



Justice for All (JFA)



Human Rights Committee Secretariat
8-14 Avenue de la Paix
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Switzerland
Attention: Kate Fox Principi/Sindu Thodiyil

February 14, 2014

Re: Supplementary Information on Nepal scheduled for review by the Human Rights Committee during its 110th Session

Dear Committee Members:

The Center for Reproductive Rights (the Center), an international non-governmental organization with offices in Nepal, Kenya, Colombia, Switzerland, and the United States, Justice For All (JFA), and the Forum for Women, Law and Development (FWLD) have respectfully prepared this letter to assist the Human Rights Committee (the Committee) during the 110th Session in its review of the state party's compliance with the International Covenant on Civil and Political Rights (ICCPR) and the adoption of its Concluding Observations. This letter focuses on violations of key provisions of the ICCPR associated with the widespread practice of child marriage in Nepal, specifically the weak implementation of Nepal's child marriage prohibition law and birth registration law. These are concerns that have been raised by the Committee in the list of issues in relation to the Second Periodic Report of Nepal.¹

A. Issue Summary and Questions Raised in the List of Issues

The **widespread prevalence of child marriage** in Nepal has an immensely negative impact on both girls and women who are married as girls. This harmful practice implicates a broad range of rights guaranteed by the ICCPR and other core human rights treaties, namely the rights to: enter into marriage with free and informed consent; equality and non-discrimination; life; health, including sexual and reproductive health; education; freedom from torture and cruel, inhuman, and degrading treatment; freedom from slavery; and protective measures.² Child marriage is also linked to the state's failure to fulfil its duty to ensure the registration of births as required under international law.³ Importantly, **child marriage is a manifestation of women's and girls' unequal status in society**, reinforces their socialized roles as mothers and caregivers, limits their education and employment opportunities and reduces their overall levels of health and wellbeing.⁴ Further, in addition to girls' young age, other grounds of social marginalization such as poverty or residence in rural areas, which often increase the likelihood of early or forced

marriage in Nepal, reinforce gender discrimination and inequality.⁵ Although child marriage affects both boys and girls, girls face particular harm because of the higher incidence of child marriage among girls and the **serious risks of reproductive health harm and sexual violence experienced by girls and women who were married as children.**⁶

The government of Nepal (the government) must be commended for amending its laws on child marriage in 2002 when it raised the legal age of marriage to 18 years, with parental consent for both parties, and to 20 years, without parental consent for both parties.⁷ Marriage under the legal minimum age is both prohibited and penalized with criminal sanctions for those involved in arranging the marriage.⁸ However, according to the 2011 national census approximately 75% of married women surveyed had been married before their 20th birthday⁹ and over 100,000 girls in Nepal had been given away in marriage before the age of 10.¹⁰

The 2011 Nepal Health Demographic Survey (NDHS) reveals that almost one third (29%) of adolescent girls aged 15-19 are already married¹¹ and nearly half (41%) of women aged 20-24 years had been married before they turned 18.¹² The NDHS establishes the **median age at first marriage for women aged 25-49 as 17.5 years.**¹³ This median age varies by geographic location with it being the lowest in the central region of Nepal at 16.1 years.¹⁴ In its 2013 State of the World's Children Report, UNICEF noted that Nepal is among the 15 countries worldwide with the highest prevalence of child marriage and has the second highest prevalence of child marriage in South Asia.¹⁵ There are reports indicating that the prevalence of child marriage in Nepal has declined overall by approximately 20% in the last five years.¹⁶ However, this downward trend varies by region and has not translated into a significant reduction in child marriage. In the far-western region, the incidence of child marriage stayed at 48% between 2006 and 2011, while the mid-western region showed some improvement, with the incidence decreasing from 61% to 53% in the same time frame,¹⁷ which is still considerably high.

In 1994, in its Concluding Observations on Nepal's initial report, the Committee raised concerns about the situation of women, who continue to face discrimination with "regards to marriage, education and protection against violence."¹⁸ The Committee called on Nepal to adopt "administrative and educational measures designed to eliminate traditional practices and customs detrimental to the well-being and status of women and vulnerable groups of the Nepalese society."¹⁹

In the list of issues for Nepal's second periodic review, the Committee has asked the government to provide information about the following issues that are relevant to child marriage in Nepal:²⁰

- measures taken to eliminate harmful traditional practices, including **child marriage** and to enforce in practice the prohibition against early marriage;²¹
- concerns that **impunity for sexual and domestic violence** remains widespread with police often refusing to register such complaints, measures taken to prevent and combat all forms of violence against women, including domestic violence, rape and other forms of sexual abuse and ensure that such acts are effectively investigated, perpetrators are prosecuted and sanctioned, and victims have access to adequate remedies, including compensation;²² and

- the **low number of birth registrations** and measures taken to address difficulties faced by women and other marginalized and economically disadvantaged groups in the registration process.²³

In its Second Periodic Report the government discusses the legal age of marriage which has been raised since its last report to the Committee and notes that anyone who facilitates a marriage without the free and full consent of the parties involved may be punished with imprisonment or fine.²⁴ However, the government has not provided information on the implementation of these laws and the present status of child marriage in the country, thus failing to acknowledge blatant violations of existing legal standards and legal guarantees under the ICCPR. Similarly, with respect to addressing violence against women, the Second Periodic Report lists the enactment of various national laws and policies, aimed at addressing gender-based violence,²⁵ and highlights “effective implementation of policies of zero tolerance against gender-based violence” as a best practice.²⁶ The Second Periodic Report further notes the legal recognition of marital rape as a crime²⁷ but it fails to acknowledge critical gaps in the implementation of laws and policies on gender-based violence and the practical barriers that women may encounter when trying to utilize them to seek legal redress. In relation to birth registration, the Second Periodic Report highlights legal provisions that ensure the right to be registered at birth and measures being implemented through the appointment of a local registrar in each Village Development Committee (VDC) and local municipality to register the birth of children,²⁸ but fails to discuss the effectiveness of these measures.

On a very positive note, since the submission of its Second Periodic Report, **Nepal has demonstrated its political will to combat child marriage by co-sponsoring the historic Human Rights Council Resolution on Child, Early and Forced Marriage** in October 2013.²⁹

B. Child Marriage Violates Rights Protected by the ICCPR

Child marriage triggers a continuum of violations of girls’ rights that continues into adulthood and negatively impacts their ability to exercise the following rights guaranteed by the ICCPR: right to enter into marriage with free and full consent; right to equality and non-discrimination; right to life; right to freedom from torture, cruel, inhuman and degrading treatment; right to freedom from slavery; right to privacy; and rights of the child to measures of protection. The state’s failure to ensure the right to birth registration, as specifically guaranteed by the ICCPR, contributes to the continuation of the practice and represents the **absence of adequate legal safeguards against child marriage**. The following sections discuss these violations and provide evidence of Nepal’s failure to take adequate measures to ensure that girls do not continue to suffer disproportionate, systemic discrimination as a result of child marriage. In clarifying the obligations of the government with respect to the issues raised in this letter, it is critical for the Committee to identify both positive and negative duties to ensure the rights guaranteed under the ICCPR.

