



October 4th, 2013

CESCR Secretariat
Human Rights Treaties Division
Office of the High Commissioner for Human Rights
Palais Wilson- 52, rue des Pâquis
CH-1201 Geneva (Switzerland)

Re: Supplementary information on Nepal, scheduled for review by the Committee on Economic, Social and Cultural Rights during its Pre-Sessional Working Group

Dear Committee Members:

The Center for Reproductive Rights (the Center), an independent non-governmental organization based in New York, with regional offices in Colombia, Kenya, and Nepal, uses the law to advance reproductive freedom as a fundamental right. The Center, Justice For All (JFA), the Forum for Women, Law and Development (FWLD), Center for Research on Environment Health and Population Activities (CREHPA), and Child Workers in Nepal Concerned Center (CWIN) wish to assist the Committee on Economic, Social, and Cultural Rights' (the Committee) Pre-Sessional Working Group in its review of Nepal's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹ and with the formulation of the list of issues during the 52nd session. This letter focuses on four issues that implicate rights and state obligations under the ICESCR, particularly Articles 2, 3, 10 and 12, and as discussed by the Committee in General Comment 14: maternal mortality and morbidity; access to contraceptives and related information and services; unsafe abortion; and child marriage. The letter respectfully concludes with a list of suggested questions to be posed to the state party for the Committee's consideration.

Reproductive rights violations continue to persist in Nepal, despite the fact that Article 20(2) of Nepal's 2007 Interim Constitution guarantees all women "the right to reproductive health and other rights related to reproduction"² as a fundamental right. This Committee made several crucial concluding observations (COs) concerning women's reproductive rights during Nepal's 2008 review. The Committee specifically expressed its concern about Nepal's "alarmingly" high rates of maternal mortality due to limited or no access to health services,³ and urged the government to prioritize its reduction.⁴ Further, the Committee called upon the government to prioritize increasing access to reproductive healthcare services, including contraceptives, especially in rural areas.⁵

Nepal's Third Periodic Report, submitted to the Committee in 2011, discusses steps taken to address these concerns.⁶ However, as this letter shows, these measures remain inadequate. Despite being awarded the Millennium Development Goals (MDG) Progress Award in 2010, for making notable progress in meeting MDG 5.A, which sets a goal of reducing the maternal mortality ratio by three quarters by 2015, **Nepal continues to struggle with significant disparities in the MMR** especially in remote and rural areas,⁷ and based on women's age and ethnicity.⁸ While being applauded internationally for advancement toward Goal 5.A, **Nepal's progress in relation to Goal 5.B⁹ on achievement of universal access to**

reproductive health services, has been particularly slow, especially in the area of access to contraceptive information and services. Less than fifty per cent (43%) of married women use a modern contraceptive.¹⁰ Further, despite abortion law reform in 2002, complications from abortion remain the third leading direct cause of maternal death in the country.¹¹ Finally, Nepal has been identified as a hot spot for child marriage globally and ranks among the top twenty countries with the highest rates of child marriage.¹² While Nepal's Third Periodic Report does highlight the legal prohibition on child marriage, it fails to provide information demonstrating effective implementation.¹³ Consequently, as discussed in this letter, **child marriage remains widespread**,¹⁴ exposing young girls to a continuum of reproductive health harms and sexual violence without effective legal protection and recourse.

I. Maternal Mortality & Morbidity

Article 10 (2) recognizes that "Special protection should be accorded to mothers during a reasonable period before and after childbirth"¹⁵ thereby granting special protection to pregnant women before and after delivery. General Comment 14 recognizes the failure to reduce MMR as a violation of the right to health.¹⁶ The Committee has expressed its concern "that a significant number of the population continues to have limited or no access to health services, resulting in alarmingly high rates of maternal and infant mortality."¹⁷ In 2011, the CEDAW Committee raised similar concerns with regards to Nepal's "very high maternal mortality and morbidity rate, in particular among rural, poor, and young mothers," and the "challenges in accessing delivery services, especially emergency obstetric care [and] poor nutrition, which is strongly correlated with higher risks of maternal mortality and morbidity."¹⁸ Further, the CEDAW Committee also expressed concern that Nepal has failed to reduce the prevalence of uterine prolapse,¹⁹ despite efforts to provide corrective surgery.²⁰

