



# General Assembly

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## Human Rights Council

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Agenda item 6

Universal periodic review

### Report of the Working Group on the Universal Periodic Review\*

#### Nepal

#### Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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\* The present document is being issued without formal editing.



1. The Government of Nepal (GoN) considers the Universal Periodic Review (UPR) process as a constructive mechanism for the protection and promotion of human rights worldwide. The GoN welcomes the recommendations received during the interactive dialogue on Nepal's third cycle of UPR held on 21 January 2021. The GoN has given careful consideration to all the recommendations received.
2. Nepal firmly believes in the universality, indivisibility, interdependence and mutually reinforcing nature of human rights, including the right to development. The GoN reiterates its unflinching commitment to the human rights standards and processes set forth by the United Nations and is fully committed to implement the recommendations received through the UPR.
3. The GoN organized several rounds of discussions with the relevant ministries for disseminating information and finalizing Nepal's position on the recommendations. Consultations were held with the National Human Rights Commission and Civil Society Organizations to receive their feedback and views on the recommendations and to plan for the implementation of the recommendations.
4. The GoN provides information in this Addendum regarding its final position on the recommendations which are mentioned in the Unedited Version of 5 February 2021 (A/HRC/WG.6/37/L.7) of Working Group on the Universal Periodic Review.
5. Most of the recommendations received are already in implementation and some of the recommendations are in the process of implementation. The Constitution guarantees a comprehensive set of human rights as the fundamental rights in line with the international instruments to which Nepal is a party. Nepal's human rights commitments and implementation aspects are reflected in the legislations enacted for the implementation of the fundamental rights, periodic plan, National Human Rights Action Plan, sectoral and thematic action plans and policies, recommendations of the National Human Rights Commission, and directive orders of the Supreme Court. In this context, the GoN supports the following recommendations.

## **Recommendations supported**

6. Paragraphs 159.1, 159.5, 159.137, 159.9, 159.53, 159.131, 159.111, 159.108, 159.118, 159.83, 159.58, 159.220, 159.208, 159.59, 159.56, 159.73, 159.74, 159.80, 159.104, 159.162, 159.167, 159.178, 159.165, 159.169, 159.193, 159.173, 159.159, 159.199, 159.200, 159.202, 159.201, 159.204, 159.206, 159.207, 159.179, 159.192, 159.177, 159.194, 159.209, 159.215, 159.217, 159.213, 159.139, 159.195, 159.211, 159.212, 159.214, 159.216, 159.219, 159.135, 159.45, 159.24, 159.28, 159.184, 159.183, 159.160, 159.190, 159.191, 159.180, 159.168, 159.163, 159.164, 159.161, 159.35, 159.182, 159.105, 159.187, 159.186, 159.50, 159.49, 159.52, 159.51, 159.54, 159.61, 159.109, 159.110, 159.112, 159.113, 159.114, 159.115, 159.116, 159.117, 159.119, 159.120, 159.121, 159.122, 159.123, 159.222, 159.223, 159.225, 159.227, 159.226, 159.224, 159.124, 159.125, 159.126, 159.127, 159.128, 159.129, 159.130, 159.132, 159.138, 159.133, 159.140, 159.134, 159.136, 159.141, 159.142, 159.143, 159.146, 159.144, 159.147, 159.221, 159.181, 159.148, 159.149, 159.150, 159.197, 159.151, 159.171, 159.172, 159.152, 159.153, 159.154, 159.155, 159.210, 159.21, 159.62, 159.23, 159.38, 159.63, 159.64, 159.65, 159.66, 159.67, 159.68, 159.69, 159.70, 159.71, 159.72, 159.25, 159.27, 159.22, 159.26, 159.29, 159.30, 159.60, 159.156, 159.196, 159.198, 159.32, 159.33, 159.34, 159.39, 159.40, 159.41, 159.42, 159.43, 159.44, 159.47, 159.48, 159.55, 159.145, 159.90, 159.189, 159.91, 159.92, 159.93, 159.94, 159.95, 159.96, 159.97, 159.98, 159.99, 159.228, 159.100, 159.101, 159.102, 159.103, 159.75, 159.77, 159.176, 159.174, 159.166, 159.78, 159.185, 159.188, 159.81, 159.79, 159.82, 159.85, 159.88, and 159.203.
7. In relation to paragraph 159.3, Nepal is committed to non-proliferation of nuclear weapons and leading towards complete disarmament. Nepal is signatory to the Treaty on the Prohibition of Nuclear Weapons on 20 September 2017.
8. In relation to the paragraph 159.7, Nepal is party to seven core human rights Conventions including CEDAW, CERD, CRC, CAT and six Optional Protocols; seven

humanitarian Conventions, including the four Geneva Conventions of 1949; 11 ILO Conventions; and 14 other international and two regional conventions that have direct bearing on human rights. Similarly, Nepal is party to UNFCCC, Kyoto Protocol, Paris Agreement, Convention on Biological Diversity etc.

