



Joint Submission for the
Universal Periodic Review of Nepal
2020

Recurring Human Rights Violations in Nepal

Submitted by
Nepal Dialogue Forum
for Peace and Human Rights
(Germany)

Nepal Dialogue Forum for Peace and Human Rights

Membership: Adivasi-Koordination Deutschland, Amnesty International – Ländergruppe Nepal, Bischöfliches Hilfswerk Misereor, Brot für die Welt, Gossner Mission, FIAN International, Peace Brigades International (PBI) – deutscher Zweig, Stiftung Asienhaus, Südasienbüro

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A. Information on the Jointly Submitting Organisations

1. The following information is jointly submitted by member organisations of the German NGO network *Nepal Dialogforum für Frieden und Menschenrechte* (Nepal Dialogue Forum for Peace and Human Rights). The forum was founded in 2008 and is a network of major NGOs which are either based in Germany or have a German branch and who have come together to jointly support human rights, peacebuilding/conflict transformation and sustainable development in Nepal. Member organisations of Nepal Dialogue Forum have worked in close cooperation with local partner organisations for decades, and/or have conducted research and advocacy on social, human rights and peace issues in Nepal for many years. Nepal Dialogue Forum focusses its work on issues of civil, political, economic, social and cultural human rights, transitional justice, impunity, social inclusion/marginalisation, violence against women and girls, and the promotion of an enabling space for civil society in Nepal. **Nepal Dialogue Forum is a coalition of the following 9 German civil society organisations (CSOs):**

Adivasi-Koordination Deutschland, Amnesty International – Ländergruppe Nepal, Bischöfliches Hilfswerk Misereor, Brot für die Welt, Gossner Mission, Food Information Action Network International (FIAN International), Peace Brigades International (PBI) – deutscher Zweig, Stiftung Asienhaus, Südasiensbüro.¹

B. The State of Human Rights Violations in Nepal, especially against Women

2. In the course of Nepal's last examination under the UPR in 2015 (second cycle), the country received 32 recommendations directly regarding the rights of women and gender equality.² Nepal accepted 31 of these recommendations (recommendations 121.17-19, 121.23, 122.6-14, 122.18, 122.23, 122.32, 122.34, 122.45, 122.46, 122.57-59, 122.71, 122.75-78, 122.81, 122.90, 122.95, 122.115 made by a variety of countries were accepted by Nepal)³, and noted the remaining recommendation (recommendation 123.24)⁴.
3. While the government of Nepal stated that most of these recommendations were already in the process of implementation at the time of the second cycle UPR (2015), in practice violence and human rights violations against women and girls continues unabated to this day, and gender-based violence is currently the most frequent form of violence in Nepal.⁵ In many cases, violence and other human rights violations against women and girls remain under-reported, underrecognised and unpunished, and there is wide-ranging impunity for the perpetrators of such crimes. This is the case in the areas of the crimes committed during the armed conflict (1996-2006), the right to food and access to natural resources, everyday violence against women and girls, continuing harmful practices, and the situation of women human rights defenders. The situation is exacerbated by the pressure on the space for civil society organisations. This areas of concern are outlined here.

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B.1. Violations of the Human Rights of Women Survivors of Sexualized Violence during the Armed Conflict in Nepal (1996-2006) in the Transitional Justice Process in Nepal

4. Despite frequent and persistent recommendations made by international and Nepalese civil society, OHCHR and other international bodies as well a number of states in the second UPR cycle (2015), the 2014 Enforced Disappearances Enquiry, Truth and Reconciliation Act, which governs the work of the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation on Enforced Disappeared Persons (CIEDP) has not been brought into line with international standards. The government of Nepal has also not yet acted on a ruling by Nepal's Supreme Court made on 26 Feb 2015 on the necessity of amending the Act. The Act therefore continues to include the possibility that the Commissions recommend amnesties for serious human rights violations such as torture, enforced disappearances and crimes against humanity, and also includes the possibility for mediation without consent of the victims.
5. The TRC has so far only commenced the investigation of very few of the over 60.000 cases which were reported to its panels. TRC panels have lacked sufficient resources, experience and expertise. The process of their work has lacked transparency, and potential victims, survivors and witnesses have not felt clearly informed on issues of confidentiality and witness protection.
6. Victims of the armed conflict have repeatedly highlighted their concern about the severe lack of transparency regarding the decisions and recommendations made by the TRC and the CIEDP and of the transitional justice (TJ) process as a whole. Victims of the armed conflict and civil society organisations have not been meaningfully included in the design and implementation of the TJ process. Victims groups continue to demand consultation programmes on the national and district levels as a platform for their concerns, and the creation of an environment for victims for public hearing. In addition, victims and their organisations demand an inclusion of experts in the commissions.⁶ Victims have also stressed the importance of including victims of sexualised violence in the TJ process⁷ and of guarantees of non-recurrence.⁸
7. Women and girls who experienced sexualized violence, such as sexual exploitation, sexualized torture and rape during the armed conflict (1996-2006) are particularly affected by the lack of a transparent, participatory and effective transitional justice process in Nepal. The Truth and Reconciliation Commission (TRC) has only received 300 complaints of sexualized violence against women during the armed conflict.⁹ This figure is so low compared to the 63.000 cases that were filed with the TRC, suggesting that many cases of this nature have gone unreported.
8. It is problematic for many women that reporting sexualised violence touches on social taboos and women are afraid of being judged and excluded by their communities and families for reporting their experiences. In addition, when women have come forward, their complaints have often not been taken seriously, they faced insensitive questioning which did not take their situation into account and women have had to testify on their experiences of rape and

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other forms of sexualised violence during the armed conflict in front of purely male panels. Many women further shy away from reporting such crimes and serious violations of human rights for fear of repercussions from alleged perpetrators as confidentiality is not certain. Women also feel hindered from reporting sexualised violence due to the requirement that a first report must be filed at the closest police station to where the incident of sexualised violence occurred.

