

I . Safeguarding system & policy

In fact Nepal has no specific laws/acts regarding the safeguarding of intangible cultural heritages. We are just in a position of defining of Intangible Cultural Heritage in line with UNESCO convention and Nepalese traditions. Though there are no such specific legal provisions, many of the state laws/acts, bylaws have provisioned for the continuation, promotion and preservation of traditional cultural and social practices in the name of festivals, religious traditions, ethnic identities, and so forth. Various laws have provisioned for the continuation of different cultures, customs and practices. But there are some rooms for the promotion and preservation of ICH.

In most of the cases Nepal traditions and belief system have been playing pivotal role in safeguarding of our ICH. In contrast, among the new generations the intangible cultural heritages seems to losing attention for practices and continuation. After the declaration of Nepal a federal secular state, the ethnic groups, indigenous people have become a bit sensitive toward their culture, identity and rights. National practices have started for respecting and practicing plural society. In this changed context, the importance of ICH for insuring fundamental rights of different racial and cast groups has been realising by different national actors. It may be the result of these new developments; Nepal has become party of the UNESCO Convention for Safeguarding of Intangible Cultural Heritages.

Nepal is in a process of defining ICH and developing necessary legal framework for safeguarding the ICH. In this connection, Nepal as usual, is in favour of our development partners continued support and cooperation. Best practices and experiences of our friendly countries would be great assets in our endeavours. Further to this, Nepal is always in favour of capacitating its institution and personnel so experts' information would be highly appreciating.

1. National Law/Act

A. Definition of intangible cultural heritage

No specific definition available

B. Title of the law

Interim Constitution of Nepal, 2007

C. Policy Provisions

The Interim Constitution of Nepal, 2007 acknowledges the "fundamental rights" of different caste and ethnic groups in Nepal in relation to education and culture. Article 35(3) asserts that the state will strengthen the national unity of the country through the equal development of the languages, literature, scripts and art and culture; in order to preserve the cultural diversity of the country. The preservation and promotion of the languages of all Nepalese people is thus a 'fundamental right'. Hence the Interim Constitution of Nepal acknowledges some aspects of the cultural rights of its citizens, and it states that every citizen has the right to enjoy and observe their own culture (Article 17).

It also states that the government will undertake activities relating to the promotion and safeguarding of traditional cultures, and written and oral languages of all different castes and ethnic groups as it is a fundamental right of the people. The Interim Constitution states that it will not interfere and control activities relating to culture and language and that the people also have a right to education in their own language (Article 17).

D. Sectin/Division in charge

The Interim Constitution has clearly spoken about cultural preservation and promotion as one of the directive principal and state policy. This word "Culture" stands for both the tangible and intangible culture. So, it has opened way to the government to define, categories, make necessary legal framework for safeguarding of all categories of cultures. But it has not specified which will be the specific institution or authority so all the three organs of the state i.e. legislature, executive and the judiciary should be its in

charge. But the Government has designated Ministry of Federal Affairs, Constitutional Assembly, Parliamentary Affairs, and Culture as the government apex body to look. The Culture Division under the ministry is responsible for overall cultural affairs. However, many other ministries are also responsible to cultural affairs in one or other way.

E. Year of establishment

At first the cultural affairs was associated and under the jurisdiction of Ministry of Education and Culture. Latter it was associated with ministry of tourism and culture. But at present culture is the responsibility of Ministry of Federal Affairs, Constitutional Assembly, Parliamentary Affairs, and Culture since 2007.

The Interim Constitution was also promulgated in 2007

F. Amendments

The Interim Constitution has amended for eight times.

G. Particular article(s) related to ICH

There is no particular article relating to ICH. It is integrated in different fundamental rights. However Article 17 has provisioned Right to Education and Culture. Similarly the article 35(3), under State Policy, states that state will develop necessary policy for the promotion of cultures and cultural practices.

H. Responsible organization/department

Legislative Parliament: For Legal Provisioning, Budgetary approval and activating government for ICH along with other state affairs.

Executive Body (Government of Nepal): For developing of ICH relating policies, implementing them, monitoring and evaluating

Judiciary: For Legal review, protecting of fundamental rights of people.