I. Violation of the Right to Enter into Marriage with Free and Full Consent (Article 23)

Article 23 of the ICCPR guarantees “the free and full consent of the intending spouses”³⁰ to enter into marriage and guarantees equality of spouses “as to marriage, during marriage and at its dissolution.”³¹ While the ICCPR does not establish a specific marriageable age either for men or

women, the Committee has repeatedly affirmed that states parties must ensure that girls are not married before they are 18 years old and called on states parties to implement laws banning child marriage.³² In General Comment 28, the Committee has recognized that “[m]en and women have the right to enter into marriage only with their free and full consent, and States have an obligation to protect the enjoyment of this right on an equal basis. Many factors may prevent women from being able to make the decision to marry freely. One factor relates to the minimum age for marriage. That age should be set by the State on the basis of equal criteria for men and women. These criteria should ensure women’s capacity to make an informed and uncoerced decision.”³³ Further, the Committee has stated that a proper minimum age of marriage is necessary to “ensure women’s capacity to make an informed and un-coerced decision.”³⁴

Nepal should be commended for having amended its laws to establish an equal minimum age of marriage for girls and boys.³⁵ Further, Nepal’s laws do require the free consent of both parties to a marriage.³⁶ However, the Nepal Adolescent and Youth Survey (NAYS), a government study from 2011, reveals that **only 53 % of males and 38% of female adolescents report having a say in their choice of a spouse.**³⁷ Similarly, research conducted in 15 districts by a group of organizations working on child marriage reveals that most often it is the parents who decide the marriage of their children³⁸ with 52.7% of child marriages among boys and 67.1% among girls taking place as a result of parental pressure.³⁹ The Committee has affirmed in General Comment 28 that states parties must ensure women’s equal enjoyment of the right to consent to marriage, which can be violated where family members or guardians are allowed to consent to the marriage instead of the woman herself.⁴⁰ The Committee against Torture has expressed concern about the legality of child marriages that take place with a guardian’s consent instead of individual consent and noted that it may be considered “violence against them as well as inhuman or degrading treatment.”⁴¹

II. Violation of the Right to Equality and Non-Discrimination (Articles 3 and 26)

Child marriage violates an interdependent and indivisible set of human rights protected under the ICCPR. Cutting across all of these violations is the government’s failure to ensure the rights to non-discrimination and substantive equality for girls in Nepal. The Committee has recognized in General Comment 28 that “[d]iscrimination against women is often intertwined with discrimination on other grounds such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States parties should address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects.”⁴² It has also noted that ensuring equality requires not only removing barriers but also taking *proactive measures* “to achieve the effective and equal empowerment of women.”⁴³ **Girls account for a particularly vulnerable and marginalized group because of their age, combined with other intersectional identities and lack of autonomy in the family and society.**

Articles 3 and 26 of the ICCPR guarantee women’s right to equality and non-discrimination. The Committee has recognized that child marriage violates girls’ right to non-discrimination and equal enjoyment of their human rights, and affirmed that under Articles 3 and 26, states parties must protect girls from early marriage.⁴⁴ The Committee has also described child marriage as a traditional practice discriminatory to women.⁴⁵ Generally, the Committee has criticized the impact of harmful, traditional practices, noting that the equal enjoyment of rights by women is often stymied by “traditional, historical, religious or cultural attitudes,”⁴⁶ including in its

previous review of Nepal.⁴⁷ Further, the Committee has explicitly criticized laws and practices that result in the inequality of women within marriage.⁴⁸ In periodic reviews of state compliance with the ICCPR, the Committee has urged states to address both de jure and de facto discrimination in private and public matters⁴⁹ and eliminate gender stereotypes about women in family and society.⁵⁰

Both the Committee on the Elimination of Discrimination against Women (CEDAW Committee) and the Committee on Economic, Social and Cultural Rights (CESCR Committee) also recognize that states parties are under an obligation to respect, protect and fulfil the right to non-discrimination of women and implement their right to substantive equality.⁵¹ The CEDAW Committee has recognized that “[t]he position of women will not be improved as long as the underlying causes of discrimination against women, and of their inequality, are not effectively addressed.”⁵² The CESCR has reinforced this understanding of equality in its General Comments 16 and 20, noting that “[e]liminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination.”⁵³

Nepal’s Interim Constitution of 2007 (Nepal’s Interim Constitution), guarantees the rights to equality and non-discrimination as fundamental rights.⁵⁴ Article 13 states that “[a]ll citizens shall be equal before the law and no one shall be denied the equal protection of law,”⁵⁵ and Article 20(1) provides that “[n]o discrimination shall be made against women by virtue of their sex.”⁵⁶ The persistence of child marriage in Nepal reveals the continuing dominance of discriminatory patriarchal norms and stereotypes at the expense of women’s and girls’ most basic civil rights.

Further girls who marry young face a high risk of early pregnancy and other reproductive health harms including maternal mortality and morbidity and unsafe abortion. These risks are specific to women and girls,⁵⁷ and are not faced by men and boys involved in child marriage due to biological differences between the two sexes. Consequently, **women and girls are disproportionately impacted by child marriage and restricted in their ability to exercise a range of rights granted by the ICCPR on an equal footing with men.** Additionally, these harms and the resulting inequality and discrimination that ensue from child marriage are aggravated by married girls’ lack of access to crucial reproductive health services, particularly contraceptive information and services which offer the best possible way to prevent early and unintended pregnancies. The NDHS survey reveals that only 17.6% of married adolescents have access to contraception,⁵⁸ indicating that the majority of married adolescents do not use any form of contraception and are therefore unable to control their own fertility and protect their reproductive health. Additionally, married girls face tremendous pressure to start bearing children soon after marriage.⁵⁹ The ability of married girls to make autonomous decisions regarding pregnancy and childbearing is frequently restricted by husbands and in-laws who do not allow newly married girls to seek contraceptive information and services.⁶⁰ The unmet need for contraception is highest among married adolescent girls between ages 15-19.⁶¹

III. Violation of the Right to Life (Article 6)

Every human being has an inherent right to life⁶² and under the ICCPR state parties are obligated to protect individuals from arbitrary and preventable losses of life, and take steps to increase life expectancy.⁶³ Early pregnancy is closely associated with child marriage and significantly increases girls' risk of maternal mortality and morbidity due to their tender age.⁶⁴ Adolescent girls under the age of 15 are up to five times more likely to die during childbirth than women in their twenties.⁶⁵ Furthermore, early pregnancy carries a higher risk of pregnancy related injuries for young girls such as obstetric fistula⁶⁶ and uterine prolapse, which is especially prevalent in Nepal.⁶⁷