9. Women survivors of sexualised violence during the armed conflict have not had sufficient access to government relief and compensation programmes since these programmes have been limited to the relatives of those who were victims of forced disappearances or killings in the armed conflict and to those severely injured. Women who were victims of rape were not able to claim compensation or reparations from the interim relief programme introduced by the government. Consequently, many women survivors' experiences have not been recognised and they have also not received, for instance, health support for lasting medical problems resulting from their rape.¹⁰
10. The statute of limitations for rape has been improved from 35 days at the time of the second UPR cycle (2015) to one year in the 2017 Criminal Code. While this period is too short for many victims of rape, this statute of limitations presents an impossible hurdle for women who were raped during the armed conflict.
11. These factors result in a severe lack of inclusion of the experiences and voices of women survivors of sexualised violence during the armed conflict, a lack of justice, and continuing impunity for perpetrators regarding women's and girls' experiences of sexualised violence. There have not been sufficient actions taken by the government of Nepal to address the issues of impunity for cases of sexualised violence.

Recommendations on Human Rights Violations Committed during the Armed Conflict (1996-2006) and on Transitional Justice and Impunity

12. Amend the Enforced Disappearances Enquiry, Truth and Reconciliation Act of 2014 and bring it into line with the Supreme Court ruling of 26 February 2015, international human rights standards and Nepal's obligations under international laws.¹¹ Ensure that any amendments to the 2014 Enforced Disappearances Enquiry, Truth and Reconciliation Act include effective measures to enable the reporting and investigation of cases of sexualized violence and other forms of gender-based violence, including as a war crime and a crime against humanity, and prohibit amnesties for these crimes.
13. Significantly improve the transparency of the Transitional Justice mechanisms' work, including a transparent and participatory manner of appointing Commissioners to the TRC and the CIEDP, and ensure that victims of crimes committed during the armed conflict are fully included in the design and implementation of the process of dealing with the past.
14. Remove the statute of limitations for filing cases of rape perpetrated during the armed conflict, ensure that women survivors of sexualized violence during the armed conflict can

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access the Transitional Justice mechanism, that their cases are dealt with in a gender sensitive way which guarantees their safety from reprisals by alleged perpetrators, that their cases are diligently investigated and the perpetrators brought to justice.

15. Include survivors of sexualized violence during the armed conflict and their families in the TJ process and in any government schemes for relief, reparations, rehabilitation and compensation for victims of the armed conflict (1996-2006). Take special measures to offer medical help and access to health care to women whose health is affected due to their experiences of rape and other forms of sexualised violence in the armed conflict.
16. Ensure that the Truth and Reconciliation Commission (TRC) and the Commission on the Investigation on Enforced Disappeared Persons (CIEDP) and its commissioners and staff work independently and impartially, and provide the commissions with sufficient resources to ensure an effective functioning of the Commissions and their effective and positive contribution to the peace process and to dealing with the past in Nepal.
17. Proactively implement UN Security Council Resolutions 1325, 1820 and 2467 in the transitional justice process, the peace process and conflict transformation activities in Nepal.
18. Implement the recommendations made to Nepal, especially in the first (2011) and second (2015) cycles of the UPR, as well as those made by the Committee on the Elimination of Discrimination against Women (CEDAW) in its Concluding Observations on the sixth periodic report of Nepal (CEDAW/C/NPL/CO/6) in 2018, as well as the recommendations made by the Special Rapporteur on Violence against Women, its Causes and Consequences, Dubravka Simonovic, after her visit to Nepal (A/HRC/31/9) in 2019.
19. Sign and ratify the UN Convention for the Protection of All Persons from Enforced or Involuntary Disappearances.¹²
20. Ratify the Rome Statute of the International Criminal Court¹³.
21. Ratify the Optional Protocol to the Convention against Torture (OP-CAT) and bring national legislation on torture in line with international law.¹⁴

B.2. Violations of Human Rights of Women Regarding the Right to Adequate Food and Nutrition and Access to Natural Resources

22. Compared to the second cycle of the UPR in 2015, Nepal has made substantial improvements in the area of the right to food. The right to food is enshrined in the constitution¹⁵ among other fundamental rights, as are, e.g., the rights to work, housing, health, clean environment, social security, rights of women, children, Dalits, disabled people and other marginalised

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groups, as well as rights against discrimination and exploitation. Directive Principles in the constitution indicate the obligation for a land reform.¹⁶