I. Information source

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2. Cultural Policy

A. Human Rights Commission Act, 1995

1) Purpose

- To monitor human rights situation and recommend concerned authorities for necessary actions,
- To investigate on the violation of human rights issues and recommend concerned authorities for necessary actions,
- To make necessary recommendations to the Government of Nepal,
- To conduct research on Human Rights relating issues.

Though there is no specific provisions regarding Cultural Heritage in this act but there is enough room in the act to investigate on the violation of the cultural rights entitled under the Fundamental Rights in the Interim Constitution of Nepal.

2) Duration

Countinues

3) Relevant projects

Till to date there is no any Project directly addressing to ICH. But this commission is lunching awareness raising programmes through radio, television and other print media on human rights. Further more, it has been encouraging and mobilizing GOs, NGOs, CBOs for human rights preservation and promotion. At present, it has not focused to the issues relating to cultural rights but in future it will cover all rights with the raised awareness in general public.

B. National Foundation for Upliftment of Aadibasi/Janjati Act, 2002

1) Purpose

"Aadibasi/Janjati" is defined as a tribe or community as mentioned in the schedule having its' own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history.

- To make overall up-liftment of the Aadibasi/Janjati by formulating and implementing the programmes relating to the social, educational, economic and cultural development and upliftment of Aadibasi/Janjati,
- To preserve and promote the language, script, culture, literature, arts, history of the Aadibasi/Janjati,
- To preserve and promote the traditional knowledge, skill, technology and special knowledge of the Aadibasi/Janjati and to provide assistance in its vocational use.
- To cause the Aadibasi/Janjati to be participated in the mainstream of overall national development of the country by maintaining a good relation, goodwill, and harmony between different Aadibasi/Janjati, castes, tribes and communities,
- To provide assistance in building an equitable society by making social, economic, religious and cultural development and upliftment of Aadibasi/Janjati.

2) Duration

Continues

B. Nepal Fine Arts Academy Act, 2007

1) Purpose

The main purpose of this act is to ensure the establishment and operation of Nepal Fine Arts Academy in order to protect, maintain, promote, and make overall development of Fine Arts of Nepal, a multiethnic, multi-linguistic and multi-cultural country, and conduct, or cause to be conducted, study and research on the discipline of fine arts and, on respecting and honouring the intellectuals and talents in this field.

The Act has defined "Fine arts" as painting (Chitrakala), sculpture, folk art (Lokkala), handicraft, Silpakala, Bastukala and other creative arts.

Similarly, the Academy is empowered:

- To collect, protect, maintain and do study and research works on fine arts;
- To create and publish, or cause to be created and published, research and innovative works on the discipline of fine arts;
- To make provision for the honour, respect of and prizes to native and foreign persons who render outstanding contribution to the fine arts discipline;
- To establish libraries, galleries, museums etc. relating to fine arts;

- To make provision of academic fellowship for study and research on fine arts;
- To operate training programmes on fine arts;
- To do study and research on, protect and maintain, fine arts that reflect identity of various castes, tribes and communities of Nepal;
- To introduce Nepali fine arts to the world and vice versa;
- To encourage relevant organizations and persons to develop and expand fine arts;
- To hold, or cause to be held, national and international symposia, workshops, conferences, exhibitions, festivals and competitions on fine arts;
- To establish and expand relations with organizations related with the field of fine arts and exchange mutual cooperation with such organizations;
- To boost up, develop and expand folk pro-people (Lokpacchiya) arts;
- To perform, or cause to be performed such other functions as may be required for the accomplishment of the objectives of this Act.

2) Duration

Continue

C. Industrial Act, 1993 (Seventh amendment 2008)

1) Purpose

- To define, facilitate and regulate industrial development in Nepal

In the article 4 under the title Gharelu Uddhog (Cottage Industry) labor oriented, arts and culture relating and specific skill oriented industries are defined as Gharelu Uddhog.

2) Duration

This act is of continues nature

3) Relevant projects

There is no any such specific project on ICH, but this act has way out for the establishment of traditional skill oriented domestic industries that could be instrumental in safeguarding of ICH.

