



Human Rights Committee Secretariat
8-14 Avenue de la Paix
CH 1211 Geneva 10
Switzerland
Attention: Kate Fox/Sindu Thodiyil

April 26, 2013

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 (J4A), and the Forum for Women, Law and Development (FWLD) have prepared this letter to assist the Human Rights Committee (HRC) Country Task Force on Nepal during the 108th Session in its review of the state party's compliance with the International Covenant on Civil and Political Rights (ICCPR) and formulation of the list of issues. This letter focuses on issues related to the status of women's reproductive rights in Nepal, presenting evidence of violations of women's right to contraceptive information and services and the widespread practice of child marriage.

Nepal's initial review by the HRC was conducted in 1994, prior to the introduction of amendments to the Muluki Ain, Nepal's national code, which decriminalized abortion on broad grounds and raised the legal age of marriage to 18 years with parental consent and 20 years without parental consent.¹ During that review, the HRC expressed concern for "the situation of women who . . . continue to be de jure or de facto the object of discrimination as regards [to] marriage . . ." and expressed regret for "the high proportion of women prisoners sentenced for offences resulting from unwanted pregnancies."² The HRC urged the state party to "take appropriate action in order to ensure the effective application of articles 2 and 3 of the Covenant, particularly through the adoption of 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."³

The Government of Nepal (the Government) should be commended for taking these positive steps since its initial review in 1994 in addition to releasing women imprisoned for abortion-related crimes, as noted by the Government in its 2012 report to the HRC,⁴ and recognizing "the right to reproductive health and other reproductive matters," the right to non-discrimination, and freedom from "physical, mental or any other form of violence" for all women in the 2007

Interim Constitution of Nepal.⁵ However, women in Nepal continue to face discrimination that significantly deprives them of their ability to make reproductive health-related decisions and exposes them to the risks of early, frequent, and unplanned pregnancies and preventable pregnancy-related complications and mortality.

As this letter will discuss, Nepal continues to exhibit serious shortcomings in ensuring women's access to contraceptive information and services, and has failed to provide any information concerning contraceptive access in its Second Periodic Report. Further, while the report notes that the legal age for marriage is 18 years old with the consent of a guardian and where consent of both parties is lacking the marriage is voidable,⁶ consent is a requirement for marriage under law and the law recognizes that minors do not have the legal capacity to consent.⁷ Even so, overwhelming numbers of underage girls are married each year in violation of the law, allowing the practice to continue with impunity and remain a widely accepted traditional practice in Nepal. These two concerns have lifelong repercussions on the health and lives of girls and women, and violate their right to the enjoyment of civil and political rights.

Through this submission, the Center, J4A, and FWLD respectfully request that barriers to access to contraceptive information and services and child marriage be included in the Task Force's list of issues that it adopts for the HRC's review of Nepal's compliance with the ICCPR at its 108th session in July 2013.

I. The Government is violating the ICCPR by failing to address key barriers to contraceptive information and services (Articles 3, 6, 17, and 26).

The Government should be commended for recent advances in reproductive rights, including recognition of the rights to reproductive health and non-discrimination for all women in its Interim Constitution⁸ and the reduction of its maternal mortality ratio (MMR)⁹ by 56% from 1990 to 2008.¹⁰ Regrettably, though, the Government is failing to address the unmet need for contraceptives, which is leading to unplanned pregnancies, maternal mortality and morbidity, and resulting in denials of education and equal participation in society for women and girls.¹¹

The Government has an obligation to ensure women's equal enjoyment of their civil and political rights.¹² By failing to ensure access to contraceptive information and services, the Government is violating several crucial rights under the ICCPR, including the rights to life, equality and non-discrimination, privacy, and to found a family.¹³ The section below shows how lack of access to contraceptives in Nepal exposes women to the risk of unplanned pregnancies and contributes to high maternal mortality rates, and then discusses how states parties that do not ensure access to contraceptives violate the ICCPR. This section concludes with a discussion of how the Government's failure to address specific barriers to contraceptive information and services violates HRC standards established in General Comments and Concluding Observations.

a. The Government is failing to ensure access to contraceptive information and services in Nepal, leading to unplanned pregnancies and maternal mortality.