23. According to the respective constitutional obligations The Right to Food and Food Sovereignty Act, 2075 (2018) was approved by the parliament on 16 September 2018. Through an amendment of the National Park and Wild Life Conservation Act 2029 (1973) (fifth amendment), the rights of those who depend on natural resources for their livelihood are intended to be strengthened.¹⁷
24. The Government of Nepal has also endorsed a strategy related to the Sustainable Development Goals, including SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture.¹⁸ Further initiatives by Nepal are the national Zero Hunger Challenge Action Plan 2025 with the goal to end hunger in 2025, prioritizing the right to food¹⁹, the Agriculture Development Strategy²⁰, the Food and Nutrition Security Plan of Action 2013²¹ and the fourteenth Five Year Plan²², which foresee legislation on the right to food.
25. Nepal remains one of the Least Developed Countries (place 149 on the Human Development Index).²³ According to 2019 estimates by the Food and Agriculture Organisation (FAO)²⁴, about 2.6 million (8,7%) of the 30 million citizens of Nepal suffer from malnutrition. Of particular concern is the nutrition status of women and children: 35% of women of child-bearing age suffer from anemia.²⁵ One fifth of new-born children have a low birthweight.²⁶ About two fifths of children under five years of age are chronically undernourished, almost 10% suffer from acute under-nourishment. A third of the population is considered poor, and 15% need to get by on less than 1,90 US\$ a day.²⁷ Women and girls from marginalised groups such as Dalits, ethnic, religious and sexual minorities, people with HIV/AIDS, widows and single women and those living with disabilities, as well as those in remote areas, are especially affected by this situation.
26. Women have limited access to and control over means of production and productive resources like land, water and forest and they have fewer work opportunities and usually lower wages than men. In the Gender Gap Index, Nepal ranked on one of the low places in 2019 (115 out of 162).²⁸
27. Women, particularly rural women, are often discriminated against and excluded from decision making processes, e.g. regarding the access to land and natural resources²⁹ and regarding access to food, health, education and work.
28. Gender-based discrimination continues to undermine women's and girls' ability to control their sexuality and make informed choices related to reproduction.³⁰ A direct consequence of persistent discrimination against girls and women, are the uterine prolapses that occur particularly frequently in Nepal, often also among young women. Adverse living conditions such as malnutrition and hard physical work during and shortly after pregnancy, premature and frequent pregnancies, lack of access to medical care, are among the factors responsible for this.

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29. Despite women's considerable contribution to agricultural production, only 20% of women own their own land title.³¹

Recommendations on the Right to Food and Access to Natural Resources

30. Expedite the implementation of recommendations previously made on the right to adequate food provided by the treaty-based and charter-based bodies of the United Nations, in particular of CESCR, CEDAW and the UPR.
31. Formulate appropriate policy provisions and mechanism to implement the Right to Food and Food Sovereignty Act (2018) at all levels. Adopt a comprehensive national, province and local strategy to ensure food and nutrition security for all, particularly targeting the marginalized and disadvantaged groups of society and ensure effective coordination and cooperation amongst all key actors involved in food and nutritional security and food sovereignty.
32. Ensure that women's contribution in agriculture and natural resources is actively acknowledged by the state and its laws, and ensure women's equal ownership of land and access to natural resources.
33. Ensure women's participation and power sharing in user groups related to natural resource management relating e.g. to water, forest, land, agriculture and other local level planning. In this, Nepal should especially ensure the participation of women from marginalized groups.
34. Invite, as a matter of priority, the UN Special Rapporteur on the right to food to visit Nepal.

B.3. Human Rights Violations through a Culture of Violence against Women and Girls and Harmful Practices

35. Since Nepal's examination in the second cycle of the UPR in 2015, the country adopted a national strategy to end child marriage (2016) and passed a new Criminal Code in 2017, which, e.g., criminalises the harmful practice of *chhaupadi* in Section 168(3) of the 2017 Penal Code. In addition, Nepal passed an amendment to the Domestic Violence (Offence and Punishment) Act in 2015, which includes provisions against dowry-related violence. In 2015, Nepal had already passed the Witchcraft Accusation (Crime and Punishment) Act (2015). Since its examination in the second UPR-cycle in 2015, Nepal has also raised the statute of limitations for rape from 35 days to one year.
36. Despite these existing laws, violence against women and girls continues unabated in everyday life. According to research undertaken by Nepal Dialogue Forum's project partner Nepal

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Monitor, there were 1.228 incidents of gender-based violence in 2019, 925 out of these 1.228 cases were incidents of sexualised violence including rape and attempted rape. There were 128 incidents of murder/attempted murder in which there were 120 female deaths. In 70% of these cases, the victims were women and girls under the age of 25. In 12 incidents of murder after rape the victims were between 3 (sic!) and 21 years old.³² These figures are merely those of known human rights abuses, the actual figure is deemed to be much higher due to under-reporting and a lack of investigation.

