

Factsheet on COVID-19 and its effect on Juvenile Justice System in Nepal



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Introduction

The United Nations Convention on Rights of Child, 1989 (CRC) is a widely ratified human rights treaty, championing the best interest of the child, and the evolving capacities of the child. The treaty explicitly iterates the fact that children are human beings and individuals with their own rights. Nepal ratified the Convention on 14 September 1990.¹ The rights of the child have been enshrined in the Constitution², and national legislation.³ These legal framework aims to protect ‘children’⁴ as well as ‘children in conflict with law’.⁵

With an announcement of nationwide lockdown (effective from 24 March 2020) to curb the spread of the pandemic, the plight of ‘children in conflict with law’ remain largely an uncharted territory (Advocacy Forum’s Briefing Paper, 2020).⁶ Hence, Advocacy Forum-Nepal (AF) lawyers in collaboration with Human Rights and Accountability Study Centre (HRASC) have conducted a survey of Child Correction Homes (*Bal Sudhar Griha*) of Nepal via field visits and telephone inquiries during this period. Below follows a brief human rights round-up of all 8 Child Correction Homes (CCHs) of Nepal during the COVID-19 pandemic.

To date, there have not been any confirmed cases of COVID-19 infections in CCHs. However, the many structural and systemic issues of longstanding concern in CCHs create a context within which chances of an outbreak are high, and preparedness for adequate response is low.

1. Child Correction Homes in Nepal

There are 8 Child Correction Homes in Nepal (see map below). Out of 7 Provinces, only 6 have CCHs. To date, Karnali Province does not have any CCH. The first CCH was established at Bhaktapur (2001) district of Bagmati Province and the newest one was established in Banke (September 2018) district of Province No 5.

The total (indoor and outdoor) area covered by CCHs is 65,284 square meters of land. Banke and Rupandehi CCHs constitute 46.68 and 26.97 percent out of the total land. Per child available space is 298.79 and 202.40sq.m. respectively, representing adequate space for their purpose, whereas Birgunj has a mere 0.52 square meters of space. The remaining CCHs have limited space, though somewhat more than the Birgunj CCH. This indicates

¹ <https://www.ohchr.org/EN/HRBodies/CRC/CRC30Pledges/Pages/Nepal.aspx>

² The Constitution of Nepal, 2015 Article 39 “Rights of the Child”

³ The Act relating to Children, 2018

⁴ The Act relating to Children, 2018, Section 2(j) states that “... ‘Children’ means persons who have not completed the age of eighteen years”

⁵ The Act relating to Children, 2018, Section 2(d) states that “... ‘Children in conflict with law’ means the children accused of committing an offence, and this term also includes the children convicted by the Juvenile Court for committing an offence.”

⁶ Advocacy Forum-Nepal, ‘Human Rights Impact of COVID-19: Advocacy Forum-Nepal’s Field Monitoring Report’, Published on June 2020, Available at: <http://advocacyforum.org/downloads/pdf/publications/af-briefing-paper-covid-19-and-human-rights-june-2020.pdf>

that juveniles do not have adequate space for outdoor game facilities in six out of eight CCHs. Maintaining social/physical distance is one of the best ways of preventing the spread of COVID-19. However, there is no other option for juveniles to keep a distance in these CCHs.