The Government's failure to ensure universal access to the full range of contraceptive information and services has deprived many women of the ability to determine the timing,

number, and spacing of their pregnancies; the recent Nepal Demographic and Health Survey (DHS) reveals that **one fourth of women of reproductive age in Nepal have mistimed or unwanted pregnancies.**¹⁴ Without access to contraceptives, women in Nepal are unable to control the timing, number, and spacing of their pregnancies, leading to increased risk of unwanted pregnancy. The contraceptive prevalence rate (CPR) in Nepal, measured as the percentage of married women ages 15-49 using any method of contraception, has stagnated over the past five years, and **use of modern methods has actually begun to decline – from 44% in 2006 to 43% in 2011.**¹⁵ Alarming, this decline is occurring at a time when experts are predicting growth in demand for contraceptives due to an increasing number of women of reproductive age and the number of women who want smaller families.¹⁶ **Studies show that 87% of women in Nepal would either like to delay the birth of their next child or want no additional children.**¹⁷

As noted above, 25% of women of reproductive age in Nepal experience unplanned pregnancies.¹⁸ Unplanned pregnancies expose women to the risk of unsafe abortion. **In Nepal, unsafe abortions cause up to 27% of maternal deaths,** according to one NGO estimate,¹⁹ **which significantly exceeds the global average of 13% despite the legalization of abortion in 2002.**²⁰ Additionally, unplanned pregnancies negatively impact Nepalese women's educational and employment opportunities, as adolescent girls who become pregnant report having to discontinue their education; stay at home rather than work, which affects their family income; and incur increased costs related to the pregnancy, also negatively impacting family income.²¹

As will be discussed in detail below, there are also serious disparities by age, region, and economic status in access to and use of contraceptive information and services, and the most vulnerable women are suffering from the largest barriers that have irreparable consequences for their lives.

b. The Government is violating the ICCPR by failing to ensure women's right to contraceptive information and services.

The right to contraceptive information and services is supported by legal guarantees of the rights to life, equality, non-discrimination, privacy, and to found a family under the ICCPR. The right to life under the ICCPR requires states to adopt measures to protect individuals from arbitrary and preventable losses of life.²² The HRC has emphasized that the right to life should not be narrowly interpreted.²³ Respect for the right to life includes taking steps to protect women against the unnecessary loss of life related to pregnancy and childbirth²⁴ by ensuring that reproductive health services are accessible.²⁵ In Concluding Observations, the HRC has consistently linked the right to life to access to contraception,²⁶ and has repeatedly related unmet need for contraceptives to maternal mortality.²⁷ The HRC has specifically noted that contraceptives can reduce pregnancy-related deaths in countries where there are legal restrictions on abortion by reducing unplanned pregnancies and women's need to resort to unsafe, clandestine abortion.²⁸ It has declared that states parties must take steps to prevent unwanted pregnancies by ensuring a comprehensive range of contraceptives are widely available at an affordable price,²⁹ particularly in countries where there is a real risk of pregnancy-related deaths, such as from unsafe abortion.³⁰

The right to equality under the ICCPR guarantees women equal protection of their civil and political rights.³¹ The right to non-discrimination protects women against discriminatory interferences with their rights.³² The HRC has explicitly linked the rights to equality and non-discrimination with the unavailability of contraceptive information and services and resulting unwanted pregnancies, maternal mortality, and unsafe abortion.³³ It has repeatedly confronted states parties for discriminating against women because of high cost of contraceptives.³⁴ The HRC has also criticized discriminatory laws and policies related to contraceptives, and ordered states parties to provide access to contraceptive information and services “to grant women real alternatives.”³⁵