37. Despite some recent decisive action by the government of Nepal in some communities to ensure adherence to laws banning harmful practices against women and girls, many harmful practices violating the human rights of women and girls continue in large parts of the country. Under the practice of *chhaupadi*, for instance, women and girls are banished to huts and sheds outside the house during their periods, and sometimes also to give birth, where they are at risk of freezing, hunger, and sometimes attacks by wild animals. Several women die each year under these circumstances.
38. Child marriage, as well as forced marriage, also continue to be rampant in Nepal³³ and Nepal has the third highest rate of child marriage in Asia³⁴. In regard to child marriage, existing legislation is also not sufficiently enforced. Similar lack of implementation of existing legislation is true for the Witchcraft Accusation Act of 2015³⁵. Equally, dowry-related violence against women continues despite existing legislation.³⁶
39. The continued spread of harmful practices continues to prevent girls from attending school continuously, leading to a serious disadvantage with regard to their educational achievements. Poverty, as well as patriarchal attitudes and other harmful practices such as child marriage continue to prevent girls from marginalised communities from attending schools at all.³⁷
40. 25% of women in Nepal experience violence by an intimate partner at some time in their lives.³⁸ According to the Nepal Demographic and Health Survey 2017 (which is the newest available), 22% of women in Nepal age 15-49 have experienced violence, and 22% of ever-married women have experienced violence by their husbands. 34% sustained injuries from spousal violence. 66% of women affected never sought any help.³⁹
41. While Nepal has prolonged the statute of limitations for rape from 35 days to one year, as was recommended to Nepal by several countries in the second UPR cycle (2015)⁴⁰, a period of one year is still unrealistic for many victims and falls short of international standards.
42. The culture of violence against women and girls which supports practices such as *chhaupadi* and child marriages, as well as a high rate of domestic violence is still commonplace in large parts of the Nepali society, including e.g. police, judiciary, local authorities and elected politicians, which hampers the implementation of existing laws banning the practice of *chhaupadi*.
43. Violence against women and girls due to harmful practices and domestic violence as well as (other forms of) rape remain under-reported. The government pays too little attention to documenting violence against women resulting from harmful practices⁴¹ and does too little to remedy the causes that lead to this underreporting. Due to patriarchal norms and power

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relations, women often rightly fear reprisals from their family or community when reporting such violence, fear being ostracized, or are simply uninformed about their rights due to lack of access to education. In addition, women and girls cannot be certain that the police will take their reporting of such crimes seriously, police lack training in sensitive questioning of women survivors of such crimes, and women continue to fear further harm from the police.⁴²

44. Women still have insufficient opportunities to become informed about their rights. This has been a major hindrance in women reporting violations against them, and there is a clear need of programmes to ensure women's information on their rights and communities on the effects of gender-based violence.
45. These factors result in continued frequent impunity for the perpetrators of the rampant violence against women and girls in everyday life in Nepal.⁴³

Recommendations on Violence against Women in Everyday Life and Harmful Practices

46. Abolish the statute of limitations for rape of one year, enact legislation without a statute of limitations for rape and bring existing legislation on rape into accordance with international standards.
47. End impunity for violence against women and girls and enforce existing legislation on domestic violence⁴⁴ and harmful practices such as *chhaupadi* and child marriage.
48. Ensure that police and judiciary actively provide a safe environment and gender-sensitive approaches for women who report cases of sexualized violence, violence against women through harmful practices and other forms of human rights violations against women, ensure the protection of victims and witnesses in these cases⁴⁵, and ensure that these cases are investigated and perpetrators are brought to justice.⁴⁶
49. Provide in-depth training on women's rights, the particular multiple and intersectional discrimination and violence against women and girls from Dalit and indigenous communities, and gender-sensitive handling of cases involving violence against women and sexualised violence for police staff, staff in the judiciary and other public officials tasked with recording, investigating and adjudicating such cases, strongly encourage participation in these trainings and create a culture in which this is an important factor in promotions.
50. Promote awareness-raising training and education for women and girls to become informed of their rights, especially including women and girls from marginalised groups. Instigate human rights awareness-raising campaigns for women and men on the effects of sexualised violence, domestic violence and the effects of gender-based violence⁴⁷, and actively support such programmes offered by civil society actors.
51. Significantly improve educational opportunities for women girls, and particularly for girls from marginalised groups. Significantly increase school enrolment of girls, and actively

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promote education opportunities for women and girls⁴⁸ taking into account the negative effects harmful practices have on girls' educational opportunities and remedy these effects.

- 52. Ensure access to public health care for all citizens, including to reproductive health care for women⁴⁹, and especially ensure access to the right to health for women from marginalised groups such as Dalits, indigenous women, the LGBTQI community, women with handicaps, women with HIV, women in shelters and women victims of natural disaster or victims of displacement.**

B.4. Human Rights of Women regarding the Lack of Social and Political Inclusion and regarding Marginalisation

53. In a positive development since the second cycle of the UPR (2015), new legal provisions for elections have led to a more adequate representation especially of Dalit and indigenous women in public offices, particularly on the local and provincial levels of government, and women in general in the national parliament. However, women mostly occupy lower positions, e.g. deputy mayor or vice chair positions, and although their level of participation has been improved, women often remain disadvantaged and systematically excluded when it comes to actual power sharing and an equal voice in decisions.
54. Despite constitutional guarantees of their equal rights, women from marginalised groups in Nepal, such as indigenous women, Madeshi women, Tharu women, Dalit women, women from the LGBTQI community, women with disabilities, women in remote rural areas and single women, as well as women human rights defenders (WHDRs) still face multiple and intersecting forms of discrimination, exclusion and violence.
55. Especially Dalit women suffer from multiple forms of discrimination, based partially on traditional ideas of impurity, patriarchal social norms, discrimination in education and access to water, land, health, housing and other necessities.⁵⁰
56. Also, the UN Special Rapporteur on Violence against Women, its causes and consequences, has recently reminded Nepal of the “alarmingly high prevalence of violence against indigenous women, who continue to experience higher rates of domestic and family violence and more severe forms of such violence compared with other women” due to multiple and intersection forms of discrimination on the grounds of gender, race and class.⁵¹