Although the overall MMR has decreased in recent years from 451 to 281, **Nepal continues to have one of the highest maternal mortality ratios in Asia**.²¹ There are significant disparities based on geographic location, age and ethnicity. A leading study on trends in maternal mortality and morbidity undertaken in several districts which represent Nepal's geographic and ethnic diversity shows that the MMR is higher than the national average in remote parts of the country, such as for example in Rasuwa where it was 301.²² Further, the MMR is higher among women belonging to certain communities and castes such as Muslim, Madheshi and Terai women.²³ Additionally, the study notes that "for women aged 35 or over the risk increased dramatically with an MMR of 962 per 100,000 live births."²⁴ A study of global trends in maternal mortality published by the World Health Organization (WHO), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA) and the World Bank in 2010 states that Nepal's MMR could be as high as 650.²⁵ The absence of real progress at the grassroots is illustrated by the fact that merely **35% of births are attended by a skilled birth attendant**.²⁶

The incidence of maternal morbidity, specifically uterine prolapse, is especially high in Nepal with over 600,000 cases being reported in 2006.²⁷ In response to this situation, in 2008, the Supreme Court of Nepal held that the absence of proper protection for the far-reaching problem of uterine prolapse violates the fundamental right to reproductive health guaranteed under Nepal's Interim Constitution.²⁸ The Court directed the government to raise public awareness about the uterine prolapse and introduce legislation.²⁹ In relation to Article 20(2) which guarantees women's right to reproductive health care and other rights relating to reproduction as fundamental rights, the Court noted, "in the absence of any legal, institutional, procedural, and result oriented infrastructure, this right would be limited to

formalities... in order for people to realize this right, efforts should be made towards the formulation of policies (including formulation of laws), drafting plans, its subsequent implementation, extension, and evaluation.”³⁰ Following the decision, Nepal introduced an official program to provide free surgeries for uterine prolapse in 2008.³¹ However, in a retrogressive move in 2010, the government reduced its 2009 target of performing 12,000 surgeries per year³² to 8,000 per year- representing a reduction of one-third- and has also reduced travel stipends for women in need of surgery.³³ This is a retrogressive measure that automatically puts Nepal in violation of its obligations under international law. According to the Government’s 2011 Nepal Demographic and Health Survey (NDHS), uterine prolapse is “the most frequently reported cause of poor health among women of reproductive age and postmenopausal women.”³⁴

II. Lack of Access to Contraceptive Methods, Information and Services

Article 12(1) recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”³⁵ Articles 2(2) and 3 guarantee all persons the rights set forth in the ICESCR without discrimination and equally between men and women, respectively.³⁶ General Comment 14 defines the right to health to include control over one’s sexual and reproductive freedom,³⁷ and guarantees the right of access to contraceptive information and services, pre- and post natal care, and emergency obstetric services, helping to ensure safe pregnancy and childbirth.³⁸ State parties to the Covenant are obligated to ensure women’s reproductive rights. The Committee has consistently recognized that lack of access to contraceptive information and services violates the right to health,³⁹ and that low contraceptive prevalence contributes to increased rates of unsafe abortion and maternal deaths.⁴⁰

In its 2008 concluding observations to Nepal, the Committee recommended that the State party accord high priority to ensuring physical and economic access to reproductive healthcare services, including contraceptives, especially in rural areas.⁴¹ Other United Nations (U.N.) treaty monitoring bodies (TMBs) have repeatedly made similar recommendations.⁴²

The NDHS reveals that **one fourth of women of reproductive age in Nepal have unintended or unwanted pregnancies.**⁴³ **The CPR which is measured as the percentage of married women ages 15-49 using any method of contraception, has stagnated in the past five years,** and use of **modern methods has shown a small decline** – from 44% in 2006 to 43% in 2011.⁴⁴ 27% of currently married women have unmet need for contraception.⁴⁵ 73% of women in Nepal would either like to delay the birth of their next child or do not desire additional children,⁴⁶ however, less than half of all married women use a contraceptive method.⁴⁷ Further, there are major disparities in access to reproductive health services with rural and marginalized communities having fewer hospitals and clinics resulting in poor availability.⁴⁸ There are seven types of contraceptives (female sterilization, male sterilization, intra-uterine devices, pills, injectables, condoms and implants) included in the government’s list of essential medicines, but not all of these are universally available in the government health system. Access to contraceptives is uneven resulting in a higher unmet need for rural women⁴⁹ and female sterilization is the most predominant method of contraception.⁵⁰