The rights to privacy and to found a family are recognized under Article 17 of the ICCPR.³⁶ The obligation to ensure women’s equal enjoyment of these rights includes preventing interference with women’s private lives, including ensuring women can make decisions relating to their reproductive and sexual lives.³⁷ It asks states parties to report on laws and practices that may inhibit women’s right to privacy.³⁸ Both the declining CPR and the significant unmet need for contraceptives in Nepal indicate that the Government has failed to protect women’s right to privacy in relation to their reproductive health, specifically the right and ability to control their fertility, thus violating their right to reproductive self-determination as interpreted under the right to privacy under the ICCPR.³⁹

Recent Supreme Court decisions in Nepal have even affirmed this right: *Lakshmi v. Government of Nepal* states that “if women’s reproductive rights are not protected, they may be forced to become pregnant and to continue unwanted pregnancies in which case instead of being respected as rights holders they will be forced to bear the responsibility of human reproduction and transformed into mere instruments for that purpose.”⁴⁰ Similarly, in *Prakash Mani Sharma v. Government of Nepal*, the Supreme Court of Nepal recognized uterine prolapse, a devastating and preventable condition typically resulting from frequent and early pregnancies from which 10% of women in Nepal suffer,⁴¹ as a violation of women’s reproductive rights.⁴² **The decision specifically affirms access to contraceptive information and services as part of the solution to reducing maternal morbidity and protecting women’s reproductive health.**⁴³

c. The Government is obligated to address barriers to contraceptive information and services under the ICCPR.

The HRC has recognized that governments are obligated to address barriers to contraceptive information and services, including lack of information and counseling and disparities in access for vulnerable populations such as rural and young women. Furthermore, governments must ensure women can access information and services related to the full range of contraceptive methods, including specifically emergency contraceptives. Despite this obligation, women in Nepal continue to experience violations of their human rights as a result of the Government’s failure to address persistent barriers.

Lack of comprehensive and accurate counseling about contraceptives and options. The HRC has urged states parties to increase access to contraception and family planning services through accurate information, education, and awareness-raising programs in schools as well as in mass media.⁴⁴ It recently expressed concern to states parties where “in practice, many women are

denied access to reproductive health services, including contraception counseling.”⁴⁵ **The HRC has recognized that states parties’ failure to provide adequate information regarding contraceptives leads to unwanted pregnancies, which threatens women’s lives and health.**⁴⁶ Misinformation and lack of information inhibit women from accessing a full range of contraceptives in Nepal – 37% of women are not informed about the possible side effects of the methods they use; 41% are not told what to do if they experience side effects; and almost half of women (46%) are not informed about other methods that they could use.⁴⁷

Inadequate government support for contraceptive information and services. **The HRC has expressed concern where states parties do not provide “sufficient support for family planning through effective means of contraception,” which it has linked to high maternal mortality rates⁴⁸ and incidences of abortion.**⁴⁹ It has consistently recognized inadequate or ineffective state support for contraceptive information and services, which results in high rates of unplanned pregnancies and unsafe, illegal abortions, as discriminatory.⁵⁰ The HRC has repeatedly stressed the importance of “making a comprehensive range of contraceptives widely available at an affordable price.”⁵¹ In Nepal’s Three Year Interim Plan, the Government has acknowledged the lack of skilled health providers as a problem,⁵² and recognized that inadequate staffing at health facilities makes it difficult for women to fully access services.⁵³ There is also a shortage of services due to the lack of training sites and service providers for long-acting family planning methods.⁵⁴ Further, the Government has admitted in the Department of Health Annual Report that its failure to minimize delays in obtaining family planning and reproductive health supplies has undermined the implementation of the government’s family planning program.⁵⁵ A study of 20 districts in Nepal found that female community health volunteers, who provide local community health resources, also lack sufficient supplies: 32% do not have any contraceptive pills and 20% do not have condoms.⁵⁶ Barriers to access also include provider bias against long-acting reversible methods such as the intrauterine device (IUD), as providers believe it takes more time to provide these services than short-term methods like injectables and pills, thereby depriving women of a full range of contraceptive information and services.⁵⁷ There is also a shortage of female service providers,⁵⁸ which affects the acceptability of services or women’s comfort level in seeking certain contraceptive methods, such as IUDs that require insertion into their bodies. These services are important to fulfill the different contraceptive needs of women for controlling the number, timing, and spacing of their pregnancies. Moreover, the recent DHS states that progress on contraceptive access has stalled in Nepal due to lack of funds and inadequate attention to family planning by the Government.⁵⁹