Recommendations on social inclusion and political power sharing

- 57. Assess the state of implementation and effectiveness of laws on discrimination, especially against women and ensure such laws are put into practice. Develop effective and independent mechanisms for the implementation of the Caste-based Discrimination and Untouchability Act and take all necessary measures to ensure its effective implementation, and to eliminate all forms of discrimination against women.⁵²**

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58. Implement the recommendations made by the CEDAW Committee in 2018 regarding temporary special measures to improve access for women “facing intersecting and multiple forms of discrimination, including indigenous, Dalit women, rural women, women with disabilities and widows in the Hindu community, as well as women affected by conflict and natural disasters, to health services, education, safe water and sanitation services, food, fertile land, natural resources, housing, credit and income-generating opportunities”.⁵³
59. Ensure that cases of violations against the Caste-based Discrimination and Untouchability (Crime and Punishment) Act can be effectively reported, ensure investigation and adjudication of these cases, and end impunity in this regard.
60. Take the necessary steps to ensure that the constitution of 2015 is implemented while protecting human rights and thus ensuring its provisions on gender equality, lesbian, gay, bisexual and transgender persons, and minorities⁵⁴ (Sweden).
61. Take urgent steps to appoint Commissioners to the vital constitutional bodies, the Women’s, Tharu, Dalit, Madesh, Inclusion and Muslim Commissions, in order to ensure that these commissions can work at full capacity as stipulated by the constitution.

B.5. Violations of Human Rights of Human Rights Defenders (HRD) and especially Women Human Rights Defenders

62. Human rights and women’s rights activists, publishers, media workers, journalists, bloggers and others who raise sensitive issues are still at great risk. Female HRDs, and among them especially those from marginalised groups, are especially vulnerable to stigmatization and are particularly targeted. Women HRD are often viewed as questioning traditional norms and practices, especially when they highlight women’s rights in a patriarchal system. In addition, female HRDs in Nepal are under high risk of sexualized physical or psychological violence and harassment with the aim of silencing their voices.
63. High pressure is experienced especially by those organizations and activists who advocate on behalf of especially sensitive issues and marginalized communities. These include, but are not limited to LGBTQI, Madesh, women’s rights and Dalit activists and those (victim) organizations, who demand justice for the war crimes and human rights violations being committed in the civil war between 1996 and 2006. These actors often experience direct threats and attacks, but also face an additional challenge in terms of access to governmental actors. They often feel restrictive laws are selectively applied, targeting those activists working on more sensitive issues.⁵⁵
64. While a Women’s Commission has been enshrined as a constitutional body in the 2015 constitution of Nepal, the Commission has not been afforded sufficient resources and support

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from the government to undertake its constitutional role effectively and members of the Women's Commission have not been appointed in a timely manner.

65. Furthermore, in 2019, the government announced its intention to amend the National Human Rights Commission (NHRC) Act of 2012 in a way which would severely limit its independence, and which would put NHRC recommendations under the discretion of the Attorney General for the recommendation of cases of human rights violations for investigation.

Recommendations on Human Rights Defenders⁵⁶

66. Ensure that human rights defenders and other civil society organisations and actors can exercise their work freely and without threats to their lives by actively creating an enabling environment for civil society and human rights defenders⁵⁷, including for those who raise human rights issues considered "sensitive" issues such as for instance human rights of the LBTQI community, the rights of victims of the armed conflict (1996-2006) and impunity for crimes committed during that period, Madesh, women's and Dalit rights.
67. Especially and effectively protect women human rights defenders, with particular attention to women HRDs who challenge harmful traditional practices outlawed by existing legislation of Nepal and promote an enabling environment for their work, including in digital and social media and other online spaces.
68. Investigate and prosecute all cases of threats or attacks on human rights defenders, and train police and judicial staff in human rights issues, including in awareness on the particular threats to women human rights defenders.
69. Ensure the independence, autonomy, inclusiveness and capacities of the National Human Rights Commission (NHRC) of Nepal in accordance with the Paris Principles and provide it with adequate resources and powers.
70. Ensure that the Women's Commission is enabled to conduct its work with well-qualified commissioners, staff and sufficient resources. At the earliest time ensure the appointment of commissioners of the Women's Commission.
71. Adhere to and fully implement the UN Declaration on Human Rights Defenders⁵⁸ and ensure effective protection mechanisms for human rights defenders on the local, provincial and national levels.

B.6 Violations of Human Rights with Regard to the Space for Civil Society

72. Nepal guarantees the freedom of opinion and expression as well as freedom of the press through its Constitution articles 17(2)a and 19(1), explicitly prohibiting censorship of the media. Furthermore, Nepal has ratified the International Covenant on Civil and Political Rights

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(ICCPR), whose articles 19, 21 and 22 guarantee the right to peaceful assembly, freedom of expression and association with others.