The Committee has consistently recognized the links between child marriage, early pregnancy, and maternal mortality and morbidity⁶⁸ and has expressed concern about violations of the right to life where there are high levels of adolescent pregnancy.⁶⁹ The Committee has also linked child marriage with risks to girls' right to health.⁷⁰ The Committee has stated that states parties are obligated to help adolescent girls avoid unwanted pregnancies by strengthening access to contraceptive information and services and sexuality education programs.⁷¹ Further, the Committee has affirmed that states parties must guarantee that adolescent girls are not exposed to the life-threatening risks of unsafe abortion.⁷²

Women who marry early are more likely to have their first child at a young age and give birth to more children overall.⁷³ The NDHS reveals that 17 % of women in Nepal aged 15-19 have already given birth or are pregnant with their first child.⁷⁴ **In Nepal, adolescent mothers give birth to 81 out of every 1,000 children, which is the third highest rate in South Asia.**⁷⁵ The percentage of women who begin childbearing increases dramatically with age from 1% among women aged 15 to 39% among women aged 19.⁷⁶ Furthermore, pregnancy among women aged 15-19 is twice as high in rural areas (17.8 %) than in urban areas (9.3%).⁷⁷ Of grave concern is the fact that 41% of girls below 20 years of age do not deliver in a health facility and give birth at home;⁷⁸ only 42 % of childbirths among girls below 20 years are attended by a skilled provider.⁷⁹ According to the World Health Organization, in comparison to older women, adolescent girls are at higher risk of dying from pregnancy-related causes.⁸⁰ The government led Maternal Mortality and Morbidity Study in Nepal, 2008/09, confirms that maternal mortality varies considerably by age with an increased risk for those under 20 years.⁸¹ According to the NDHS, uterine prolapse, which is associated with early, frequent and closely timed pregnancies, affects about 10% of women nationally.⁸²

Early pregnancies, which are often unplanned, trigger a continuum of reproductive health harms. Reports reveal that early, unwanted pregnancies are often associated with increased levels of induced abortion, which when performed in unsafe conditions may even result in death.⁸³ Unsafe abortion is the third leading cause of maternal mortality in Nepal.⁸⁴ While government data on the incidence of unsafe abortion among adolescents is lacking, a variety of local media sources report that the incidence of abortion among adolescents is increasing.⁸⁵ More than a decade after the legalization of abortion in Nepal, the NDHS reveals that only 38% of women aged 15-49 are aware that abortion is legal.⁸⁶

Nepal's Interim Constitution recognizes the right to live with dignity⁸⁷ and the right to health⁸⁸ as fundamental rights thereby obligating the government to prioritize the fulfillment of these rights

by taking adequate steps to ensure that individuals are protected from arbitrary and preventable losses of life including those caused by pregnancy. The higher incidence of maternal mortality among married adolescent girls reveals the government's failure to fulfill its obligation under national constitutional law and the ICCPR. Notably, in its Fourth and Fifth (Combined) Periodic Report to the CEDAW Committee, the government has acknowledged early marriages as being "major impediments to women's advancement"⁸⁹ that have "triggered the low health status of women in Nepal."⁹⁰

IV. Violation of the Rights to Freedom from Torture, Cruel, Inhuman and Degrading Treatment (Article 7) and Freedom from Slavery (Article 8)

Article 7 of the ICCPR provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (TCIDT) and Article 8 provides the right to be free from slavery. U.N.TMBs including the Committee have recognized that child marriage may constitute TCIDT,⁹¹ particularly where the government fails to effectively implement laws that set the minimum age of marriage at 18.⁹² In General Comment 17, the Committee has noted specifically in relation to children that, "[e]very possible economic and social measure should be taken to ... prevent them from being subjected to acts of violence and cruel and inhuman treatment or from being exploited by means of forced labour or prostitution."⁹³ Further, the Special Rapporteur on TCIDT has specifically recognized that governments' failure to eliminate child marriage is a violation of the right to freedom from TCIDT.⁹⁴ The Special Rapporteur on Contemporary Forms of Slavery has affirmed that all child marriages are forced marriage, which fall within the slavery-like practices condemned by the Supplementary Convention on Slavery.⁹⁵ It has been recognized that as a result of such marriages, women and girls suffer domestic servitude and sexual slavery, where they have to perform all domestic household tasks and to have sex with their husbands, and their inability to perform these duties often leads to physical and psychological abuse, including marital rape.⁹⁶

A study by a group of organizations conducted in 15 districts reveals that 45.2% of men in Nepal marry primarily in order to get support for domestic chores.⁹⁷ **Girls under the age of 18 are often not ready to take on the burden of domestic chores, especially in rural contexts where living conditions can be quite harsh, yet they are frequently punished with physical and psychological violence when they fail to meet expectations.**⁹⁸ The circumstances of child brides in these situations correlate with conditions of slavery.

Nepal's Interim Constitution guarantees that "[n]o woman shall be subjected to physical, mental or any other kind of violence; and such act shall be punishable by law"⁹⁹ Further, it recognizes that "[e]very child shall have the right against physical, mental or any other form of exploitation."¹⁰⁰ In addition to violating key provisions of the ICCPR, the practice of child marriage violates these fundamental rights that are guaranteed in Nepal's Interim Constitution.

V. Violation of the Rights of the Child to Measures of Protection and Birth Registration (Article 24)

Article 24 (1) of the ICCPR guarantees each child "the right to such measures of protection as are required by his status as a minor on the part of his family, society and the State."¹⁰¹ This

article has been interpreted by the Committee to require states to ensure children greater protection than adults in certain matters so that they may benefit from all of the rights guaranteed in the ICCPR.¹⁰² In its General Comment 17, the Committee requires that the state take every possible measure “to foster the development of [the child’s] personality and to provide them with a level of education that will enable them to enjoy the rights recognized in the Covenant.”¹⁰³ The Committee has established that the obligation to protect children requires state parties to “eradicate both through legislation and any other appropriate measures, all cultural or religious practices which jeopardize the freedom and well-being of female children.”¹⁰⁴

Child marriage violates a broad range of girls’ human rights and its continued occurrence in Nepal reflects the failure of the government to fulfill its duty of protection under the ICCPR. The burden of social expectations placed on newly married girls arising from their socialized roles as mothers and caregivers whose primary duties are to procreate and serve the family and the abrupt end to their education profoundly undermines their social, emotional, psychological, intellectual and economic development as young girls and as adult women.¹⁰⁵ The government has acknowledged in its Fourth and Fifth (Combined) Periodic Report to the CEDAW Committee that **early marriage and its social obligations prevent women’s advancement in areas of education and employment.**¹⁰⁶ Further it points to **early marriage as a leading reason why girls do not complete their formal education.**¹⁰⁷ The NAYS reveals a higher drop-out rate for girls (22%) than boys (16%),¹⁰⁸ with early marriage being the reason for close to one third (26.64%) of girls dropping out between the ages of 15-19.¹⁰⁹ The interruption of education and denial of opportunities for self-development due to child marriage undermine women’s and girls’ ability to exercise a broad range of rights guaranteed under the ICCPR by undercutting their personal development and health. The NDHS reveals that young girls with no education are nearly four times more likely to begin having children (31.6%) than those who complete school and pursue a higher education (8%).¹¹⁰

In addition Article 24(2) of the ICCPR guarantees the right of every child to be registered immediately after birth.¹¹¹ In General Comment 17, the Committee has affirmed that the duty to protect children includes an obligation to ensure birth registration.¹¹² Despite this obligation and a national law requiring birth registration, namely the Birth, Deaths and Personal Event (Registration) Act,¹¹³ **less than half of all births in Nepal (42%) are officially registered.**¹¹⁴ The registration of births is a crucial measure for preventing child marriage. Accurately determining a girl’s age at marriage requires a system of birth registration. The absence of an effective birth registration system is indicative of the absence of adequate legal protection against child marriage.