Disparities in access for rural women. The HRC has urged states parties to ensure that contraceptives are available specifically in rural areas.⁶⁰ **It has expressed concern where women in rural areas are subjected to discriminatory or coercive contraceptive policies,** such as sterilization.⁶¹ While all women in Nepal face significant barriers to contraceptive access, contraceptive information and services are particularly inaccessible for rural women. Those in rural and remote areas have limited contraceptive choices,⁶² particularly for long-term methods,⁶³ and physical inaccessibility during the rainy season leads to even larger shortages in supplies and women’s inability to travel to health facilities.⁶⁴ As a result, the CPR for any method for rural women is 48%, much lower than the 60% CPR for urban women.⁶⁵ Unsurprisingly, unmet need is almost 30% for women in rural areas, but less than 20% for those in urban areas.⁶⁶ **In a country where 83% of population lives in rural areas, of which 52% are women,**⁶⁷ the

Government's failure to guarantee access to a full range of contraceptives in rural areas neglects the needs of the vast majority of Nepalese women.

Disparities in access for poor women and adolescents. The HRC has expressed concern where discriminatory contraceptive laws and policies and lack of implementation of these laws and policies negatively impact poor women's access to contraception,⁶⁸ including by urging states parties to guarantee availability and affordability of contraceptives.⁶⁹ **The HRC has expressed concern about the disproportionate number of poor women who have no alternative but to resort to unsafe or illegal abortions where states parties fail to implement laws and policies relating to contraceptive access.**⁷⁰ The HRC has also criticized states parties for high rates of adolescent pregnancy,⁷¹ specifically expressing concern to states parties where adolescent pregnancy interferes with the continuation of education for girls.⁷² The HRC has required states parties to ensure access to reproductive health information, education, and services for adolescents.⁷³ Poor women and adolescents in Nepal experience more severe barriers to contraceptive services. Only 36% of women in the lowest wealth quintile use modern contraceptives compared to 49% of women in the highest wealth quintiles.⁷⁴ **Unmet need for family planning is the highest among adolescent girls ages 15-19 (42%) followed by ages 20-24 (37%).**⁷⁵ Adolescent girls also have a much greater unmet need for spacing rather than limiting methods (38% for 15-19 years and 23% for 20-24 years).⁷⁶ As evidenced, these vulnerable groups experience greater difficulty in accessing contraceptives, with more serious consequences including a higher incidence of maternal mortality and uterine prolapse. The Government has a responsibility to ensure contraceptive access for *all women* in Nepal and it is seriously failing to do so.

Failure to provide emergency contraceptives. The Government has an obligation to provide a full range of contraceptive methods, and HRC has affirmed that states parties must ensure access to emergency contraceptives for all women.⁷⁷ While Nepal's Three Year Interim Plan commits to "ensur[ing] the adequate supply of items required for . . . emergency contraceptives and family planning,"⁷⁸ **only 29 percent of Nepalese women have ever heard of emergency contraception⁷⁹ and only 0.1 percent have actually used it.**⁸⁰ As a result, women, including survivors of sexual violence, adolescents, and other vulnerable groups,⁸¹ are being denied an essential medicine that serves as a back-up contraceptive method in the event of unprotected intercourse or contraceptive failure.⁸²

During their reviews of Nepal, other UNTMBs have repeatedly expressed concern about women's lack of access to contraceptive information and services with the Government. They have urged the Government to provide access to emergency contraception,⁸³ pointed out its failure to ensure affordable contraceptives for all women;⁸⁴ criticized the lack of access to family planning specifically for rural, poor women,⁸⁵ and adolescents;⁸⁶ and recommended that "contraceptives be given high priority, particularly in rural areas."⁸⁷ The Government's continuing disregard for these recommendations signals a lack of prioritization of women's rights under various international treaties, especially women's right to contraceptive information and services.