73. Despite these constitutional and legal provisions, many civil society organisations (CSOs) in Nepal raise strong concerns about their implementation. Very often, constitutionally guaranteed freedoms are curtailed in practice, especially when it comes to sensitive issues. Freedom of association is severely hindered by requirements for Nepali NGO's to agree on project specific agreements with the government. Many NGOs face a lengthy process to register their projects and (re)register their organizations, which has a severe and negative impact on their ability to undertake their work.⁵⁹
74. CSOs in Nepal face many administrative hurdles and other obstacles, which often considerably influences their ability to enjoy their constitutionally guaranteed freedoms and practically implement their programs. *CIVICUS Monitor* comes to the conclusion that civic space in Nepal can be seen as obstructed, i.e. "heavily contested by power holders, who impose a combination of legal and practical constraints on the full enjoyment of fundamental rights. Although civil society organizations exist, state authorities undermine them (....)."⁶⁰ An example for this is the 2017 Foreign Assistance Approval Directive, which makes it mandatory for CSOs to allocate 60% of their project funds to hardware, i.e. infrastructure investments. This regulation makes it especially difficult for human rights and peace organizations to implement their mostly campaign-oriented, dialogue-based, awareness raising, legal and advocacy work.
75. Especially CSOs working on human rights of marginalized groups and HRDs addressing their concerns face great difficulties following the regulations, as they generally do not provide hardware and their political networks are often too weak to receive support in the registration process. Smaller and rural NGOs or social movements rarely have the means to overcome the practical hurdles imposed on them. The UN Special Rapporteur on the rights to freedom of association and peaceful assembly has stressed that such use of "onerous and bureaucratic reporting requirements" can "obstruct the legitimate work carried out by associations"⁶¹.

Recommendations on Space for Civil Society

- 76. Create an enabling environment for civil society, through legislation and by promoting a positive culture for the role of CSOs.⁶²**
- 77. Ensure that, in accordance with the International Covenant on Civil and Political Rights (ICCPR), Art. 22⁶³, no undue restrictions are placed on the right to the freedom of association and recommend that Nepal review and amend all legislation and administrative provisions which limit the right to freedom of assembly without due cause. Ensure that Nepal, as a member of the Human Rights Council itself, adheres to Human Rights Council Resolution 22/6 which requires that states' reporting requirements to civil society do not inhibit functional autonomy of associations.⁶⁴**

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- 78. Promote and protect the rights that are necessary for civil society to operate, including the rights to freedom of expression, freedom of peaceful assembly and freedom of opinion and expression, including in media and internet, and review and amend all legislation to ensure that it complies with international human rights standards and the Declaration on Human Rights Defenders.⁶⁵**
- 79. Actively create and support a political climate supportive of civil society and its work, including access to information, consistent participation of civil society in political decisions, and training for government staff and political decision makers to enable them to create such an environment, and make public statements in support of the independence of civil society.**
- 80. Fully implement the Paris Principles regarding the mandate and work of the National Human Rights Commissions, ensuring a broad mandate, autonomy from the government, adequate resources and adequate powers of investigation.⁶⁶**

¹ Contact details, websites and further information on the work of all member organisations can be found on the website of Nepal Dialogue Forum: <http://nepal-dialogforum.org/mitglieder/>.

² Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

³ Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴ Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁵ Data collected by NepalMonitor, 2019, <https://nepalmonitor.org>.

⁶ See e.g. a statement by Nepalese civil society organisation Advocacy Forum: “Fake transitional Justice Consultations. How long can the government fool victims?” Briefing Paper by Advocacy Forum, February 2020, <http://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-paper-on-tj-consultation-february-2020.pdf>, p. 20.

⁷ “Fake transitional Justice Consultations. How long can the government fool victims?” Briefing Paper by Advocacy Forum, February 2020, <http://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-paper-on-tj-consultation-february-2020.pdf>, p. 21.

⁸ “Fake transitional Justice Consultations. How long can the government fool victims?” Briefing Paper by Advocacy Forum, February 2020, <http://www.advocacyforum.org/downloads/pdf/publications/tj/briefing-paper-on-tj-consultation-february-2020.pdf>, p. 23.

⁹ Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p. 12, para. 58.

¹⁰ Also see recommendation 122.90 (Singapore) in Nepal’s UPR 2015 and 122.95 (New Zealand), calling for equal access to quality health care for women and girls. Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

¹¹ Previously recommended in the second cycle of Nepal’s UPR (2015), recommendations 122.5 (Belgium), 122.63 (Czech Republic), 123.28 (Denmark), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

¹² Previously recommended in the second cycle UPR (2015), recommendation 123.10 (Argentina, Sierra Leone, France, Japan, Ghana), 123.11 (Paraguay), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

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¹³ Previously recommended in the second cycle UPR (2015), recommendations 123.13 (Switzerland, Germany, Ghana), 123.14 (Paraguay), 123.15 (Estonia), 123.16 (Costa Rica), 123.17 (Hungary), 123.18 (Czech Republic), 123.19 (Uruguay), 123.20 (Latvia), 123.21 (Cyprus), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

¹⁴ Previously recommended in the second cycle (2015) UPR, recommendations 123.2 (Panama), 123.3 (New Zealand and Czech Republic), 123.4 (Montenegro, Denmark, Ghana, Germany), 123.5 (Portugal), 123.6 (Sweden), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

¹⁵ Constitution of Nepal 2015, Article 36. Right to food:

“(1) Each citizen shall have the right to food.