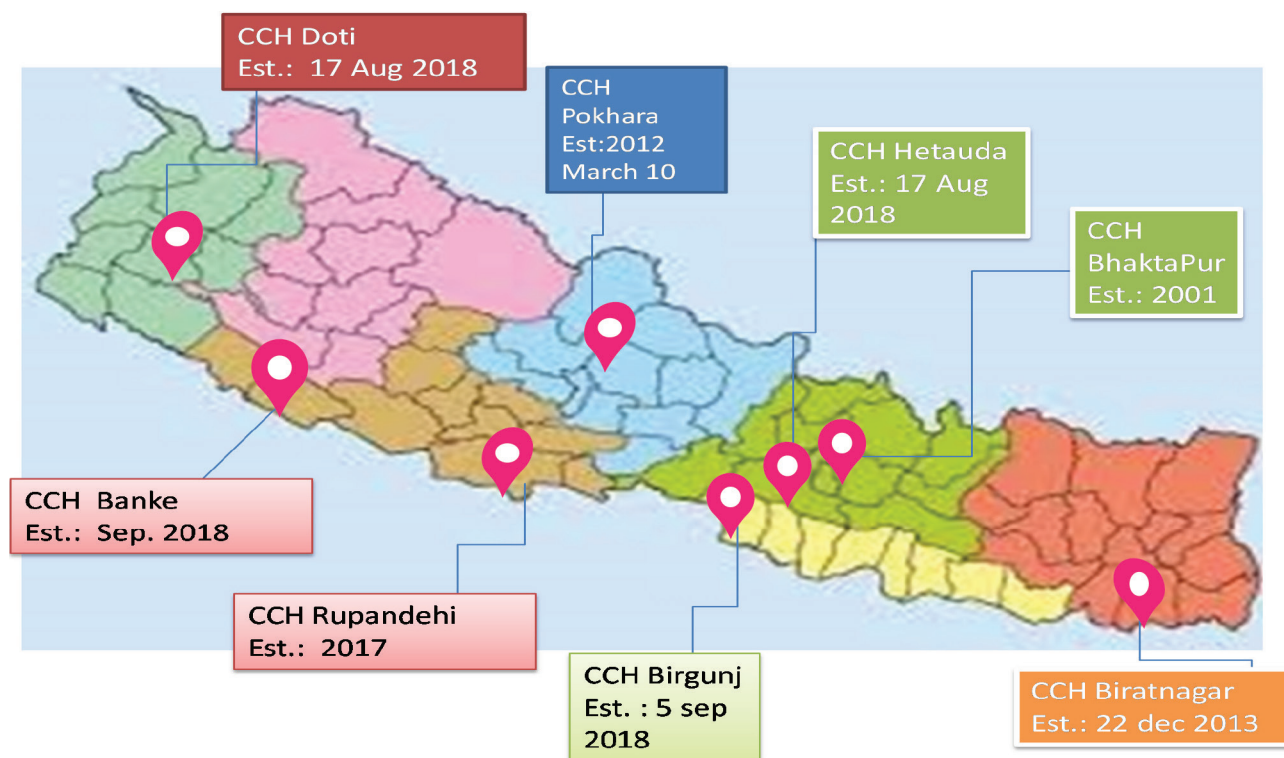


Figure 1: Child Correction Homes in Nepal (Map of Nepal)