II. The Government violates the ICCPR by failing to ensure girls' right to be free from child marriage (Articles 3, 23, and 26).

Child marriage interferes with several women's human rights protected by the ICCPR. Article 23 of the ICCPR provides for "the free and full consent of the intending spouses" to enter into a marriage and guarantees equality of spouses "as to marriage, during marriage and at its dissolution."⁸⁸ Articles 3 and 26 guarantee equality and non-discrimination in the ICCPR, and the HRC has established that child marriage violates girls' rights to equality and non-discrimination.⁸⁹ In reviewing states parties, the HRC has found that child marriage violates the rights to freedom from torture and cruel, inhuman or degrading treatment;⁹⁰ freedom from slavery;⁹¹ autonomy, bodily integrity, and privacy;⁹² education;⁹³ and the rights of the child.⁹⁴ This section first discusses the widespread prevalence of child marriage in Nepal and Nepal's marriage laws, then describes how child marriage violates the right to freely and fully consent to marriage. It concludes with a discussion of the continuum of violations that girls suffer as a result of child marriage in contravention of the ICCPR.

a. Incidence of child marriage and weak enforcement of and gaps in existing laws in Nepal

Child marriage is pervasive in Nepal, despite the fact that the legal age of marriage is 18 years with parental consent, and after 20 years without parental consent.⁹⁵ In its Second Periodic Report to the HRC, the Government includes information about Nepal's marriage laws and children's rights but fails entirely to acknowledge the deeply entrenched problem of child marriage.⁹⁶ The median age of marriage varies by geographic region, **with some regions in the country having a median age as low as 16 years old.**⁹⁷ According to the 2011 DHS, **55% of women ages 25-49 in Nepal were married by age 18 and 74% were married by age 20.**⁹⁸ In 2010, 577,000 women ages 20-24 had been married before age 18.⁹⁹ It is estimated by UNFPA that at this rate, **688,000 girls in Nepal born from 2005-2010 will be married before age 18 by the year 2030, a 20% increase from 2010.**¹⁰⁰

Birth registration is crucial to preventing the occurrence of child marriage; without it, courts and government officials are often unable to determine girls' actual ages, putting them at greater risk for child marriage.¹⁰¹ Nepal's Birth, Death and Other Personal Events (Registration) Act, 2033 (1976) requires a system for birth registrations by law,¹⁰² but the DHS reports that **only 42% of children have had their births registered.**¹⁰³ Births in Nepal are also less likely to be registered within the required 35-day reporting period¹⁰⁴ – children ages 2-4 are almost twice as likely to have a registered birth than a child younger than 2.¹⁰⁵ This delay is attributed to a weak birth registration system and a shortage of staff in registration offices.¹⁰⁶

According to the Government's 2011 census, **there are 5,442,382 women in Nepal whose age at first marriage was 10-19 years old.**¹⁰⁷ Despite this very high incidence, the Supreme Court's 2012 Annual Report highlights that there were only seven cases filed on child marriage (of which six were decided) in the Supreme Court, six (of which three were decided) in the Appellate Courts, and 13 (of which seven were decided) in the District Courts of Nepal.¹⁰⁸ The previous year, **there was only one case on child marriage filed in the Supreme Court, five in**

the Appellate Courts, and 13 in the District Courts.¹⁰⁹ As evidenced, even though there are laws prohibiting and providing a way out of child marriage, girls and women are not using the courts as a means to seek legal recourse, leading to impunity for perpetrators of child marriage.