(2) Every citizen shall have the right to be protected from a state of starvation, resulting from lack of food stuffs.

(3) Every citizen shall have the right to food sovereignty as provided for in law”.

¹⁶ Constitution of Nepal 2015: Part 4: Directive Principles, Policies and Obligations of the State; 50. State Policies: (e) Policies relating to agriculture and land reforms: “(1) to make scientific land reforms having regard to the interests of the farmers, while ending the dual ownership existing in the lands, (..)”. <http://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/constitution/constitution-of-nepal>

¹⁷ See Workshop Report, FIAN Nepal (2016): Multi-Stakeholders’ Consultation Workshop on Proposed National Park and Wildlife Conservation Act, <http://fiannepal.org/multi-stakeholders-consultation-workshop-on-proposed-national-park-and-wildlife-conservation-act-2029-for-amendment/?lang=en>.

¹⁸ Sustainable Development Goals 2016-2030 National (Preliminary) Report, Government of Nepal National Planning Commission 2015, <http://www.np.undp.org/content/dam/nepal/docs/reports/SDG%20final%20report-nepal.pdf>.

¹⁹ Nepal: Zero Hunger Challenge National Action Plan (2016 - 2025) February 2016 Ministry of Agricultural Development, Singhadurbar, Kathmandu, Nepal, February 2016, [http://www.npc.gov.np/images/category/ZHC_NAP_\(2016_-_2025\).pdf](http://www.npc.gov.np/images/category/ZHC_NAP_(2016_-_2025).pdf).

²⁰ Agriculture Development Strategy (ADS) 2015 to 2035 Part: 1 Government of Nepal, Ministry of Agricultural Development, Singhadurbar, Kathmandu, <http://www.dls.gov.np/uploads/files/ADS%20Final.pdf>.

²¹ Ministry of Agricultural Development (MOAD), NEPAL, Food and Nutrition Security Plan of Action (FNSP) A National Programme for Food and Nutrition Security, April 2013, <http://www.nfnsp.gov.np/PublicationFiles/d405d609-bb00-4708-831c-149dea4b4f49.pdf>

²² Fourteenth 5th Year Plan Government of Nepal, National Planning Commission, <http://www.npc.gov.np/images/category/14th-plan-full-document.pdf>.

²³ United Nations Development Programme (UNDP): Human Development Report, 2019, <http://www.hdr.undp.org/en/countries/profiles/NPL>.

²⁴ FAO 2019: The State of Food Security and Nutrition in the World SAFEGUARDING AGAINST ECONOMIC SLOWDOWNS AND DOWNTURNS, <http://www.fao.org/3/ca5162en/ca5162en.pdf>.

²⁵ FAO 2019: The State of Food Security and Nutrition in the World SAFEGUARDING AGAINST ECONOMIC SLOWDOWNS AND DOWNTURNS, <http://www.fao.org/3/ca5162en/ca5162en.pdf>.

²⁶ Government of Nepal, National Planning Commission: Multidimensional Poverty Index, 2018 https://www.npc.gov.np/images/category/Nepal_MPI.pdf.

²⁷ United Nations Development Programme, Human Development Reports, Human Development Index (HDI) 2018, <http://hdr.undp.org/en/content/human-development-index-hdi>.

²⁸ Human Development Report 2019: Inequalities in Human Development in the 21st Century; hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf.

²⁹ Forest Act 1993.

³⁰ Amnesty International 2014: Unnecessary Burden, Gender Discrimination and Uterine Prolapse in Nepal

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<https://www.amnesty.org/download/Documents/8000/asa310012014en.pdf>.

³¹ Central Bureau of Statistics 2011 National Population Housing Census 2011 (National Report), CBS, Kathmandu. "19.71 percent of households reported the ownership of land or house or both in the name of female member of the household" (newest general census available), <https://unstats.un.org/unsd/demographic-social/census/documents/Nepal/Nepal-Census-2011-Vol1.pdf>.

³² Data collected by NepalMonitor, 2019, <https://nepalmonitor.org>.

³³ „Nepal has the seventeenth highest prevalence rate of child marriage in the world and the seventeenth highest number of child brides. According to reports received by the Special Rapporteur, 37 per cent of girls in Nepal are married by the age of 18, with 10 per cent married before the age of 15. Many young girls are forced into marriage owing to poverty, a lack of access to education, child labour, social pressure and harmful practices. The practice is particularly prevalent within Dalit and Madhesi communities. (...) Indeed, the Supreme Court has ordered the Government to address the limited enforcement of child marriage laws." Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p.10, para 44.

³⁴ Human Rights Watch: World Report 2019, Nepal, <https://www.hrw.org/world-report/2019/country-chapters/nepal>.

³⁵ The Special Rapporteur on Violence against Women, its Causes and Consequences reported from her travel to Nepal in November 2018 that she "is concerned by the fact that the persecution and killing of women accused of practicing witchcraft is still very prevalent in some parts of the country, with Dalit women disproportionately affected." Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p.11, para 47.

³⁶ Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p.11, para 48.

³⁷ According to UNICEF, "Children belonging to the most privileged groups in Nepal attend school for around 10 years while children from the most marginalized groups (girls from "Dalit" background in Terai) have less than one year of schooling." UNICEF Statement: Poorest students receive up to 18 times less public education resources than the wealthiest, says UNICEF (22 January 2015), <http://www.un.org.np/headlines/poorest-students-receive-18-times-less-public-education-resources-wealthiest-says-unicef>.