III. Unsafe Abortion

Unsafe abortion is one of the most easily preventable causes of maternal mortality and morbidity. The Committee has emphasized States' obligations to reduce women's health risks and maternal mortality rates.⁵¹ The ESCR Committee noted in 2008 with deep concern that high rates of maternal mortality in Nepal, especially in rural areas, were mainly due to unsafe and illegal abortions.⁵² Similarly, the CEDAW Committee has noted Nepal's high rate of unsafe abortion especially for women living in poverty, rural areas, and marginalized communities, and the need to create better access to safe abortion services.⁵³

Despite abortion law reform in 2002 there are significant barriers to accessing safe services.⁵⁴ **Only 38% of women between the ages of 15-49 are aware that abortion in Nepal is legal,**⁵⁵ with women in rural areas, women without education, and poor women being the least likely to know under what circumstances abortion is legal.⁵⁶ Consequently, **complications from abortion are the third leading cause of maternal death in Nepal.**⁵⁷

In 2009, the Supreme Court of Nepal ruled the right to abortion exists as a fundamental right under the Interim Constitution and issued a directive order to the government to introduce a comprehensive abortion law that ensures the accessibility of abortion services and addresses the widely prevalent cost barrier.⁵⁸ The Court recognized that unwanted pregnancies result in denial of women's freedom and rights to equality, health, employment and economic security and education, among others.⁵⁹ Despite the Supreme Court's decision, **Nepal has yet to initiate a process to draft and adopt a comprehensive abortion law, and the legal provisions on abortion are still included in the Chapter on Homicide** of the *Muluki Ain* (Country Code) of Nepal.

IV. Child Marriage

Article 10(1) of the Covenant requires that marriage be entered into "with the free consent of the intending spouses."⁶⁰ General Comment 14 of the Committee acknowledges that child marriage is a harmful traditional practice that affects girls' health and calls on States to eliminate it.⁶¹ The Committee has affirmed that States parties must take "preventive, promotive and remedial action to shield women from harmful cultural practices and norms that deny them their full reproductive rights."⁶² U.N. TMBs and international policy documents adopted by governments worldwide have consistently held the failure to eliminate child marriage as a violation of a broad spectrum of human rights, and that States are accountable for the severe pain, anguish, and even death that girls suffer as a result of the denial of their fundamental rights caused by child marriage.⁶³

The legal age for marriage in Nepal is 20, for both women and men, although it is permitted at 18 years with parental consent.⁶⁴ Marriage below the legal minimum age is voidable unless a child is born to the couple before 18 years of age.⁶⁵ In Nepal, forced marriages are also considered void,⁶⁶ but the law does not explicitly state whether child marriages are *per se* considered to be forced. In Concluding Observations issued in 2008, the Committee urged Nepal to better enforce existing laws against child marriage.⁶⁷

The Supreme Court of Nepal has criticized the government's failure to effectively implement laws against child marriage and ordered the government to introduce amendments to the Marriage Registration Act and the *Muluki Ain* to ensure consistency and uniformity, but the Government has yet to take action.⁶⁸ This is illustrated by data from the government's

2011 census, which showed that **40.8% of married women in Nepal were between 10-19 years old at the time of their first marriage**,⁶⁹ with **5% of girls reporting being married by age 15**.⁷⁰ Birth and marriage registration are essential tools for eliminating child marriage.⁷¹ Although birth registration is compulsory under the Birth, Death and Other Personal Events (Registration) Act in practice, the government has not yet effectively implemented the law,⁷² and birth registration is free within only the first 35 days of birth which poses a financial barrier to parents who cannot afford to pay the registration fee.⁷³ In 2009, the Supreme Court ruled on another public interest case on child marriage and issued similar directives calling for proper enforcement of all relevant laws.⁷⁴