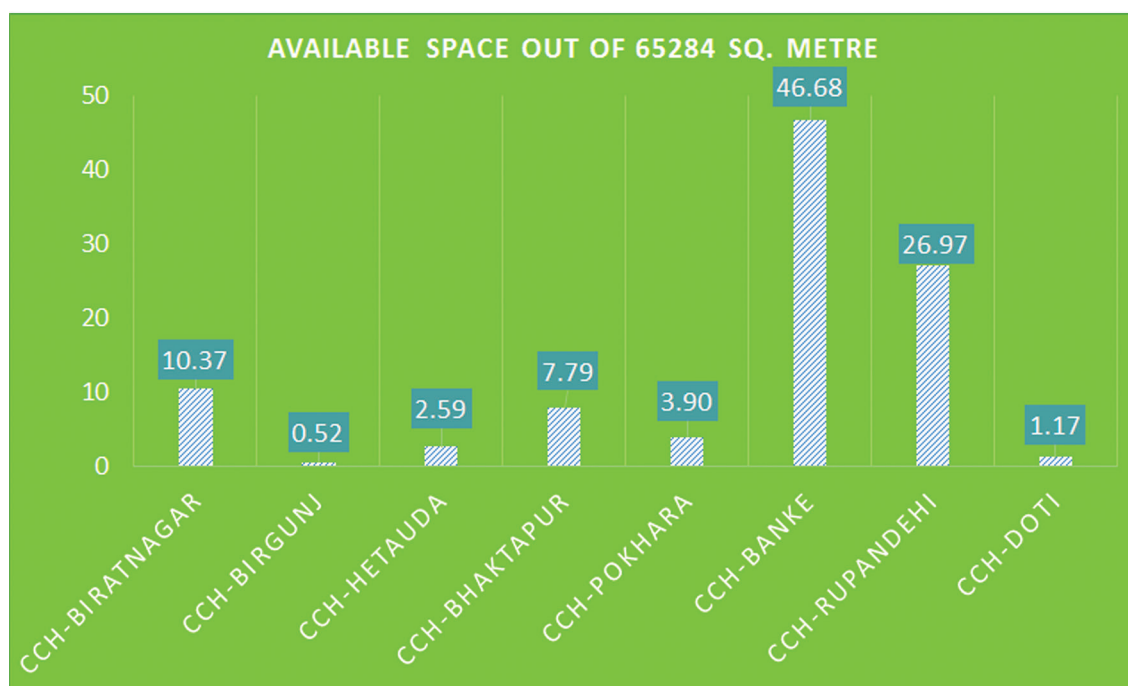


Figure 2: Total Area Covered by CCHs

2. Capacity

For juveniles currently residing in CCHs, the situation is perilous. This chart shows the actual numbers of juveniles against the recommended number (holding capacity of CCHs) by the Government of Nepal (GoN). The overall capacity of CCHs in Nepal is 502 (including for 10 girls in CCH, Bhaktapur), but the current number of juveniles in CCHs is 735 (including 26 Girls). This represents 146.41%. Overcrowding is a major problem in CCHs. Details of capacity and actual number of children is shown in Figure no 3.

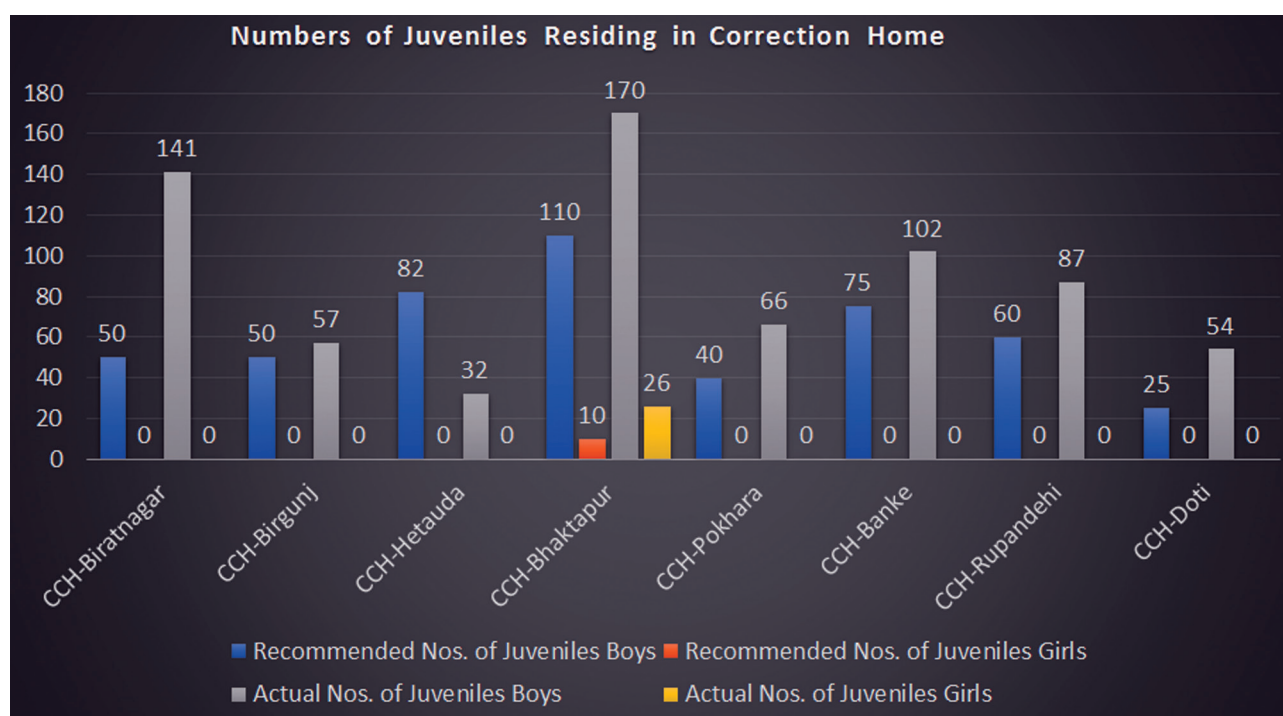


Figure 3: Number of Juveniles Residing in Correction Homes

Diagram 4 shows the number of juveniles in a single room/hall. However, the size of room is not specified. For instance, 87 persons (at CCH Rupandehi) have been sharing a single hall for a long time. Although, less number of children resides in CCH Hetauda than that of actual recommendation by GoN, yet up to 6 children are crammed in a single room/hall.