9. In relation to the paragraph 159.10, Nepal attaches high importance to the work of Special Procedures Mandate-Holders and has been constructively engaged with the special procedure mechanism of the Human Rights Council and other UN human rights mechanisms. Despite the capacity constraints, Nepal has been regularly inviting the Special Rapporteurs/Mandate Holders for country visits and implemented their suggestions and recommendations. Nepal looks forward to welcoming the Special Rapporteur on Rights to Food and Special Rapporteur on Extreme Poverty this year.

## **Recommendations noted**

10. The following recommendations require further assessment on the existing implementation capacity, development of requisite legal, policy and institutional infrastructures and more investment and resources and thus are noted.

### **Paragraphs 159.2 and 159.6**

#### **Accede to the Convention on Cluster Munitions, the Arms Trade Treaty, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction and the Treaty on the Prohibition of Nuclear Weapons**

11. Nepal's position on the issue of disarmament is clear and unambiguous. Nepal supports time-bound, total and complete disarmament of all weapons of mass destruction under effective international control. Nepal's unwavering commitment to disarmament emanates from the core values of world peace enshrined in Nepal's Constitution. The Government of Nepal intends to build requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraphs 159.4, 159.11, 159.12, 159.13, 159.14**

#### **The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

12. Nepal remains firmly committed to the protection of life, liberty, and security of persons. Nepal became Party to CAT on May 14, 1991. The Constitution ensures rights against torture and prohibits subjecting arrested or detained person to physical or mental torture or cruel, inhuman or degrading treatment. Any such act is punishable by law and entails compensation to the victim. Torture and inhuman treatment have been criminalized by the National Penal Code, 2017. In addition to the general criminal justice mechanism, there are independent oversight mechanisms, such as, National Human Rights Commission (NHRC) and the Office of Attorney General that are also responsible to investigate and prosecute the cases of torture.

### **Paragraph 159.4**

#### **Accede to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure**

13. The Government of Nepal intends to build requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraph 159.8**

#### **Ratify the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)**

14. The Government of Nepal intends to build requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraphs 159.15, 159.16, 159.17**

#### **Make progress in the ratification of human rights instruments, in particular the Convention for the Protection of All Persons from Enforced Disappearance**

15. The Penal Code of Nepal explicitly criminalizes the act of enforced disappearance in compliance with the relevant international instruments. The Government of Nepal intends to build requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraphs 159.18 and 159.19**

#### **Ratify the Rome Statute of the International Criminal Court**

16. Nepal does not allow impunity to prevail. The National Penal Code explicitly criminalizes most of the crimes incorporated in the Rome Statute. Nepal's judicial system is fully competent, independent and impartial to dispense justice in all kinds of criminal cases. The Government of Nepal intends to build further requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraph 159.20**

#### **Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

17. The Government of Nepal has been taking necessary measures to make labour migration safe, secure, predictable and dignified. It is committed to protect human rights of migrant workers and ensure their welfare. The Government of Nepal is committed to implement relevant areas identified in the Global Compact on Safe, Orderly and Regular Migration through necessary policy and legislation. The Government of Nepal intends to build further requisite legal and institutional foundation and capacity before joining additional instrument.

### **Paragraphs 159.229, 159.230, 159.232, 159.231, 159.233**

#### **Ratify the 1951 Convention relating to the Status of Refugees and complying with the principle of non-refoulement**

18. Although Nepal is not a party to the 1951 Refugees Convention and its Protocol of 1967, for decades it has been providing shelter to thousands of refugees on humanitarian ground. Nepal is abiding by the principle of non-refoulement. The Extradition Act, 2014 incorporates the principle of non-refoulement and provides that a person may not be extradited to the requesting state if there is a credible reason to believe that the person would be subjected to torture or death penalty.

### **Paragraph 159.106**

#### **Ratify the International Labour Organization's Violence and Harassment Convention, 2019 (No. 190)**

19. Sexual Harassment at Workplace (Control) Act, 2014 provides for measures to control and punish sexual harassment at both formal and informal workplace. The Penal Code criminalizes sexual harassment with a punishment up to three years of imprisonment and a fine of thirty thousand rupees.

### **Paragraph 159.107**

#### **Ratify the International Labour Organization's Domestic Workers Convention, 2011 (No. 189)**

20. Labour Act, 2017 and the Labour Regulation, 2018 govern the matters relating to the rights of domestic workers which include minimum remuneration, paid public leave, weekly leave, cultural and festival leave, overtime, etc. Moreover, Contribution Based Social Security Act, 2017, Bonded Labour (Prohibition) Act, 2002, Child Labour (Prohibition and Punishment) Act, 2000 are being effectively implemented.