Several other gaps in the law in Nepal contribute to the persistence of child marriage. There is only a three-month time limitation for filing child marriage cases from the date of marriage or date of knowledge of the marriage having taken place.¹¹⁰ The punishments for child marriage are extremely weak and courts have wide discretionary powers, enabling them to issue light punishments.¹¹¹ Furthermore, there are inconsistencies across laws determining the legal age of a child and no law requiring counseling and inadequate compensation for victims of child marriage.¹¹² Lastly, another barrier to prosecution is that lack of knowledge is a defense for the crime of child marriage—if someone were to simply claim that they did not know the ages of the parties at the time of marriage, they can be absolved of any wrongdoing.¹¹³

b. The practice of child marriage violates the right to freely and fully consent to marriage and to non-discrimination under the ICCPR.

As the HRC has affirmed, 18 years is the legal age for marriage.¹¹⁴ Since a child younger than 18 years cannot legally consent to a marriage, child marriage is considered a form of forced marriage.¹¹⁵ While the *de jure* marriageable age in Nepal is in line with the ICCPR, *de facto*, **Nepal’s current statistics on early marriage reflect a violation of Article 23, which provides for spouses of marriageable age to enter into a marriage and only with their free and full consent.**¹¹⁶ The HRC has declared that the practice of child marriage violates Article 23.¹¹⁷ It has affirmed that forced marriages are “incompatible with the equality rights of women”¹¹⁸ and that under Articles 3 and 26, states parties must protect girls from early marriage.¹¹⁹ The HRC has repeatedly stated that states parties must implement laws banning child marriage and ensure that girls are not married before they are 18 years old.¹²⁰ It has particularly criticized child marriage where it is a “widespread phenomenon.”¹²¹ With regard to child marriage, it has even reiterated language from the ICCPR in Concluding Observations stating that “no marriage shall be entered into without the free and full consent of the intending spouses.”¹²² The HRC has also emphasized that states parties must register births under Article 24 of the ICCPR.¹²³ Where states parties have a high incidence of child marriage, which Nepal does, the HRC has called for “urgent measures to eradicate the practice of unregistered marriages.”¹²⁴ While the Government discusses the legal age of marriage and punishments for child marriage in its Second Periodic Report, it fails entirely to acknowledge the blatant violations of these laws.¹²⁵

The HRC has also classified child marriage as a traditional practice discriminatory to women.¹²⁶ **Generally, the HRC 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,”¹²⁷ including in its previous review of Nepal.**¹²⁸ Harmful traditional practices, such as early marriage, are rooted in gender inequality and prevent women from fully realizing their rights as equal members of society.¹²⁹ The HRC has also explicitly criticized laws and practices which result in the inequality of women within marriage.¹³⁰

The HRC has strongly condemned state failures to prevent child marriage.¹³¹ The Government, like other states parties that the HRC has criticized, fails to comply with Articles 3, 23, and 26 by

allowing the marriages of young girls to persist. The HRC has specifically criticized the “the quasi-impunity of forced marriage.”¹³²

Further, Nepal’s own Supreme Court has recognized child marriage as a violation of women’s rights and called for implementation of the law. However, implementation is weak; in the 2005 case of *Sapana Pradhan and Others v. Prime Minister and Council of Ministers and Others*, the Court recognized that it “cannot be said that all those responsible for conducting child marriage have been prosecuted. . . . [E]ven though the national legal system has eradicated child marriage, it still continues to remain in practice” and “the Government needs to pay urgent attention towards its prevention.”¹³³ It ordered the Government to introduce amendments to existing laws to ensure effective implementation.¹³⁴ The Committee on the Rights of the Child even called for the implementation of this particular decision during its review of Nepal.¹³⁵ Despite this precedent, child marriage persists, indicating a serious lack of implementation of the Supreme Court’s decision, and highlighting the government failure to prioritize addressing child marriage.

c. Continuum of violations of women’s rights under the ICCPR resulting from child marriage

The marriage of a young girl sets into motion a continuum of violations that occurs throughout her lifetime, including forced initiation into sex and marital rape, early and frequent pregnancy resulting in maternal mortality and morbidity, and physical and mental abuse. Recognizing that each of these outcomes individually constitutes violations of the ICCPR, the HRC has repeatedly affirmed the need to protect women from early pregnancy, maternal mortality and morbidity, and violence.