VI. Violation of the Obligation to Ensure Legal Remedies (Article 2)

The Committee has strongly emphasized the state obligation to ensure “accessible and effective remedies” for human rights violations and to take into account “the special vulnerability of certain categories of persons.”¹¹⁵ It has further stated that, “a failure by a state party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”¹¹⁶ U.N. TMBs have repeatedly expressed concern where child marriages persist despite legal prohibitions,¹¹⁷ and affirmed that states parties must ensure there is no impunity where child marriages occur.¹¹⁸ Despite the criminalization of child marriage,¹¹⁹ marital rape,¹²⁰ statutory

rape¹²¹ and specific forms of domestic violence,¹²² relatively few cases of child marriage and domestic and sexual violence are in fact reported and successfully prosecuted in Nepal. Nepal's Interim Constitution guarantees women's right to freedom from gender-based violence¹²³ and the right to a constitutional remedy for the enforcement of fundamental rights.¹²⁴ Yet, as illustrated in this letter, there is a concerning gap in legal accountability for crimes against women and girls.

a. Lack of Implementation of Child Marriage Laws and Related Legal Provisions on Gender-Based Violence

In Nepal, child marriages are rarely challenged in a court of law and instances of domestic and sexual violence often go unpunished. While the government's Fourth and Fifth (Combined) Periodic Report to the CEDAW Committee submitted in 2009 reveals that only 12 cases of child marriage were reported in the period of 2003/04 – 2006/07,¹²⁵ the Second Periodic Report to the Committee fails to disclose this information. According to one recent study, **only 22 cases of child marriage were reported to the police from 2009-2012, which represents a mere 0.3% of reported cases on gender-based violence.**¹²⁶ A review of the Supreme Court's Annual Reports reveals there were altogether only seven cases of child marriage recorded in the Supreme Court, six in the Appellate Courts and thirteen in the District Courts of Nepal in fiscal year 2011/12.¹²⁷ This data indicates minimal reporting of cases of child marriage and lack of enforcement of existing legal provisions. The lack of implementation of Nepal's child marriage prohibition laws has been affirmed by a study conducted by a local non-governmental organization, Forum for Women Law and Development.¹²⁸ The study's major findings in relation to lack of implementation include: non-recognition of child marriage as a form of violence; lack of awareness about the rights of children; the perception that child marriage is a personal issue; lack of awareness about the negative health impact of child marriage; low reporting of cases of child marriage; the perception that child marriage is not a crime against the State; low punishment for child marriage; and the absence of an adequate number of special cells to deal with children's rights issues.¹²⁹ Child marriages are frequently reported in the media and when considered against data pointing to the low level of official complaints and prosecutions, these reports expose the government's failure to take action to implement its laws and provide legal redress to victims of child marriage.¹³⁰

The weak enforcement of Nepal's child marriage prohibition laws has been brought to the attention of Nepal's Supreme Court more than once. In the 2006 case of *Sapana Pradhan and Others v. Government of Nepal*,¹³¹ the Court recognized the threats posed to girls' lives and health as a result of child marriage.¹³² Expressing concern about the pervasive nature of child marriage in Nepal and the low level of prosecution of those responsible for conducting such marriages,¹³³ the Court ruled that the meaning and purpose of a law can only be realized through effective implementation and not mere enactment of legislation¹³⁴ and issued directive orders to the government to implement its laws.¹³⁵ Once again, in 2007, in the case of *Rama Panta Kharel & Others v. Government of Nepal*,¹³⁶ the Court issued directive orders to the government to eliminate child marriage through the effective enforcement of its laws.¹³⁷ The government has yet to take effective steps to implement the Supreme Court's directive orders. In its review of Nepal in 2011, the CEDAW Committee expressed concern about the persistence of child marriage and recommended that the government take steps to enforce the legal minimum age of marriage.¹³⁸ The Committee on the Rights of the Child (CRC Committee) specifically called for the implementation of these decisions during its review of Nepal in 2012.¹³⁹

Additionally, violence against women and girls is pervasive in Nepal but legal remedies are rarely pursued and enforced. The NDHS reveals that more than one in five (22 %) adolescent girls and women aged 15-49 have experienced physical violence since the age of 15.¹⁴⁰ Further, **in almost 90% of cases where women aged 15-49 have experienced sexual violence, the current husband is the perpetrator.**¹⁴¹ Of major concern are the findings of a 2012 study conducted by the Office of the Prime Minister and Council of Ministers in several rural districts of Nepal which reveals that while 16.6% of women reported being subjected to sexual violence by intimate partners,¹⁴² an overwhelming 83% of them did not seek any outside help;¹⁴³ only 3 in 10 women sought help from the police, a lawyer or a health provider.¹⁴⁴ According to the NDHS, 65.5 % of women have never sought help in cases of physical violence¹⁴⁵ and 84.7% of women have never sought help specifically in cases of sexual violence.¹⁴⁶ Further, marital rape was recognized as a criminal offence in 2002, but the penalties for marital rape are lighter than for instances of rape outside of marriage.¹⁴⁷ The punishment for rape outside of marriage ranges between 5-15 years imprisonment, depending on the age of the victim,¹⁴⁸ while marital rape is punishable by 3-6 months imprisonment.¹⁴⁹ While the Second Periodic Report highlights the recognition of marital rape as a crime,¹⁵⁰ it fails to acknowledge the lack of implementation of the law and discriminatory penalties for marital rape and rape outside of marriage. The lack of effective implementation of laws penalizing different forms of sexual violence, including statutory rape and marital rape, is particularly concerning considering the findings of the NDHS, which reveals that almost half (46.5%) of women who have had sex before the age of 15 and 28.6% of women who have had sex between 15-19 years of age stated that they were forced to do so against their will.¹⁵¹ These trends would suggest that child brides have very little or no practical legal recourse for criminal acts of violence committed against them within marriage.