D. Copyright Act, 2002 and Copy Rights Regulation 2004

1) Purpose

- To define the works of authors as "work/creations", which are legally recognised. Section 2 of the Act defines artistic creation as "any work presented originally and intellectually in the field of literature, art and science and in any other field". Artistic works are defined in the Act as irrespective of the artistic quality of the item in question whether it is a painting, sculpture, drawing, engraving, photograph, or a work of architecture.
- To protect copyright of authors via registration of the creations; economic rights of the work; moral rights; and the rights of the performers; as well as consequences relating to the infringement of protected rights and punishable offences.

2) Duration

Continues

E. The Guthi Corporation Act, 1972

1) Purpose

- To regulate and facilitate the preservation and management of religious and cultural festivals and activities in Nepal.
- To facilitate and regulate religious rites and festivals or social and religious activities
- To maintain temples, pilgrim houses, wells, ponds, roads, bridges, rest house, land etc" (Article 2).
- To managed and administer the Raj Guthi (the largest), which comes under the ownership of the Guthi Corporation.
- To initiate legal action on behalf of the Guthi.

2) Duration

Continues

F. Local Self Governance Act, 1999

1) Purpose

- To provide "cultural right" to Municipalities and VDC' to preserve various languages, religious activities, and to assist in their development within their respective areas.
To protect and promote archaeological objects, languages, religions and cultures within their municipal areas.

2) Duration

Continues

G. Local Administration Act (A regulative legal Instrument)

1) Purpose

- To look after and conserve cultural properties
- To monitor and regulate for the cultural heritages and practices
- To act as quasi judicial authority for the violation of religious practices

2) Duration

Continues

H. Interim Plan

1) Purpose

The main objective of the plan is to alleviate poverty. It has aimed for planned development. There are various provisions that directly or indirectly promote and foster ICH. This plan has set necessary policy and programmes for the development of culture and cultural practices by incorporating separate chapter comprising various programmes in cultural sector like establishment of academy of fine arts, academy of music and drama. In addition it has provisioned for the development and mainstreaming of indigenous groups, languages, settlements etc.

2) Duration

Three years

I. Annual Programme and budget (Government's annual programme)

1) Purpose

On the basis of the objectives, policies, strategies and programme stated in Periodic National Plan and the governments commitments in international forums government prepares annual programmes and budget. Government of Nepal has been continuously allocating fund for cultural activities. However, it is very difficult to see ICH relating words but the programmes have been supporting to the ICHs too.

2) Duration

Government prepares budget for one fiscal year. But government gives continuation to the ongoing programmes and simultaneously brings new programmes too. So, it is a continuous process.

I. The Greater Janakpur Area Development Council Act, 1998

1) Purpose

The main purpose is to ensure the establishment of the council and make provision of the Greater Janakpur Area Development Council in order to safeguard, maintain and develop the shrines, temples, lakes (sarobar) and sites of religious, historical and archaeological importance within the Janakpur area and its intermediary (Panchakoshi) circuit areas, and to develop the Greater Janakpur Area as a well-planned pilgrimage and religious site by developing infrastructures for the social, economic and cultural development of the Greater Janakpur Area. The objectives of the Council are as follows:

- To develop infrastructures for the social, religious, economic and cultural development of the Greater Janakpur Area;
- To protect and manage sites of religious, historical and archaeological importance within the Greater Janakpur Area and various heritages with the Area;
- To identify, explore, and do research work on, shrines, temples, lakes (sarobars of ancient, historical, religious, cultural and archaeological importance or other sites within the Greater Janakpur Area;
- To carry out necessary acts in order to maintain ecological balance of the Greater Janakpur Area;
- To develop the Greater Janakpur Area as a tourism site.