The HRC has repeatedly expressed concern about adolescent pregnancy in its reviews of states parties,¹³⁶ and has linked high levels of adolescent pregnancy and maternal mortality to the right to equality.¹³⁷ Under the ICCPR, states parties are required to help adolescent girls avoid unwanted pregnancies¹³⁸ and guarantee that they are not susceptible to unsafe abortions that are a risk to their lives.¹³⁹ The HRC has also linked child marriage with risks to girls’ right to health.¹⁴⁰ Yet the Government has failed to address adolescent pregnancy and resulting rates of mortality and morbidity in violation of established HRC standards. Girls are typically expected to start bearing children soon after marriage.¹⁴¹ Consequently, in Nepal, child marriage correlates with early childbearing and also bearing more children.¹⁴² **Almost one quarter of women in Nepal give birth by age 18, and nearly half by age 20.**¹⁴³ The younger a woman is in Nepal, the more likely she will be having too-closely spaced births—defined as births that are less than 24 months apart—which increases the likelihood of maternal morbidity and even maternal death.¹⁴⁴ Child marriage contributes to Nepal’s high rates of maternal mortality, because in Nepal, **adolescents under 20 have almost three times as high a risk of maternal death as do women in their early twenties.**¹⁴⁵

When it does not cause death, early pregnancy takes a toll on young women’s bodies¹⁴⁶ and leads to, among other harms, **an alarming prevalence of uterine prolapse,**¹⁴⁷ **which affects 10% of all women in Nepal and “is the most frequently reported cause of poor health among women of reproductive age.”**¹⁴⁸ Uterine prolapse is a painful, potentially fatal problem¹⁴⁹ that

usually occurs in older women, but in Nepal it is prevalent in young women as well, in large part caused by early, too-frequent, too-closely-spaced pregnancies that result from child marriage.¹⁵⁰ Higher incidence of obstetric fistula, a stigmatizing condition caused by obstructed birth that causes leakage of urine and feces,¹⁵¹ leaving women in constant pain, susceptible to infection, and oftentimes shunned by their families and communities, is also commonly seen in young girls in Nepal who have been married.¹⁵² Since adolescent girls face a much higher risk of maternal death and morbidity due to early pregnancy, access to contraception for this age group should be a serious priority for the Government.

The HRC has found that domestic violence violates Article 3 of the ICCPR and has emphasized that states parties must prevent and penalize domestic violence and provide assistance to survivors.¹⁵³ **While discussing child marriage, the HRC has recognized violence against girls as discriminatory and has specifically criticized marital rape.**¹⁵⁴ Early marriage exposes girls to high rates of physical and sexual violence. 84% of physical violence and 87% of sexual violence suffered by ever-married women in Nepal is by their current husbands.¹⁵⁵ **Forty-seven percent of all girls who first had sexual intercourse before age 15 stated that they were forced against their will, indicating that sexual violence towards young girls in Nepal is extremely common.**¹⁵⁶ This figure is 29% for girls ages 15-19 – still shockingly high.¹⁵⁷ The 2011 DHS links high rates of sexual violence to early marriage, stating that, **“for most women in Nepal, first sexual intercourse occurs at the time of first marriage.”**¹⁵⁸

Lastly, the HRC has criticized state parties where early pregnancy leads to the discontinuation of a girl’s education,¹⁵⁹ and has specifically stated that child marriage puts at risk girls’ right to education.¹⁶⁰ There is urgent need for the implementation as well as strengthening of existing child marriage laws in Nepal. **The HRC has previously asked Nepal to adopt measures to eliminate harmful, traditional practices that are detrimental to women and vulnerable groups.**¹⁶¹ Other UNTMBs have urged the Government to do the same, but the situation in Nepal has yet to change, indicating that sufficient steps have not been taken to implement UNTMB recommendations.¹⁶²