b. Weaknesses and Inconsistencies within Nepal's Child Marriage Law

There are specific legal barriers that undermine the implementation of Nepal's child marriage prohibition law. For example, a child marriage is voidable only if the couple has not had a child at the time of reaching 18 years of age.¹⁵² Considering the high risk of early pregnancy associated with child marriage and general lack of access to reproductive health information and services among children and adolescents, this legal requirement for voiding a marriage is not practical.¹⁵³ Child marriage is considered an offence against the state party¹⁵⁴ and **although married girls are not legally required to report cases of child marriage themselves, societal attitudes and the perception that child marriage is a personal issue**¹⁵⁵ result in the onus of acting against a child marriage falling mostly on the girl child whose rights have been violated. Girls' lack of autonomy within the family impedes their ability to overcome legal and social barriers leading to their inability in utilizing existing laws that penalize child marriage.¹⁵⁶

c. Lack of Birth Registration

The government's Second Periodic Report states that all children born in the territory of Nepal are required to be registered by a local registrar in each VDC and municipality,¹⁵⁷ but the report fails to mention whether these requirements are followed in practice. In reporting to the CEDAW Committee, the government has acknowledged the lack of effective implementation of laws concerning registration, specifically the Marriage Registration Act and the Birth, Deaths and

Personal Event (Registration) Act.¹⁵⁸ The NDHS reveals that only 42% of children were registered at birth.¹⁵⁹ Further, there are **disparities in birth registration based on sex, economic status and geographic location**; fewer girls (40.4%) are registered than boys (44%);¹⁶⁰ registration ranges from 35.6% in the lowest wealth quintile to 52.1% in the highest wealth quintile;¹⁶¹ and birth registration varies by development region, ranging from 37.3% to 50.7%.¹⁶² The Birth, Deaths and Personal Event (Registration) Act requires all births to be registered within 35 days.¹⁶³ However, the NDHS reveals that births are less likely to be registered within the mandatory 35-day period and children aged 2-4 are almost twice as likely to have a registered birth than a child younger than 2.¹⁶⁴ Delays in registering births are attributed to the country's weak birth registration system and the shortage of staff in registration offices.¹⁶⁵ The government's failure to ensure universal and timely birth registration constitutes a direct violation of the ICCPR. Further, the low rate of birth registration impedes the implementation of the nation's child marriage prohibition laws.¹⁶⁶

C. Recommended Questions

In light of the above, we respectfully request the Committee to raise the following questions with the government during its review:

1. What steps are being taken by the government to prevent and prosecute child marriages and to monitor and evaluate the impact of laws prohibiting child marriage in Nepal?
2. What steps have been taken to identify and remove barriers faced by girls and women in accessing legal information, assistance and mechanisms, especially in rural and remote areas where the incidence of child marriage is high and access to legal information and mechanisms is low, so that they may utilize the law and obtain legal redress for child marriage and domestic and sexual violence, including marital rape?
3. What is being done specifically in rural and remote areas to address the reproductive health needs of girls in these communities who are at greater risk of being given away in marriage as children and less likely to have access to reproductive health information and services? What is the government doing to ensure that married girls are able to access a full range of reproductive health information and services and reduce their vulnerability to the harmful consequences of early pregnancy and sexual violence?
4. What is the government doing to eliminate discriminatory legal provisions that prescribe a lesser penalty for marital rape than rape outside of marriage and thereby eliminate discrimination in the law on the basis of marital status?
5. Considering the high incidence of child marriage in Nepal, what steps are being taken by the government to gather national data on the occurrence of child marriage and its negative outcomes on women's and girls' sexual and reproductive health, disaggregated by income, location, and other factors?
6. What steps are being taken by the government to strengthen the country's birth registration system and appoint adequate staff to ensure the timely registration of newborns?

D. Suggested Concluding Observations

We respectfully submit the following recommendations for the Committee to consider incorporating into the Concluding Observations for Nepal:

1. Take immediate and concrete steps to enforce the legal minimum ages of marriage by enabling individuals and communities to report cases of child marriage, through the provision of legal information and services, and on the initiative of the State, including through effective prosecutions.
2. Undertake adequate measures to ensure that girls have access to legal information and remedies in cases of child marriage and that the penalties prescribed by law are enforced;
3. Introduce laws, policies and programs to address the specific reproductive health and other needs of young married girls, particularly low income married girls in rural and remote areas, as a means to enable them to exercise a broad range of rights guaranteed under the ICCPR;
4. Take specific steps to ensure that girls and women are able to obtain legal information and remedies in cases of domestic and sexual violence within marriage and create an oversight mechanism to ensure that legal provisions intended to prevent and punish domestic and sexual violence are effectively implemented;
5. Amend legal provisions prescribing penalties for marital rape that discriminate against women on the basis of their marital status;
6. Invest adequate resources to strengthen the national birth registration system and create an oversight mechanism to ensure that all births are registered;
7. Include addressing child marriage as part of the mandate of national human rights mechanisms and allocate adequate funding for activities to raise awareness about the harmful effects of child marriage and identify and address barriers to legal remedies.