The Nepal Millennium Development Goals Progress Report 2010 describes adolescent pregnancy and motherhood as “a major social and health issue in Nepal.”⁷⁵ This is attributed to the government’s failure to prioritize adolescent health, poor implementation of the National Adolescent Health and Development Strategy and the absence of national standards and guidelines on adolescent friendly services.⁷⁶ **The CPR among married adolescent girls aged 15-19 is very low with only 4.2% reporting the use of modern contraceptives.**⁷⁷ Despite recommendations issued by the WHO that girls be given the information and access to services needed to delay pregnancy after 20 years of age as a means to prevent poor reproductive health outcomes for adolescent girls, including maternal mortality,⁷⁸ the median age at first marriage among women in Nepal aged 20-49 was reported at 17.8 in 2011⁷⁹ with one quarter of women giving birth by age 18 and nearly half by age 20.⁸⁰ Child marriage contributes to Nepal’s high rates of maternal mortality especially among girls and women under 20 years of age who face almost three times as high a risk of maternal death as do women in their early twenties.⁸¹

Further, child marriage exposes girls to high rates of physical and sexual violence.⁸² Although **marital rape is recognized as a criminal offence in Nepal, the punishment is minimal with imprisonment between three to six months.**⁸³ The prevalence of violence against young girls, both married and unmarried is concerning; **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.⁸⁴ This figure is **29% for girls ages 15-19 – still shockingly high.**⁸⁵ The absence of adequate legal protections and reproductive health services that cater specifically to the needs married girl children and adolescents has left these vulnerable populations without any practical safeguards and recourse against the continuum of harms that result from child marriage and sexual violence.

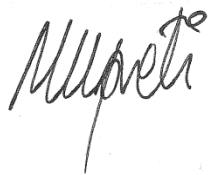
V. Suggested Questions for the List of Issues

In light of the above, the Center, J4A, FWLD, CREPHA and CWIN respectfully request that the Committee consider addressing the following questions to the Nepalese government:

1. What steps are being taken by the government to address disparities in maternal mortality among vulnerable populations based on factors such as age, geographic location and ethnicity or caste? What is being done to reduce the incidence of uterine prolapse in accordance with the Supreme Court’s orders issued in 2008?

2. What steps are being taken by the government to ensure universal access to contraceptive information and services especially among poor women, those based in rural and/or remote areas and adolescent girls?
3. What measures have been taken by the government to ensure broad access to safe abortion services for women across the country and address barriers to access including the lack of information and cost? What has been done to introduce comprehensive abortion legislation in accordance with the Supreme Court's decision issued in 2011?
4. What steps are being taken by the government to prevent child marriage and effectively enforce laws prohibiting child marriage in accordance with the Supreme Court's orders issued in 2006 and 2009? What has the Government done to monitor and evaluate the impact of laws establishing a minimum legal age of marriage? What steps have been taken to address the specific reproductive health needs of married girls?

Sincerely,



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¹ International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, G.A. Res.2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976) [hereinafter ICESCR].

² NEPAL (INTERIM) CONST. art. 20(2).

³ Committee on Economic, Social and Cultural Rights (ESCR Committee), *Concluding Observations: Nepal*, para. 25, U.N. Doc. E/C.12/NPL/CO/2 (2008).

⁴ *Id.* para. 45.

⁵ *Id.* para. 46.

⁶ Government of Nepal, *Implementation of the International Covenant on Economic, Social and Cultural Rights: 3rd Periodic Report*, paras. 12, 114, 280, U.N. Doc. E/C.12/NPL/3 (2012) [hereinafter Nepal Government Report (2012)].

⁷ AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY 2008/2009: SUMMARY OF PRELIMINARY FINDINGS 6 (2010) [hereinafter AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY].

⁸ *Id.*

⁹ MDG 5(b) was added in 2007 and establishes a goal of universal access to reproductive health by 2015. See UNITED NATIONS, *Improve Maternal Health*, available at <http://www.un.org/millenniumgoals/maternal.shtml>.

¹⁰ GOVERNMENT OF NEPAL MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011 6768: FACT SHEET, available at <http://www.measuredhs.com/pubs/pdf/GF25/GF25.pdf>.

¹¹ AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY, *supra* note 7, at 9.

¹² INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, *Child Marriages around the World*, available at <http://www.icrw.org/child-marriage-facts-and-figures>.

¹³ Nepal Government Report (2012), *supra* note 6, paras. 55, 116.

¹⁴ GOVERNMENT OF NEPAL MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011 6768 (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].

¹⁵ ICESCR, *supra* note 1, art. 10.