The number of juveniles sharing a room is one of the main findings of this survey. It was found that on average 10 children share a single room (see the data in Annex 3). All CCHs have crossed the recommended numbers. However, CCH Hetauda (Bagmati Province) is an exception, where lower numbers of children are kept than its capacity which is shown in figure no 3. Furthermore, there are only eight rooms for juveniles at CCH Parsa, whereas the maximum capacity is 50 which clearly suggest that at least 6 persons should be accommodated in a single room. Currently, seven juveniles are forced to stay in a single room (the sizes are not specified but it resembles to common residential house). Likewise, CCH Hetauda, has less numbers of juveniles than it is recommended, but still six children share a single room. In this situation, even bed-sharing is found, which makes fighting against the spread of the current epidemic impossible. The CCHs are envisioned to be a place where children, once engaged crime, will be transformed to a decent personality and handed back over to their

family and society but in Nepal, CCHs almost resemble prisons, where a lot of human rights are violated and basic standards are not maintained as once the district judge of Banke District Court had said the CCH resembles “Death Rooms” (kaal kothari) after visiting to CCH, Banke.

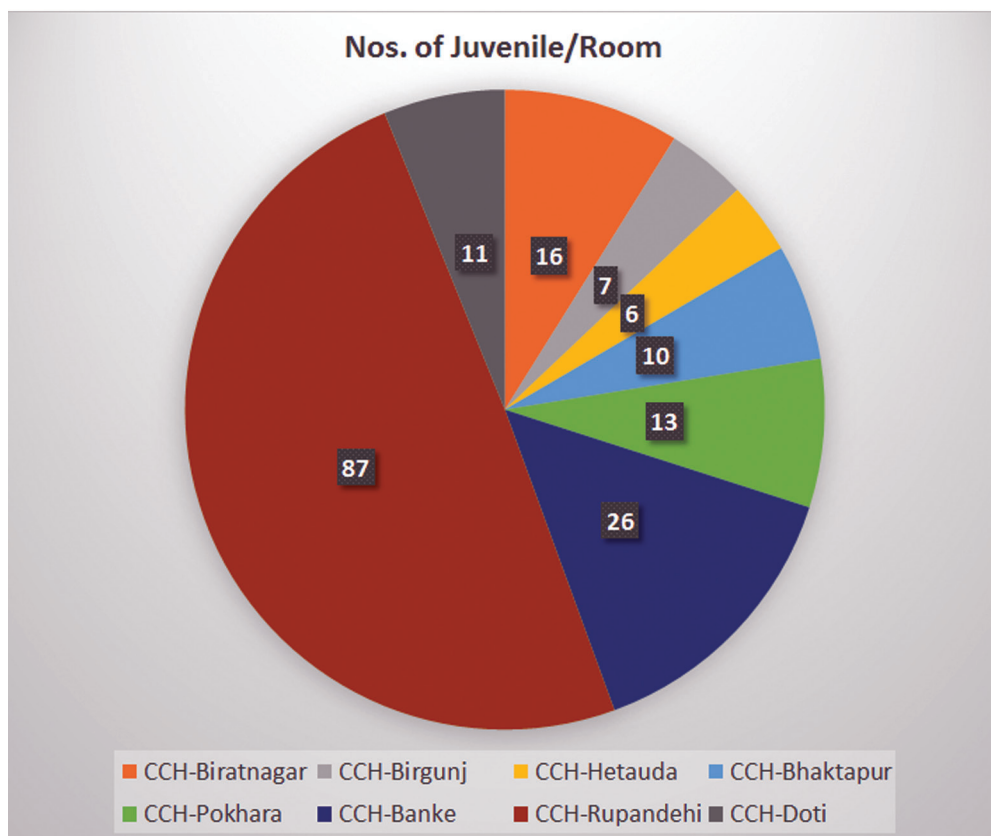


Figure 4: Number of Juveniles per Room

3. Facilities

3.1 Availability of Nutritious Food

The food availability status is common to all CCHs. The jail administration provides 700 grams of rice and 60 rupees per day as regular food facility. The quantity is targeted only for two meals a day which is not a widely agreed normal diet routine. One of the World Health Organization (WHO) reports⁷ suggests fruits, vegetables, nuts, grains, oats, wheat, brown rice, saturated/unsaturated fats (founded in meat, butter, palm oil, cream, cheese, ghee, fish, sunflower oil) etc. as normal diet for an adolescence. However, scheduled breakfasts, lunch and dinner with the required amount of nutrition is almost impossible for the juveniles at CCHs. On top of this, the lockdown has stopped the possible nutritional support provided to juveniles by their family. Thus, the food facility situation at CCH mocks Article 36⁸ of the Constitution.