Sincerely,



Melissa Upreti
Regional Director for Asia
Center for Reproductive
Rights



Sarmila Shrestha
President
Justice for All, Nepal



Kusum Shakh
President
Forum for Women, Law and
Development

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- ¹ Human Rights Committee, *List of issues in relation to the second periodic report of Nepal*, U.N. Doc. CCPR/C/NPL/2 (August 21, 2013) [hereinafter Human Rights Committee, *List of issues: Nepal* (2013)].
- ² International Covenant on Civil and Political Rights, arts. 2(1), 3, 6(1), 7, 17, 18, 19, 26, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter ICCPR]; Convention on the Elimination of All Forms of Racial Discrimination, *adopted* Dec. 21, 1965, arts. 2, 5(e) (iv), G.A. Res. 2106 (XX), Annex, U.N. GAOR, 20th Sess., Supp. No. 14 at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195 (*entered into force* Jan. 4, 1969); Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, arts. 1, 2, 3, 10, 12, 14, 16(e), G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46 at 193, U.N. Doc. A/34/46 (1979) (*entered into force* Sept. 3, 1981); International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, arts. 2(2), 3, 12, 13, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16 at 49, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976); K.L. v. Peru, HRC, Communication No. 1153/2003, para. 6.4, UN Doc. CCPR/C/85/D/1153/2003 (2005); *see also Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, at 12 (Principle 8) and para. 7.3, U.N. Doc. A/CONF.171/13/Rev.1 (1995); *Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, paras. 94-97, U.N. Doc. A/CONF.177/20/Rev.1 (1996).
- ³ ICCPR, *supra* note 2, art. 24(2).
- ⁴ CENTER FOR REPRODUCTIVE RIGHTS (CRR), CHILD MARRIAGE IN SOUTH ASIA: STOP THE IMPUNITY 16-17 (2013) [hereinafter CRR, CHILD MARRIAGE IN SOUTH ASIA].
- ⁵ According to UNFPA, 42.9% of women residing in rural areas got married before they reached the age of 18 in comparison to 26.9% residing in urban areas. UNITED NATIONS POPULATION FUND (UNFPA), MARRYING TOO YOUNG: END CHILD MARRIAGE 73 (2012), *available at* <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> [hereinafter UNFPA, MARRYING TOO YOUNG].
- ⁶ CRR, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 4, at 16-17.
- ⁷ The Muluki Ain [Country Code], pt. 4, ch. 17, no. 2 (1963) (Nepal) [hereinafter Muluki Ain (Nepal)].
- ⁸ *Id.* The law also punishes the priest, matchmaker and other abettors knowingly involved in child marriages.
- ⁹ GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION SECRETARIAT, NATIONAL POPULATION AND HOUSING CENSUS 2011 (NATIONAL REPORT) 131(2012) *available at* cbs.gov.np/wpcontent/uploads/2012/11/National%20Report.pdf.
- ¹⁰ *Id.*
- ¹¹ GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011 65 (2012) [hereinafter GOV. OF NEPAL, NDHS 2011].
- ¹² *Id.* at 68.
- ¹³ *Id.*
- ¹⁴ Urban women age 25-49 marry one year later than rural women, and women from the hill zone marry about one year later than women from the terai and mountain zones. Similarly, there is a two-year difference in median age at marriage between women age 25-49 living in the eastern development region (18.7 years) and women living in the far-western region (16.6 years). There is a three-year difference in median age at first marriage between women age 25-49 living in the Central terai (16.1 years) and women living in the Eastern hill sub-region (19.3 years). *Id.*
- ¹⁵ UNICEF, STATE OF THE WORLD'S CHILDREN REPORT 2013 133 (2013) *available at* http://www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf.
- ¹⁶ UNFPA, MARRYING TOO YOUNG, *supra* note 5, at 24.
- ¹⁷ *Id.* at 24-25.
- ¹⁸ Human Rights Committee, *Concluding Observations: Nepal*, para. 8, U.N. Doc. CCPR/C/79/Add.42 10 (1994).
- ¹⁹ *Id.*, para. 13.
- ²⁰ Human Rights Committee, *List of issues: Nepal* (2013), *supra* note 1.
- ²¹ *Id.*, para. 5.
- ²² *Id.*, para. 10.
- ²³ *Id.*, para. 25.
- ²⁴ Human Rights Committee, *Second periodic report of States parties: Nepal*, para. 177, U.N. Doc. CCPR/C/NPL/2 (2012) [hereinafter Human Rights Committee, *Second periodic report of State parties: Nepal* (2012)].
- ²⁵ *Id.*, paras. 58, 60-61.
- ²⁶ *Id.*, para. 202.

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- ²⁷ *Id.*, para. 178.
- ²⁸ *Id.*, paras. 162, 183.
- ²⁹ Human Rights Committee, *Report of the Human Rights Council on its twenty-fourth session*, para. 195, U.N. Doc. A/HRC/24/2 (2014).
- ³⁰ ICCPR, *supra* note 2, art. 23(2).
- ³¹ *Id.*, art. 23(4).
- ³² Human Rights Committee, *Concluding Observations: Monaco*, para. 12, U.N. Doc. CCPR/CO/72/MCO (2001); *Uganda*, para. 23, U.N. Doc. CCPR/CO/80/UGA (2004).
- ³³ Human Rights Committee, *General Comment No. 28: (Article 3) The equality of rights between men and women* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 233, para. 23, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 28*].
- ³⁴ *Id.*
- ³⁵ Muluki Ain (Nepal), *supra* note 7, pt. 4, ch. 17, no. 2.
- ³⁶ *Id.*, pt. 4, ch. 17, no. 1.
- ³⁷ GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL ADOLESCENT AND YOUTH SURVEY 2010/2011 HIGHLIGHTS 13 (2011) *available at* http://www.mohp.gov.np/english/files/new_publications/Nepal%20Adolescent%20and%20Youth%20Survey%20Highlights%20%282%29.pdf [hereinafter GOV. OF NEPAL, NAYS 2010/2011].
- ³⁸ In 55.9% cases of males and 63% cases of females. PLAN NEPAL et al, CHILD MARRIAGE IN NEPAL: RESEARCH REPORT 23 (2012) *available at* <http://wvi.org> (2012) [hereinafter PLAN NEPAL et al., CHILD MARRIAGE IN NEPAL (2012)].
- ³⁹ *Id.* at 28.
- ⁴⁰ Human Rights Committee, *Gen. Comment No. 28*, *supra* note 33, para. 23.
- ⁴¹ Committee against Torture, (CAT Committee), *Concluding Observations: Yemen*, para. 31, U.N. Doc. CAT/C/YEM/CO/2 (2010).
- ⁴² Human Rights Committee, *Gen. Comment No. 28*, *supra* note 33, para. 30.
- ⁴³ *Id.*, para. 3 (emphasis added).
- ⁴⁴ Human Rights Committee, *Concluding Observations: Chad*, paras. 6, 31-32, U.N. Doc. CCPR/C/TCD/CO/1 (2009); *Yemen*, para. 10, U.N. Doc. CCPR/CO/75/YEM (2002).
- ⁴⁵ Human Rights Committee, *Concluding Observations: Nigeria*, para. 296, U.N. Doc. CCPR/C/79/Add.65 (1996); *Zimbabwe*, para. 12, U.N. Doc. CCPR/C/79/Add.89 (1998).
- ⁴⁶ Human Rights Committee, *Gen. Comment No. 28*, *supra* note 33, para. 5.
- ⁴⁷ Human Rights Committee, *Concluding Observations: Nepal*, para. 8, U.N. Doc. CCPR/C/79/Add.42 (1994).
- ⁴⁸ Human Rights Committee, *Concluding Observations: Iran*, para. 9, U.N. Doc. CCPR/C/IRN/CO/3 (2011).
- ⁴⁹ Human Rights Committee, *Concluding Observations: Jordan*, para. 7, U.N. Doc. CCPR/C/JOR/CO/4(2010).
- ⁵⁰ Human Rights Committee, *Concluding Observations: Cape Verde*, para. 8, U.N. Doc. CCPR/C/CPV/CO/1(2012).
- ⁵¹ CEDAW Committee, *General Recommendation No. 25: Article 4, paragraph 1, of the Convention (temporary special measures*, (30th Sess., 2004) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 365, para. 8, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CEDAW Committee, *Gen. Recommendation No. 25*]; Committee on Economic, Social and Cultural Rights (ESCR Committee), *General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2)*, para. 8, U.N. Doc. E/C.12/GC/20 (2009) [hereinafter ESCR Committee, *Gen. Comment No. 20*]; *General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social, and cultural rights (Art. 3)*, (34th Sess., 2005) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 199, para. 7, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ESCR Committee, *Gen. Comment No. 16*].
- ⁵² CEDAW Committee, *Gen. Recommendation No. 25*, *supra* note 51, para. 10.
- ⁵³ ESCR Committee, *Gen. Comment No. 20*, *supra* note 51, para. 8; *Gen. Comment No. 16*, *supra* note 51, para. 7.
- ⁵⁴ NEPAL (INTERIM) CONST. art. 13.
- ⁵⁵ *Id.*, art. 13(1).
- ⁵⁶ *Id.*, art. 20(1).
- ⁵⁷ See CRR, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 4, at 16.
- ⁵⁸ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 104.