¹⁶ ECSR Committee, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 78, para. 52, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ECSR Committee, *Gen. Comment No. 14*].

¹⁷ ESCR Committee, *Concluding Observations: Nepal*, para. 25, U.N. Doc. E/C.12/NPL/CO/2 (2008).

¹⁸ The CEDAW Committee recommended the government reduce MMR by addressing discriminatory and harmful practices, such as the lack of sufficient food for women, and the *chaupadi* practice, while also directing the state to allot funding for corrective surgeries, follow-up visits to the doctor to prevent post-pregnancy complications, and to provide “adequate access to family planning, awareness-raising and training under already- existing safe motherhood [programs]. CEDAW Committee, *Concluding Observations: Nepal*, para. 32(e), U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

¹⁹ Uterine prolapse is a debilitating form of maternal morbidity where the pelvic muscles can no longer support the proper positioning of the pelvic organs, leading to slipping or protrusion of the uterus. See Payal Shah, *Uterine Prolapse and Maternal Morbidity in Nepal: A Human Rights Imperative*, 2 DREXEL LAW REVIEW 491, 493-494 (2010).

²⁰ CEDAW Committee, *Concluding Observations: Nepal*, para. 31, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

²¹ WHO, TRENDS IN MATERNAL MORTALITY: 1990-2008: ESTIMATES DEVELOPED BY WHO, UNICEF, UNFPA, AND THE WORLD BANK 30 (2010) [hereinafter WHO, TRENDS IN MATERNAL MORTALITY]

²² AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY, *supra* note 7, at 6.

²³ *Id.*

²⁴ *Id.* at 119.

²⁵ WHO, TRENDS IN MATERNAL MORTALITY, *supra* note 19, p. 25.

²⁶ GOVERNMENT OF NEPAL MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011 6768: FACT SHEET, *available at* <http://www.measuredhs.com/pubs/pdf/GF25/GF25.pdf>.

²⁷ UNITED NATIONS POPULATION FUND, BOOKLET ON UTERINE PROLAPSE 11 (2007) *available at* <http://nepal.unfpa.org/pdf/prolapse%20english%20book.pdf>.

²⁸ Prakashmani Sharma & Others v. Government of Nepal, Decision No. 8001, N.K.P. 2065(Vol. 8) at 956, para. 39 (2008) (unofficial translation done by the Center for Reproductive Rights).

²⁹ *Id.* para. 42.

³⁰ *Id.* para. 17.

³¹ Nepal Government Report (2012), *supra* note 6, para. 280.

³² Bishnu Kumari, UNFPA, *Fallen Wombs, Broken Lives: Responding to Uterine Prolapse in Nepal*, Aug. 3, 2009, <http://www.unfpa.org/public/News/pid/3282>.

³³ Om Astha Rai, *Government lowers uterine prolapse treatment target*, REPÚBLICA, Jan. 27, 2010, http://www.myrepublica.com/portal/index.php?action=news_details&news_id=14515.

³⁴ NEPAL DHS 2011, *supra* note 12, at 143.

³⁵ ICESCR, *supra* note 1, art. 12(1).

³⁶ *Id.*, art. 2(2), 3.

³⁷ ECSR Committee, *Gen. Comment No. 14*, *supra* note 14, para. 8.

³⁸ *Id.* para. 14.

³⁹ CENTER FOR REPRODUCTIVE RIGHTS & UNIVERSITY OF TORONTO PROGRAMME OF REPRODUCTIVE AND

SEXUAL HEALTH LAW, *Family Planning is a Human Right in BRINGING RIGHTS TO BEAR: AN ANALYSIS OF THE WORLD OF UN TREATY MONITORING BODIES ON REPRODUCTIVE AND SEXUAL RIGHTS*, 9 (2008). This is supported by the

Committee’s Concluding Observations to the following countries as cited in this publication. See e.g., ESCR Committee, *Concluding Observations: Armenia*, para. 15, U.N. Doc. E/C.12/1/Add.39 (1999); *Cameroon*, para. 25, U.N. Doc. E/C.12/1/Add.40 (1999); *Dominican Republic*, para. 15, U.N. Doc. E/C.12/1/Add.16 (1999); *Dominican Republic*, para. 22, U.N. Doc. E/C.12/Add.6 (1996); *Honduras*, para. 27, U.N. Doc. E/C.12/1/Add.57 (2001); *Paraguay*, para. 16, U.N. Doc. E/C.12/1/Add.1 (1996); Poland para. 12, U.N. Doc. E/C.12/1/Add.26 (1998); *Saint Vincent and the Grenadines*, para. 12, U.N. Doc. E/C.12/1/Add.21 (1997).