- 2) Duration
Continuous

J. Lumbini Development Trust Act, 1985

- 1) Purpose
The prime purpose of this act is to conserve and develop Lumbini, the birth place of Lord Buddha. The Act aims to provide for the Lumbini Development Trust, in order to present the commitment of Government of Nepal to project the goal and ideal of development of Lumbini more effectively before the world community, and to operate the Lumbini Development Plan in a more coordinated and smooth manner.
- 2) Duration
Continues

K. Motion Picture (Production, Exhibition and Distribution) Act, 1969 (Last amendment in 2010)

- 1) Purpose
 - To facilitate and manage the production, exhibition and distribution of motion picture throughout Nepal
- 2) Duration
Continues

L. Nepal Music and Dance Academy Act, 2007

- 1) Purpose
 - To facilitate the establishment and operation of Nepal Music and Dance Academy
 - To protect, maintain, promote, and make overall development of the discipline of music and dance of Nepal,
 - To be conducted study and research on the music and dance discipline, on respecting and honouring the intellectuals and talents in this field, given that Nepal is a multi-ethnic, multi-linguistic and multicultural country.
- 2) Duration
Continues

M. Nepal Academy Act, 2007

1) Purpose

To make timely amendments to and consolidate the laws in force relating to the Academy in order to make necessary provisions for the publication of works useful to the society through research and innovative creations on language, literature, culture, philosophy and sociology and on respecting and honouring the intellectuals and talents in this field, taking into consideration the need for the protection, promotion and development of all languages, literatures and cultures, given that Nepal is a multi-ethnic, multilinguistic and multi-cultural country.

2) Duration

Continue

N. Pashupati Area Development Trust Act, 1987 (Last Amendment 2010)

1) Purpose

- To maintain the Pashupati area as such as the Pashupati area of the Lord Pashupatinath has remained as a centre of reverence and a holy place for Hindu pilgrims since time immemorial;
- To safeguard, maintain and develop the Pashupati area in a planned manner, in conformity with the ideals, glory and importance of the Lord Pashupatinath;
- To maintain, protect and promote objects or sites of ancient, historical, religious, cultural and national importance, movable and immovable assets of the Lord Pashupatinath¹¹ and natural heritages in the Pashupati area;
- To make arrangements for the performance of cultural feasts and festivals, and social and benevolent activities and worships in accordance with traditional religious rites and rituals in temples of all Gods and Goddesses, including the Lord Pashupatinath temple, under the State trust (Rajguthi), in the Pashupati area;
- To make improvements in this holy site of pilgrimage as practicable in a planned manner and develop it as a site of international pilgrimage for the convenience of all Hindu devotees within and outside the country and of tourists.

2) Duration

Continues

3. Methods and means are needed to enhance the process of developing safeguarding policies and system

A. Policies

1) Provisioning of ICH policy through:

- Provisioning of specific provisions for ICH in constitution through Constitutional Assembly (addressing in new constitution)
- Preparing Laws (Act and Regulation)
- Preparing Directives for especial safeguarding efforts
- Conducting National survey on ICH
- Sector planning
- Designing and implementing small projects for safeguarding of intangible heritages
- Defining and categorizing ICH for Nepal
- Using participative approach (Local community, ICH bearer, Professional, Experts etc) in National ICH Policy development
- Developing of ICH relating laws
- Provisioning for ICH development, preservation, revival, revitalization in National Periodic Plan
- Giving due focus to the preservation and promotion of endangered ICH
- Making accountable to Local Government

2) Implementation of policy through:

- Local government
- Local Community based organizations
- Public private partnership

3) Capacity building on ICH through:

- Mobilizing Media
- Integrated ICH in school curricula
- Organizing national events
- Research and Development
- Recognizing the best efforts
- Effective enforcement of law

4) System for ICH safeguarding

National Government should be confined for:

- Developing National ICH policy
- Developing of National ICH Inventory
- Providing resource and technical support to local government
- Building National Capacity on ICH,

- Creating opportunities and organizing national events for dissemination and promotion of ICH,
- Exploring and expanding for exchange programme on ICH,
- Insuring copy rights,
- Media mobilization, and
- Establishing of National ICH museum/Archive.

5) Local Government should be empowered for:

- Developing of local ICH Inventory.
- Planning and managing local ICHs.
- Allocate certain percentages of the local tax to ICH promotional activities,
- Organizing events,
- Promoting of ICH relating exchange programmes in local levels
- Establishing of ICH museum/achieve in local level

6) Local community should be empowered for ICH through:

- Forming of user groups,
- Recognizing the bearers of ICH,
- Providing of supports for the continuation, preservation and promotion of ICH,