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- ⁵⁹ UNFPA, MARRYING TOO YOUNG, *supra* note 5, at 11.
- ⁶⁰ NEPAL HEALTH SECTOR SUPPORT PROGRAM, PULSE: UPDATING YOU ON HEALTH DEVELOPMENTS: BRIEFING NOTE 5 (2013) available at <http://www.nhssp.org.np/pulse/peer/05%20%20PEER%20Family%20Planning.pdf>.
- ⁶¹ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 105.
- ⁶² ICCPR, *supra* note 2, art. 6(1).
- ⁶³ Human Rights Committee, *General Comment No. 6: Right to life (Art. 6)*, (16th Sess., 1982), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 176, para. 5, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. 1) (2008).
- ⁶⁴ World Health Organization (WHO) Secretariat, *Early marriages, adolescent and young pregnancies: Report by the Secretariat*, para. 11, A65/13 (Mar. 16, 2012) [hereinafter WHO Secretariat, *Early marriages, adolescent and young pregnancies*].
- ⁶⁵ UNFPA, *Giving birth should not be a matter of life and death (Updated with technical feedback December 2012)* 2 (2012) available at <http://www.unfpa.org/webdav/site/global/shared/factsheets/srh/EN-SRH%20fact%20sheet-LifeandDeath.pdf>.
- ⁶⁶ Up to 65% of women with obstetric fistula developed this during adolescence. WHO Secretariat, *Early marriages, adolescent and young pregnancies*, *supra* note 64, para. 11.
- ⁶⁷ Bishnu Kamari BK, *Fallen Wombs, Broken Lives: Responding to Uterine Prolapse in Nepal*, August 3, 2009, <http://www.unfpa.org/public/News/pid/3282>, last visited February 6, 2014.
- ⁶⁸ Human Rights Committee, *Concluding Observations: Senegal*, para. 12, U.N. Doc. CCPR/C/79/Add 82 (1997).
- ⁶⁹ Human Rights Committee, *Concluding Observations: Guatemala*, para. 20, U.N. Doc. CCPR/C/GTM/CO/3 (2012).
- ⁷⁰ Human Rights Committee, *Concluding Observations: Yemen*, para. 21, U.N. Doc. CCPR/CO/84/YEM (2005).
- ⁷¹ Human Rights Committee, *Concluding Observations: Lithuania*, para. 12, U.N. Doc. CCPR/CO/80/LTU (2004); *Kazakhstan*, para. 11, U.N. Doc. CCPR/C/KAZ/CO/1 (2011).
- ⁷² Human Rights Committee, *Concluding Observations: Kazakhstan*, para. 11, U.N. Doc. CCPR/C/KAZ/CO/1 (2011).
- ⁷³ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 67.
- ⁷⁴ *Id.* at 83.
- ⁷⁵ Nepal is third after Bangladesh, (133 per 1,000), and Afghanistan (90 per 1,000). UNFPA, STATE OF THE WORLD POPULATION 2013: MOTHERHOOD AND CHILDHOOD 103 (2013) available at <https://www.unfpa.org/webdav/site/global/shared/swp2013/EN-SWOP2013-final.pdf>
- ⁷⁶ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 83.
- ⁷⁷ *Id.* at 84.
- ⁷⁸ *Id.* at 125.
- ⁷⁹ *Id.* at 127.
- ⁸⁰ WHO, *Young people: health risks and solutions* (2011) available at <http://www.who.int/mediacentre/factsheets/fs345/en/index.html>.
- ⁸¹ MMR for girls below 20 is 297 per 100,000 live births, whereas it is 119 for women ages 20-24 years. GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, DEPARTMENT OF HEALTH SERVICES, FAMILY HEALTH DIVISION, NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY: 2008/09 6 (2009) available at http://reliefweb.int/sites/reliefweb.int/files/resources/404E1B30B19586444925768B0028B282-Full_Report.pdf. [Hereinafter GOV. OF NEPAL, MATERNAL STUDY: 2008/09].
- ⁸² GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 143.
- ⁸³ WHO Secretariat, *Early marriages, adolescent and young pregnancies*, *supra* note 64, para. 11.
- ⁸⁴ GOV. OF NEPAL, MATERNAL STUDY: 2008/09, *supra* note 82, at 16.
- ⁸⁵ Kalpit Parajuli, *Nepal: Record in abortion among teenagers. Proposal to revise the law*, <http://www.asianews.it/news-en/Nepal:-record-in-abortions-among-teenagers.-Proposal-to-revise-law-22135.html> (last accessed Feb. 7, 2014).
- ⁸⁶ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 137.
- ⁸⁷ NEPAL (INTERIM) CONST. art. 12(1).
- ⁸⁸ *Id.*, art. 16(2).
- ⁸⁹ GOVERNMENT OF NEPAL. OF NEPAL, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fourth and fifth periodic*

reports of States parties: Nepal 59, para. 120, U.N. Doc. CEDAW/C/NPL/4-5 (Nov. 9, 2010) [hereinafter Nepal Report before CEDAW].

⁹⁰ *Id.*, para. 156.

⁹¹ CAT Committee, *Concluding Observations: Bulgaria*, para. 26, U.N. Doc. CAT/C/BGR/CO/4-5 (2011); *Yemen*, para. 31, U.N. Doc. CAT/C/YEM/CO/2 (2009); Human Rights Committee, *Concluding Observations: Yemen*, para. 10, U.N. Doc. CCPR/C/YEM/CO/5 (2012).

⁹² Human Rights Committee, *Concluding Observations: Bulgaria*, para. 15, U.N. Doc. CCPR/C/BGR/CO/3 (2011).

⁹³ Human Rights Committee, *General Comment No. 17: Article 24 (Rights of the child)*, (35th Sess., 1989) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 194, para. 3, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter Human Rights Committee, *Gen. Comment No. 17*].

⁹⁴ See *Rep. of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, para. 31, U.N. Doc. A/HRC/7/3 (Jan. 6th, 2008) (Manfred Nowak).

⁹⁵ Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, *adopted* Sept. 7, 1956, para. 14, 266 U.N.T.S 3 (*entered into force* Apr. 30, 1957).

⁹⁶ *Id.*, paras. 73-75.

⁹⁷ PLAN NEPAL et al., CHILD MARRIAGE IN NEPAL (2012), *supra* note 38, at 45.

⁹⁸ *Id.* at 36.

⁹⁹ NEPAL (INTERIM) CONST. art. 20 (3).

¹⁰⁰ *Id.*, art. 22 (3).

¹⁰¹ ICCPR, *supra* note 2, art. 24(1).

¹⁰² Human Rights Committee, *Gen. Comment No. 17*, *supra* note 93, para. 2.