⁴⁰ ESCR Committee, *Concluding observations: Dominican Republic*, para. 29, U.N. Doc. E/C.12/DOM/CO/3 (2010); see also ESCR Committee, *Concluding observations: Philippines*, para. 31, U.N. Doc. E/C.12/PHL/CO/4 (2008); *Nicaragua*, para. 26, U.N. Doc. E/C.12/NIC/CO/4 (2008); *Azerbaijan*, para. 30, U.N. Doc. E/C.12/1/Add.104 (2004); *Poland*, para. 12, U.N. Doc. E/C.12/1/Add.26 (1998).

⁴¹ ESCR Committee, *Concluding Observations: Nepal*, para. 46, U.N. Doc. E/C.12/NPL/CO/2 (2008).

⁴² In CEDAW’s 2011 Concluding Comments, the CEDAW Committee echoed ICESCR’s concerns about Nepal’s “...lack of access to family planning and the highest unmet needs for contraception of rural women, adolescents, poor women and women with disabilities; and the lack of data on HIV prevalence of pregnant women,” recommending prioritizing universal access to contraceptive methods, information, and services,

especially for vulnerable groups.” CEDAW Committee, *Concluding Observations: Nepal*, para. 31, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

⁴³ NEPAL DHS 2011, *supra* note 10, at 121. “...over two-thirds of births (69 percent) in the five years preceding the survey were planned, 14 percent were mistimed, and 16 percent were unwanted.”

⁴⁴ *Id.* at 97.

⁴⁵ *Id.* at 104

⁴⁶ *Id.* at 86.

⁴⁷ *Id.* at 95.

⁴⁸ *Id.* at 96.

⁴⁹ INTERNATIONAL COUNCIL ON MANAGEMENT OF POPULATION PROGRAMS, FAMILY PLANNING IN ASIA AND THE PACIFIC: ADDRESSING THE CHALLENGES 178 (2012).

⁵⁰ *Id.* at 175.

⁵¹ ECSR Committee, *Gen. Comment No. 14*, *supra* note 14, para. 21.

⁵² ESCR Committee, *Concluding Observations: Nepal*, para. 32, U.N. Doc. E/C.12/1/ADD.66.

⁵³ CEDAW Committee, *Concluding Observations: Nepal*, para. 31 U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

⁵⁴ CENTER FOR REPRODUCTIVE RIGHTS, *Lakshmi Dhikta v. Nepal: Legal Abortion Must be Available to All Women* 1, 3 (2012), available at http://reproductiverights.org/en/lakshmi_dhikta_v_nepal.

⁵⁵ NEPAL DHS 2011, *supra* note 10, at 137.

⁵⁶ *Id.*

⁵⁷ AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY, *supra* note 7, at 104.

⁵⁸ *Lakshmi & Others v. Government of Nepal*, Decision No. 8464, N.K.P. 2067, (Vol. 9) at 1551, para. 101 (2009) (unofficial translation done by the Center for Reproductive Rights).

⁵⁹ *Id.* para. 37.

⁶⁰ ICESCR, *supra* note 1, art. 10(1).

⁶¹ ECSR Committee, *Gen. Comment No. 14*, *supra* note 14, para. 22.

⁶² ECSR Committee, *Gen. Comment No. 14*, *supra* note 14, para. 21.