⁷ https://www.who.int/nutrition/publications/nutrient_requirements/healthydiet_factsheet394.pdf

⁸ Article 36 (2) states that “Every citizen shall have the right to be safe from the state of being in danger of life from the scarcity of food.”

3.2 Bed Sharing and Safe Drinking Water Facilities

The data in Figure 5, describes the overall facility. Room and bed sharing are common. The normal tube-well and the open tap of gravity water, supply systems are the major drinking water facilities of 5 CCHs hence officers of 3 of the CCHs have claimed safe for drinking.

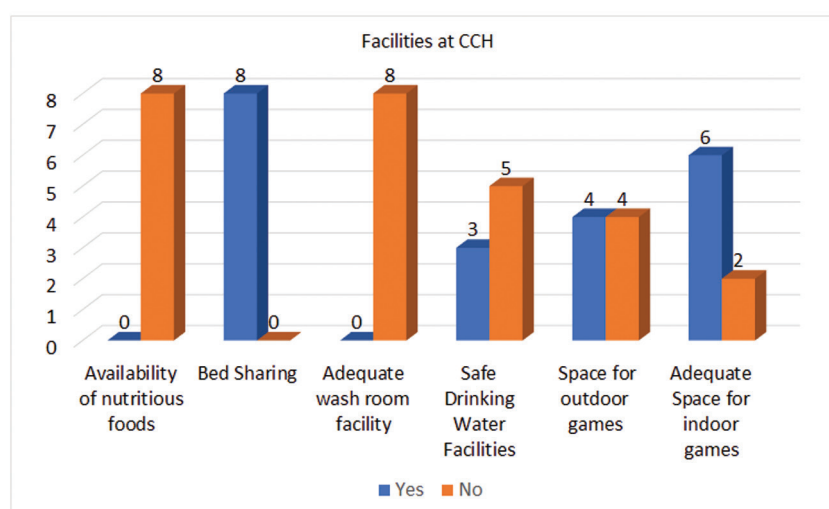


Figure 5: Facilities in CCH

3.3 Space for Outdoor and Indoor Games

The spaces for outdoor games are also not adequate in four of the CCHs as there is not sufficient land spaces. One can imagine for the indoor games facility when 22 persons are staying in a single room in average (please refer figure 2 and 4).

Watching television is the only primary form of entertainment in CCHs. Some CCHs have facilities for indoor and outdoor game and some also have small library facilities. But in most of the CCHs, due to lack of enough space and infrastructures, outdoor games are not available (See Figure 2).

3.4 Availability of Teachers

The figure clearly indicates that the numbers of teachers at CCHs are significantly inadequate in comparison to the number of children. All CCHs are overcrowded (except CCH Hetauda) than their actual capacity and the number of the teachers in facilities are incredibly disproportionate. CCH Bhaktapur has the highest number of teachers compared to other CCHs. CCHs like Birgunj, Hetauda, Rupendehi and Doti have no teachers (See figure 6). The objective of establishing a CCH is bringing behavioral changes in children in conflict with law,

and facilitating juveniles to successfully reintegrate into society. The data reveal that the homes are merely prisons rather than transformation centers.

3.5 Medical Facilities

The preparation and measures for COVID-19 emergency is not in place in all CCHs. According to the CCHs administration, the medical facilities have worsened after the pandemic. Regular check-ups have been ceased as healthcare workers do not visit the homes amid coronavirus fears, albeit no infections have been reported in CCH till date. Moreover, children have not received timely treatment for other health conditions. Only those severely ill or those in need of immediate treatment are taken to nearby government-run facilities, where juveniles are made to pay for their health treatment. Likewise, AF has found that the medical facilities for children in CCHs are not regular and up to the mark. In CCH Banke, half of the juveniles were found suffering from skin diseases due to poor quality of water and lack of medicine supply.⁹ (See Annex 2)