¹⁰³ *Id.*, para. 3.

¹⁰⁴ Human Rights Committee, *Gen. Comment No. 28*, *supra* note 33, para. 28.

¹⁰⁵ CRR, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 4, at 16-17.

¹⁰⁶ Nepal Report before CEDAW, *supra* note 89, para. 120.

¹⁰⁷ *Id.*, para. 121.

¹⁰⁸ GOV. OF NEPAL, NAYS 2010/2011, *supra* note 37, at 8.

¹⁰⁹ *Id.* at 10-11.

¹¹⁰ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 84.

¹¹¹ ICCPR, *supra* note 2, art. 24(2).

¹¹² Human Rights Committee, *Gen. Comment No. 17*, *supra* note 93, para. 7.

¹¹³ Birth, Deaths and Personal Event (Registration) Act, 2033 (1976).

¹¹⁴ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 25.

¹¹⁵ Human Rights Committee, *General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant**, (80th Sess., 2004), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 246, para. 15, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008).

¹¹⁶ *Id.*

¹¹⁷ CEDAW Committee, *Concluding Observations: India*, paras. 56-57, U.N. Doc. CEDAW/C/IND/CO/3 CEDAW (2010).

¹¹⁸ Human Rights Committee, *Concluding Observations: Democratic Republic of the Congo*, para. 11, U.N. Doc. CCPR/C/COD/CO/3 (2006).

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¹²⁰ *Id.*, pt. 4, ch. 14, no.1.

¹²¹ *Id.*

¹²² Domestic Violence (Crime and Punishment) Act, 2066, sec. 3 (2009).

¹²³ NEPAL (INTERIM) CONST. art. 20(3).

¹²⁴ *Id.*, art. 32.

¹²⁵ Nepal Report before CEDAW, *supra* note 89, at 59, tbl.23.

¹²⁶ CREHPA et al., *Tracking Cases of Gender-Based Violence in Nepal: Individual, institutional, legal and policy analyses 20* (2013) available at <http://countryoffice.unfpa.org/nepal/drive/TrackingViolence.pdf>.

¹²⁷ SUPREME COURT OF NEPAL, ANNUAL REPORT 2068/069 88, 107, 156 (2012).

¹²⁸FORUM FOR WOMEN, LAW AND DEVELOPMENT (FWLD) AND UNITED NATIONS DEVELOPMENT FUND FOR WOMEN (UNIFEM), CHILD MARRIAGE: LEGAL RESPONSES 54-56 (2007) [hereinafter FWLD AND UNIFEM, CHILD MARRIAGE: LEGAL RESPONSES].

¹²⁹ *Id.* at 56-58.

¹³⁰ See Laxmi Maharjan, *Paradigm shift in early marriage*, May 13, 2013,

<http://www.thehimalayantimes.com/fullNews.php?headline=Paradigm+shift+in+early+marriage&NewsID=376931> (last accessed Feb. 13, 2014); Rastriya Samachar Samati, *School dropout rate high due to early marriage*, July 1, 2013,

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¹³¹ Sapana Pradhan & Others v. Prime Minister & Council of Ministers & Others, decision no. 7659, N.K.P. 2063, Vol. 3 at 289 (2006).

¹³² *Id.*, para. 19.

¹³³ *Id.*, para. 23.

¹³⁴ *Id.*

¹³⁵ *Id.*, para. 24.

¹³⁶ Rama Panta Kharel & Others v. Government of Nepal, Writ no. WS-128/2063 B.S. (2007) in CRR, FWLD AND NWC, A COMPILATION OF SUPREME COURT DECISIONS ON REPRODUCTIVE RIGHTS at 69.

¹³⁷ *Id.*, at 75.

¹³⁸ CEDAW Committee, *Concluding Observations: Nepal*, para. 11(a), U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

¹³⁹ CRC Committee, *Concluding Observations: Nepal*, para. 28, U.N. Doc. CRC/C/OPSC/NPL/CO/1 (2012).

¹⁴⁰ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 236.

¹⁴¹ *Id.* at 238.

¹⁴² GOVERNMENT OF NEPAL, OFFICE OF THE PRIME MINISTER AND COUNCIL OF MINISTERS, A STUDY ON GENDER-BASED VIOLENCE CONDUCTED IN RURAL DISTRICTS IN NEPAL 60 (2012) available at <http://asiafoundation.org/resources/pdfs/OPMCMGECUGBVRResearchFinal.pdf>.

¹⁴³ *Id.*, at 68.

¹⁴⁴ *Id.*

¹⁴⁵ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 250.

¹⁴⁶ *Id.*

¹⁴⁷ Muluki Ain (Nepal), *supra* note 7, pt. 4, ch. 14, no. 3, "... [t]he person committing rape shall be liable to punishment of imprisonment as follows: In case of a girl child below the age of ten years, from ten years to fifteen years..1, In case of a girl child of or above the age of ten years but less than the age of fourteen years, from eight to twelve years . 2, In case of a girl child of or above the age of fourteen years but less than the age of sixteen years, from six to ten years -3, In case of a woman of or above the age of sixteen years but below the age of twenty years, from five to eight years – 4, In case of a woman of twenty years or above, from five to seven years – 5, Notwithstanding anything contained elsewhere in this No., in case a husband rapes his wife, from three months to six months – 6."

¹⁴⁸ *Id.*, pt. 4, ch. 14, no. 3(1-5).

¹⁴⁹ *Id.*, pt. 4, ch. 14, no. 3(6).

¹⁵⁰ Human Rights Committee, *Second periodic report of State parties: Nepal* (2012), *supra* note 24, para. 178.

¹⁵¹ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 239.

¹⁵² Muluki Ain (Nepal), *supra* note 7, part 4, ch. 17, no.2 (9). "...in case the marriage has been contracted before the man or woman has attained the age of 18 years and no offspring is born to them, the man or women who has so got married before his or her age of 18 years may, if he or she does not accept the marriage after attaining the age of 18 years, such marriage can be declared void."

¹⁵³ CRR, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 4, at 13.

¹⁵⁴ State Cases Act, 2046, Annex 1 (1992).

¹⁵⁵ FWLD AND UNIFEM, CHILD MARRIAGE: LEGAL RESPONSES, *supra* note 128, pp. 56-57.

¹⁵⁶ CRR, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 4, at 18.

¹⁵⁷ Human Rights Committee, *Second periodic report of State parties: Nepal* (2012), *supra* note 24, para. 183.

¹⁵⁸ Nepal Report before CEDAW, *supra* note 89, para. 199.

¹⁵⁹ GOV. OF NEPAL, NDHS 2011, *supra* note 11, at 25.

¹⁶⁰ *Id.* at 26, tbl. 2.11.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ Birth, Deaths and Personal Event (Registration) Act 2033, sec. 4 (1976).

¹⁶⁴ GOV. OF NEPAL, NDHS 2011, *supra* note 10, at 26.

¹⁶⁵ *Id.* at 25.