⁶³ UN Committee on the Rights of the Child, UN Committee on the Elimination of Discrimination against Women, the UN Special Representative of the Secretary General on Violence against Children, the UN Special Rapporteur on Sale of children, child prostitution and child pornography, the UN Special Rapporteur on Contemporary forms of Slavery, including its causes and consequences, the UN Special Rapporteur on violence against women, the UN Special Rapporteur on trafficking in persons, especially women and children and the UN Working Group on Discrimination against Women in Law and Practice (Joint Statement by a group of UN human rights experts), *First UN International Day of the Girl Child, Thursday 11 October 2012 Forced child marriage, slavery like reality in every single region of the world*, Oct. 11th, 2012, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12646&LangID=E> (last accessed Sept. 26, 2013). In the Committee on the Rights of the Child’s (CRC Committee’s) *Concluding Observations*, the CRC Committee was deeply concerned about Nepal’s widespread custom of early marriage, “in particular within certain ethnic and religious communities, and that girls, once married, are not afforded the protection for the enjoyment of their rights as children as enshrined in the Convention, including the right to education.” CRC Committee, *Concluding Observations: Nepal*, para. 65, U.N. Doc. CRC/C/15/Add.261 (2005); The CEDAW Committee has urged the government to enforce the minimum age of marriage and “undertake awareness-raising measures throughout the country on the negative effects of early marriage on women’s enjoyment of their human rights, especially their rights to health and education.” CEDAW Committee, *Concluding Observations: Nepal*, para. 44, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011); The CRC Committee noted that similar national awareness-raising measures were ordered by the Supreme Court of Nepal in the case *Sapana Pradhan Malla and others v. Government of Nepal* of 2006. CRC Committee, *Concluding Observations: Nepal*, para. 28, U.N. Doc. CRC/C/OPSC/NPL/CO/1 (2012).

⁶⁴ The Muluki Ain [Country Code], part 4, ch. 17 on marriage, no. 2 (1963) (Nepal) [hereinafter *Muluki Ain* (Nepal)].

⁶⁵ Government of Nepal, *Consideration of reports submitted by States parties under article 40 of the Covenant: Second periodic reports of States parties: Nepal*, para. 177, U.N. Doc. CCPR/C/NPL/2 (2012).

⁶⁶ *Muluki Ain* (Nepal), *supra* note 63, part 4, ch. 17 on marriage, no. 7.

⁶⁷ ESCR Committee, *Concluding Observations: Nepal*, para. 34, U.N. Doc. E/C.12/NPL/CO/2 (2008).

⁶⁸ “The State, which bears the obligation to monitor such things and implement and cause the implementation of law, has treated the issue of minor age purely as a personal issue and failed to take any steps for the implementation of the law,” resulting in the violation of child rights. *Sapana Pradhan & Others v. Prime Minister & Council of Ministers & Others*, decision no. 7659, N.K.P. 2063, Vol. 3 at 289 (2006) (unofficial translation done by the Center for Reproductive Rights).

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- ⁶⁹ GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION SECRETARIAT, CENTRAL BUREAU OF STATISTICS, NATIONAL POPULATION AND HOUSING CENSE 2011 (NATIONAL REPORT) 131 (2012).
- ⁷⁰ NEPAL DHS 2011, *supra* note 10, at 68.
- ⁷¹ CRC Committee, *Concluding Observations: Afghanistan*, para. 34, U.N. Doc. CRC/C/AFG/CO/1 (2011).
- ⁷² Nepal Government Report (2012), *supra* note 6, paras. 228, 232.
- ⁷³ Birth, Death and Other Personal Events (Registration) Act, 1976, sec. 5(3) (Nepal).
- ⁷⁴ 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, *supra* note 363, at 75.
- ⁷⁵ GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION AND UNITED NATIONS COUNTRY TEAM OF NEPAL, NEPAL MILLENIUM DEVELOPMENT GOALS: PROGRESS REPORT 2010 51 (2010) available at <http://www.undp.org/content/nepal/en/home/mdgoverview/>.
- ⁷⁶ *Id.* at 52.
- ⁷⁷ NEPAL DHS 2011, *supra* note 10, at 95.
- ⁷⁸ World Health Organization (WHO) Secretariat, *Early marriages, adolescent and young pregnancies: Report by the Secretariat*, para. 11, A65/13 (Mar. 16, 2012).
- ⁷⁹ NEPAL DHS 2011, *supra* note 10, at 86.
- ⁸⁰ *Id.* at 75.
- ⁸¹ Under 20 years of age, the MMR is 297. In the 20-24 age group, the AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY, *supra* note 7, at 6.
- ⁸² NEPAL DHS 2011, *supra* note 10, at 239.
- ⁸³ Muluki Ain (Nepal), *supra* note 63, ch. 14 on rape, no. 3(6).
- ⁸⁴ *Id.*
- ⁸⁵ *Id.*