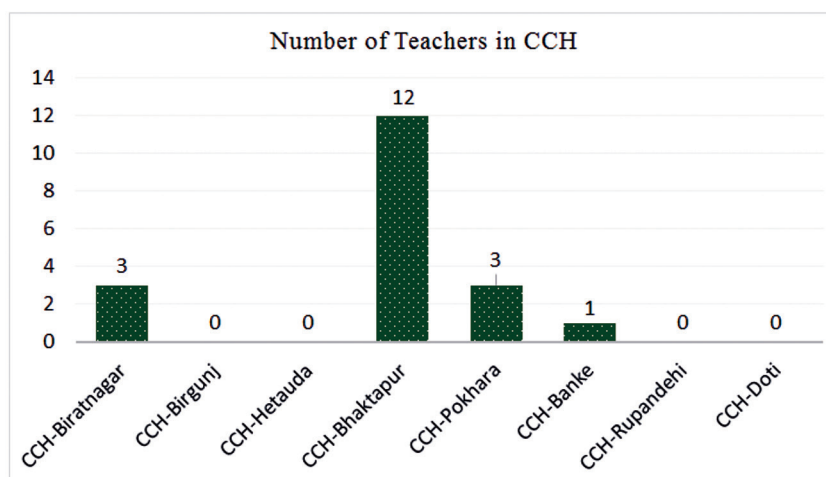


Figure 6: Number of Teachers in CCH

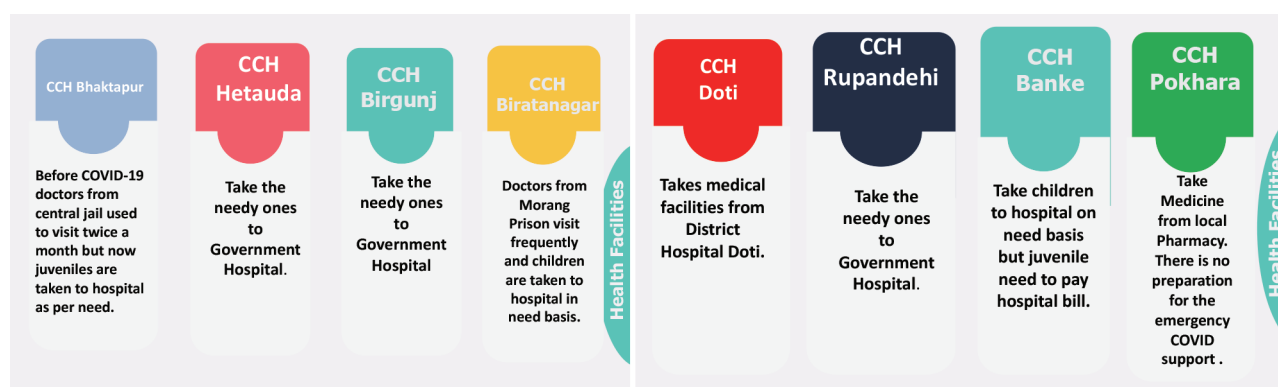


Figure 7: Medical Facilities

⁹ <http://advocacyforum.org/news/2020/05/child-correction-home-a-monitoring-report-banke.php>

4. Role of judiciary in responding to COVID-19

Anticipating the possible outbreak of COVID-19, on 20 March 2020, a full bench of the Supreme Court issued a directive order to hand over minors who were detained at CCHs into parental custody. Following the directive order, 228 minors have been released from CCHs from 24 March 2020 to 8 June 2020 (See figure 8). Some minors are dissatisfied with the weak implementation of the SC's decision. The release of some juveniles and detainees as per the discretionary power of Judges have shattered a 'number of hopes' of many others. One of the main reasons behind the SC's directive was to control the density of population inside these facilities; however, the influx of new inmates rising every day is confounding matters.¹⁰

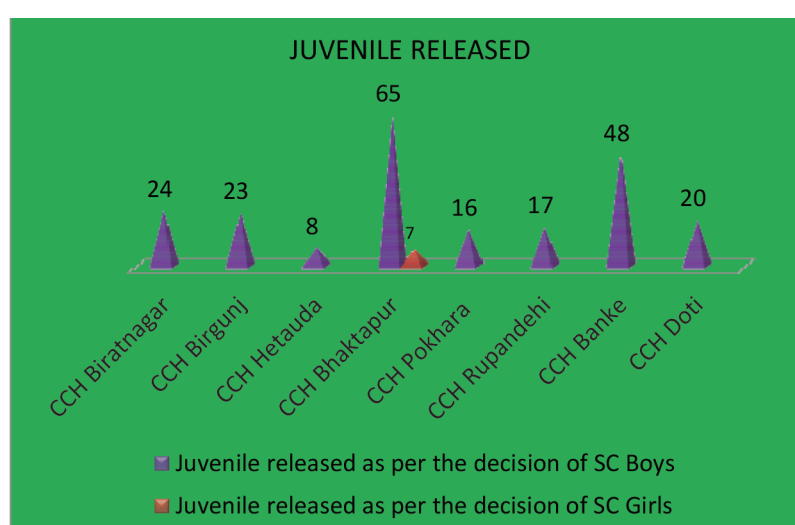


Figure 8: Number of Juveniles Released

5. Precautionary Measures

Further, to address the pandemic, AF found that the following precautions were applied by the CCH administration:

5.1 Major Problems of CCH

- Overpopulation so children need to share beds in overcrowded rooms.
- Lack of sufficient space for social distancing, outdoor games and extra-curricular activities,

¹⁰ Advocacy Forum Nepal, 'Briefing Paper on Human Rights Impact of COVID-19: Advocacy Forum- Nepal's Field Monitoring Report', Published on June 2020 <http://www.advocacyforum.org/downloads/pdf/publications/af-briefing-paper-covid-19-and-human-rights-june-2020.pdf>; For cases challenged by AF in the court of law, see <http://www.advocacyforum.org/downloads/pdf/publications/legal-intervention-to-strengthen-criminal-justice-system-during-covid-19-in-nepal.pdf>

Precaution and Impact of COVID-19 on CCH



Figure 9: Precaution and Impact of COVID-19 on CCH

- Lack of access for formal education and no libraries or internet access, as well as insufficient number of teachers.
- Lack of nutritious food due to lack of sufficient budget allocation.
- Water scarcity and lack of pure drinking water in CCH located in Terai region (E.g. Birgung, Banke)
- Regular health check-ups and medicine facilities are temporarily suspended.
- Emergency medical support is not sufficient to deal with possible impact of the COVID-19 pandemic.
- No preparation for emergency situation and health check-ups.
- CCHs with problem of water supply have difficulties to provide hand washing facilities.
- Instead of reducing the number children in CCHs, new inmates continue to arrive in some CCHs due to unlawful detention resulted from prolonged lockdowns.¹¹

¹¹ Advocacy Forum Nepal, 'Briefing Paper on Human Rights Impact of COVID-19: Advocacy Forum- Nepal's Field Monitoring Report', Published on June 2020, p.9 Available at: <http://advocacyforum.org/downloads/pdf/publications/af-briefing-paper-covid-19-and-human-rights-june-2020.pdf>; See also, <http://www.advocacyforum.org/downloads/pdf/publications/legal-intervention-to-strengthen-criminal-justice-system-during-covid-19-in-nepal.pdf>

- Lack of proper management of septic tanks and waste materials.
- Children need to pay for medical bills.
- Children are not being kept informed about their case proceedings (AF Briefing Paper, 2020).¹²
- Parents and guardians are not able to travel to receive their children due to lockdown (AF Briefing Paper, 2020).
- Children are deprived of regular contact with their parents/guardians.

6. Conclusion and recommendations

AF's monitoring reveals a bleak picture in CCHs in Nepal. AF concludes that the juveniles in these homes are badly treated in the context of the pandemic. The CHCs are found to be overcrowded and do not meet minimum standards even for basic facilities, such as safe drinking water, health facilities, nutritious food. There are no plans and preparations and preventive mechanism to respond to the spread of COVID-19 in CCHs. Once the virus enters the CCHs, options remain very limited. Therefore, AF draws the attention of concerned institutions and stakeholders to ensure human rights at all the homes, including to creating possibility of adequate social distancing, nutrition and medical facilities, education and learning, entertainment, etc. facilities to address the current situation and improve the situation in the future. It urges to all three tiers of governments and authorities concerned to:

- Arrange emergency preparedness and medical facilities in all CCH to combat against the spread of COVID-19.
- Provide safe drinking water and sufficient nutrient food.
- Arrange regular health check-ups and medications.
- Provide formal education system with sufficient teachers and library. Also, initiate virtual learning for children in CCHs during the lockdown period.
- Build infrastructure and provide equipment for extra-curricular activities and entertainment.
- Arrange legal counselors on a regular basis.
- Construct new wings of CCHs, including for girl child in other districts to reduce overcrowd in the existing CCH.
- Strictly comply with SC directive to release juveniles on parental custody amid the crisis.