³⁸ <http://hdr.undp.org/en/countries/profiles/NPL>.

³⁹ Nepal Demographic and Health Survey 2016, published Nov 2017 by the Ministry of Health of Nepal, New ERA Kathmandu, Nepal, and The DHS Program ICF Rockville, Maryland/USA, <https://www.dhsprogram.com/pubs/pdf/fr336/fr336.pdf>.

⁴⁰ See recommendations 122.8 (Australia), 122.9 (Belgium), 122.13 (Republic of Korea) and 122.14 (Britain and Northern Ireland), Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Concluding observations on the sixth periodic report of Nepal, 14 Nov 2018, CEDAW/C/NPL/CO/6, p.6.

⁴² Also see UPR recommendation to Nepal (second cycle, 2015) 122.46 (Netherlands) and 122.32 (Mexico) Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴³ See also UPR (2015) recommendation 122.57 (Canada) as well as recommendations 122.58 (Slovenia), and 122.59 (Czech Republic), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴⁴ This was recommended in the second cycle (2015) of the UPR, recommendation 122.10 (Slovenia), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

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⁴⁵ Previously recommended in the second cycle (UPR), recommendation 122.59 (Czech Republic), Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴⁶ As previously recommended in the second cycle of the UPR (2015) of Nepal, recommendation 122.46 (Netherlands) and 122.58 (Slovenia) and 122.59 (Czech Republic), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴⁷ This was previously recommended in the second cycle (2015) UPR, recommendations 122.23 (Slovenia) and 122.34 (Malaysia), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴⁸ Previously recommended in the second cycle (2015), recommendations 122.104 (Finland), 122.105 (Singapore), 122.106 (Bolivarian Republic of Venezuela), see Report of the Working Group on the Universal Periodic Review: Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁴⁹ Previously recommended in the second cycle (2015) UPR, recommendations 122.90 (Singapore) and 122.95 (New Zealand), see Report of the Working Group on the Universal Periodic Review: Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁵⁰ Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p.14, para 66.

⁵¹ Visit to Nepal - Report of the Special Rapporteur on violence against women, its causes and consequences to the UN Human Rights Council, 41st session, 19 Jun 2019, A/HRC/41/42/Add.2, p.14, para 67.

⁵² Previously recommended in the second cycle or Nepal's UPR (2015), recommendation 121.39 (Czech Republic), 121.40 (Germany), 122.41 (Namibia), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁵³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Concluding observations on the sixth periodic report of Nepal, 14 Nov 2018, CEDAW/C/NPL/CO/6, p. 15, para 41(c).

⁵⁴ Previously recommended in the second cycle UPR, recommendation 121.16 (Sweden), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁵⁵ Institute for Development Studies 2019: The Implications of Closing Civic Space for Sustainable Development in Nepal, p. 26f.

⁵⁶ These recommendations were made already in the second cycle (2015) UPR examination of Nepal, see recommendations 122.60 (Botswana), 122.72 (Estonia), 122.73 (Ireland) and 122.74 (Cyprus), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

⁵⁷ Also recommended by the Special Rapporteur on the Situation of HRDs in his report "Situation of women HRDs", 10 Jan 2019, A/HRC/40/60, p. 19, para 108 (a-h).

⁵⁸ A/RES/53/144 (1999).

⁵⁹ The Human Rights Measurement Initiative (HRMI) assessed the situation of freedom of opinion and expression as worrying and awards Nepal just 3.9 out of 10 points on this regard. Human Rights Measurement Initiative, <https://data.humanrightsmeasurement.org/en/country/NPL>.

⁶⁰ CIVICUS Monitor 2019, <https://monitor.civicus.org>.

⁶¹ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 24 April 2013, A/HRC72/39 para. 38, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf.

⁶² Also recommended to Nepal by four Special Rapporteurs in July 2018: UN Reference Number OL NPL 1/2018, 11 July 2018, David Kaye (UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), Clement Nyaletsossi Voule (UN Special Rapporteur on the rights to freedom of

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peaceful assembly and of association), Michel Forst (UN Special Rapporteur on the situation of human rights defenders), Ahmed Shaheed (UN Special Rapporteur on freedom of religion or belief), p. 5. <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/NPL-1-2018.pdf>.

⁶³ International Covenant on Civil and Political Rights (ICCPR), Article 22, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁶⁴ Mandate of the Special Rapporteur on the promotion of the rights to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief, 11 July 2018, <https://www.ohchr.org/Documents/Issues/Opinion/Legislation/NPL-1-2018.pdf> (OL NPL 1/2018).

⁶⁵ Declaration on Human Rights Defenders, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>.

⁶⁶ Action in this regard was previously recommended in the second UPR cycle, e.g. in recommendations 121.11 (Portugal), 121.12 (Uganda), 121.13 (Australia) and 122.15 (South Korea)), 122.16 (India) and 122.17 (Portugal) made to Nepal in the Universal Periodic Review (2nd cycle, 2015), see Report of the Working Group on the Universal Periodic Review: Nepal, UN Human Rights Council, 31st session, 25 Dec 2015, A/HRC/31/9.

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