to prepare bi-annually periodic reviews regarding the promotion of people with disability and to regularly submit such reviews to the Supreme Court, progress has been slow (<i>Prakash Mani Sharma v. Government of Nepal</i>).</li> </ul> </li> </ul> <p>Source: <a href="https://kslreview.org/index.php/kslr/article/view/975/815">https://kslreview.org/index.php/kslr/article/view/975/815</a></p> <p>b. See response to question 4(a).</p> <p>c. There are local non-governmental organisations like the Disabled Human Rights Center (DHRC-Nepal) which indirectly make available such information to disabled persons. Representatives monitor law reports in public documents and feed relevant case studies into DHRC-Nepal's press and media activities in order to continue to raise awareness and understanding of the issues.</p> <p>Source: <a href="https://dhrcnepal.org.np/">https://dhrcnepal.org.np/</a></p> <p>Similarly, the Nepal Red Cross Society has conducted screening camps in the remote areas of two districts in mid-western Nepal, helping to raise awareness on the issue and to support those who need medical and rehabilitation services.</p> <p>Source: <a href="https://www.icrc.org/en/document/nepal-over-650-people-benefit-disability-screening-camps-remote-areas">https://www.icrc.org/en/document/nepal-over-650-people-benefit-disability-screening-camps-remote-areas</a></p>
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