¹² Advocacy Forum Nepal, 'Briefing Paper on Human Rights Impact of COVID-19: Advocacy Forum- Nepal's Field Monitoring Report', Published on June 2020, p.11 Available at: <http://advocacyforum.org/downloads/pdf/publications/af-briefing-paper-covid-19-and-human-rights-june-2020.pdf>

Annex 1: General information

SN	CCH Name	Estd. Date	Address	Capacity					COVID -19 Response		Remarks
				Total Space in Square Meter	Recommended Nos. of Juveniles by (GoN)		Actual Nos. of Juveniles		Total number of juveniles released as per the decision of the Supreme Court/District Courts		
					Boys	Girls	Boys	Girls	Boys	Girls	
1	CCH-Biratnagar	22-Dec-13	Province 1, Biratnagar	6773	50	0	141	0	24	0	
2	CCH-Birgunj	5-Sep-18	Province 2, Birgunj	339	50	0	57	0	23	0	
3	CCH-Hetauda	17-Aug-18	Bagmati Province, Hetauda	1693	82	0	32	0	8	0	
4	CCH-Bhaktapur	2001	Province 3, Bhaktapur	5087	110	10	170	26	65	7	
5	CCH-Pokhara	10-Mar-12	Gandaki Province, Pokhara	2544	40	0	66	0	16	0	
6	CCH-Banke	Sep. 2018	Province 5, Banke	30477	75		102		48	0	
7	CCH-Rupandehi	2017	Province 5, Rupandehi	17609	60	0	87		17	0	
8	CCH-Doti	17-Aug-18	Sudur Paschim Province, Doti	763	25		54		20		
	Total			65284	492	10	709	26	221	7	

Note: Data collected from 24 March 2020 – 8 June 2020

Annex 2: Medical facilities at CCH before and during the Pandemic

SN	Name of Child Correction Home	Before COVID-19	During COVID-19
1	CCH-Biratnagar	The doctor from Morang Prison visits frequently and hospital admission on need basis.	No emergency measures to respond COVID-19
2	CCH-Birgunj	Taken to hospital on needs basis	No emergency measures to respond COVID-19.
3	CCH-Hetauda	Taken to hospital on needs basis	No emergency measures to respond COVID-19.
4	CCH-Bhaktapur	Before COVID-19 doctors from central jail used to visit twice a month	Now taken to government hospital on needs basis, no emergency measures to respond COVID-19.
5	CCH-Pokhara	Use medicines from local pharmacy, or taken to government hospital on need basis.	No emergency response measures regarding COVID-19.
6	CCH-Banke	Taken to hospital on needs basis but juvenile needs to pay.	Taken to hospital on needs basis but juvenile needs to pay, no emergency response measures regarding COVID-19.
7	CCH-Rupandehi	No regular check-ups.	No emergency response measures regarding COVID-19.
8	CCH-Doti	Before district health office Silgadi Doti used to provide health facility	No emergency response measures regarding COVID-19

Annex 3: Capacity and other facilities

SN	Name of Child Correction Home	Capacity				Facilities								Other entertainment facilities
		Recommended Nos. of Juveniles by (GoN)		Actual Nos. of Juveniles		Nos. of Juvenile/ Room	Availability of nutritious foods Yes/ No	Bed Sharing Yes/No	Adequate wash room facility Yes/No	Safe Drinking Water Facilities Yes/No	Space for outdoor games Yes/No	Adequate Space for indoor games Yes/ No		
		Boys	Girls	Boys	Girls									
1	CCH- Biratnagar	50	0	141	0	16	No	Yes	No	No	Yes	No	Watching Television	
2	CCH- Birgunj	50	0	57	0	7	No	Yes	No	No	No	No	Watching Television	
3	CCH- Hetauda	82	0	32	0	6	No	Yes	No	No	Yes	Yes	Watching Television	
4	CCH- Bhaktapur	110	10	170	26	10	No	Yes	No	No	Yes	Yes	Indoor and outdoor games for children. Art classes, music classes and virtual class for children.	
5	CCH- Pokhara	40	0	66	0	13	No	Yes	No	Yes	Yes	Yes	Watching Television, Indoor game	
6	CCH- Banke	75		102		26	No	Yes	No	No	Yes	yes	Indoor game	
7	CCH- Rupandehi	60	0	87		87	No	Yes	No	Yes	No	Yes	Watching Television	
8	CCH-Doti	25		54		11	No	Yes	No	Yes	No	Yes	Watching Television , Indoor game	
	Total	492	10	709	26	22								