III. Suggested Questions for the Government of Nepal

In light of the above, the Center, J4A, and FWLD respectfully request the Task Force to raise the above-mentioned issues for review with the Government and to ask the Government the following questions:

1. What has the Government done to monitor and evaluate the impact of laws prohibiting child marriage in Nepal and have they been effective? What steps have been taken to enable girls given away in marriage to obtain legal redress?
2. What is the Government doing to ensure that married girls have access to a full range of contraceptive information and services?
3. What steps has the Government taken to protect girls from violence within marriage and to enable them to seek remedies for such violence, including marital rape which is recognized as a criminal offense?

4. What steps is the Government taking to address the declining CPR? What is the Government doing to provide contraceptive information and services specifically to vulnerable populations, including poor, rural, and adolescent women and girls?
5. Is the Government providing emergency contraception? What steps has the Government taken to provide broad access to, and information and counseling about, emergency contraception, especially for victims of violence and adolescents?

The Center, J4A, and FWLD hope that the information provided in this letter will be useful to the Task Force in drafting the list of issues to be raised with the Government during its second periodic review. Please do not hesitate to contact us should you have any questions.

Sincerely,



Melissa Upreti
Regional Director for Asia
Center for Reproductive Rights



Sarmila Shrestha
Advocate/ Public Interest Lawyer
President
Justice For All (J4A), Nepal



Kusum Shakh
President
Forum for Women, Law and Development (FWLD)

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- ¹ The Muluki Ain [General Code], ch. 10, para. 28B; ch. 17, para. 2 (Nepal) (1963).
- ² Human Rights Committee (HRC), *Concluding Observations: Nepal*, para. 8, U.N. Doc. CCPR/C/79/Add.42 (1994).
- ³ *Id.* para. 13.
- ⁴ Government of Nepal, *Consideration of reports submitted by States parties under article 40 of the Covenant: Second periodic reports of States parties: Nepal*, para. 70, U.N. Doc. CCPR/C/NPL/2 (2012) [hereinafter Nepal Government Report (2012)].
- ⁵ INTERIM CONSTITUTION OF NEPAL, arts. 20(1)-(3) (2007) [hereinafter INTERIM CONSTITUTION].
- ⁶ Nepal Government Report (2012), *supra* note 4, para. 177.
- ⁷ The Muluki Ain [General Code], ch. 17, paras. 1-2, 7 (Nepal) (1963).
- ⁸ INTERIM CONSTITUTION, *supra* note 5, arts. 20(1)-(2).
- ⁹ Nepal's MMR decreased from 539 deaths per 100,000 live births in 1996 to 281 in 2006. GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011, 11 (2012), *available at* [http://www.measuredhs.com/pubs/pdf/FR257/FR257\[13April2012\].pdf](http://www.measuredhs.com/pubs/pdf/FR257/FR257[13April2012].pdf) [hereinafter NEPAL DHS 2011]; Nepal Government Report (2012), *supra* note 4, para. 69.
- ¹⁰ WORLD HEALTH ORGANIZATION (WHO), TRENDS IN MATERNAL MORTALITY: 1990 TO 2008: ESTIMATES DEVELOPED BY WHO, UNICEF, UNFPA, & THE WORLD BANK 30 (2010), *available at* http://whqlibdoc.who.int/publications/2010/9789241500265_eng.pdf.
- ¹¹ *See, inter alia*, sec. I(a).
- ¹² International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, art. 3, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter ICCPR].
- ¹³ *See, inter alia*, sec. I(b).
- ¹⁴ NEPAL DHS 2011, *supra* note 9, at 90. "Three in four births in the five years preceding the survey were planned, 12 percent were mistimed, and 13 percent were unwanted."
- ¹⁵ *Id.* at 97.
- ¹⁶ GUTTMACHER INSTITUTE, *Facts on Satisfying the Need for Contraception in Developing Countries*, IN BRIEF 1 (Updated 2010).
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- ¹⁵⁶ *Id.* at 239.
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