### **Paragraph 159.31**

#### **Amend the legislation that generates discrimination on grounds of sexual orientation and gender identity and review the definition of marriage in the Civil Code to guarantee equal access to this right**

21. The National Civil Code considers marriage as a permanent, inviolable, wholly social and legal bond which is based on free consent and established to start conjugal and family life between man and woman. Men and women of marriageable age have the right to marry and found a family. The Penal Code has prohibited marriage below 20 years of age.

### **Paragraph 159.36**

#### **Adopt comprehensive anti-discrimination legislation that includes a definition of discrimination against women, encompassing direct and indirect discrimination and multiple intersecting forms of discrimination**

22. In order to abolish legal and factual discrimination based on ethnicity, gender and caste, the Constitution has ensured the equality before the law and the right to equal protection of law. It also provides rights against untouchability and discrimination based on origin, caste, tribe, community, profession, occupation or physical condition. In-order to prohibit and criminalize discrimination based on caste, the Caste-based Discrimination and Untouchability Act, 2011 and its regulation, Penal Code, National Civil Code, Domestic Violence (Control and Punishment) Act, Human Trafficking and Transportation (Control) Act, 2007, Sexual Harassment at Workplace (Control) Act, 2014 are being effectively implemented. Therefore, no separate legislation is required in this regard.

### **Paragraphs 159.37 and 159.46**

#### **Adopt marriage equality legislation, extending full marriage rights to same-sex couples**

23. The National Civil Code considers marriage as a permanent inviolable, wholly social and legal bond which is based on free consent and established to start conjugal and family life between man and woman. Men and women of marriageable age have the right to marry and found a family. The Penal Code has prohibited marriage below 20 years of age.

### **Paragraph 159.57**

**Revise the draft Anti-Torture Bill to comply fully with international standards, including by removing the statute of limitations and providing for all five forms of reparation**

24. Torture and inhuman treatment have been criminalized by the Penal Code.

### **Paragraph 159.89**

**Reform the Electronic Transactions Act to eliminate the criminalization of speech**

25. No law may be enacted contrary to the constitutionally guaranteed fundamental rights. The Bill is under consideration of the Parliament.

### **Paragraphs 159.157, 159.158, 159.170, 159.175**

**Eliminate the current statute of limitations to report cases of rape and sexual violence, even in the context of conflicts**

26. The Penal Code has extended the statute of limitation for lodging a first information report on the cases of rape from 35 days to one year. Nepal is committed to implement existing legislations on domestic violence and harmful practices.

### **Paragraph 159.205**

**Establish a special mechanism responsible for independent child rights monitoring**

27. The Act Relating to Children, 2018 provides for a multi stakeholder National Child Rights Council chaired by the Minister for Women, Children and Senior Citizens. The Council is represented by various government agencies and CSOs working in the field of child rights, child protection, child welfare and juvenile justice. The Council recommends the GoN about the policies and programs to be adopted and monitors, evaluates and reviews the child-related programs undertaken by the GoN. The NHRC has a general mandate to protect and promote human rights including children. Moreover, the NHRC has power to investigate the allegations of human rights violations including children and make recommendations to the concerned person or body to take necessary measures.

### **Paragraphs 159.76, 159.87, 159.86**

**Repeal or amend sections 155, 156 and 158 of the Penal Code so it is consistent with the International Covenant on Civil and Political Rights; Remove restrictions on the right to freedom of religion or belief in the Criminal Code; Amend Article 26 of the Constitution to include the right to choose or change one's religion or belief, in accordance with Article 18 of the International Covenant on Civil and Political Rights**

28. The Constitutional provisions are in line with the ICCPR Article 18. Nepal is a secular State. The Constitution fully ensures religious freedom to all people and prohibits discrimination on the ground of religious faith. Every person is free to choose, adopt, profess or practice religious belief. However, conversion by force or undue influence or inducement is prohibited to ensure full enjoyment of religious freedom by every religious denomination.

### **Paragraph 159.84**

#### **Eliminate all provisions that restrict freedom of expression, through any means, such as criminal provisions relating to slander or defamation**

29. The Constitution of Nepal guarantees the freedom of expression and opinion in line with the UDHR and the ICCPR. The Constitution further guarantees that publication and broadcasting or dissemination or printing of any news item, editorial, feature article or other reading, audio and audio-visual material through any means whatsoever including electronic publication, broadcasting and printing shall not be censored, closed or seized nor registration thereof be cancelled. The Act relating to Press and Publication, 1991; Press Council Act, 1991; National Broadcasting Act, 1993; Act relating to Working Journalist, 1995; Electronic Transaction Act, 2007; Right to Information Act, 2008; Media Council Act, 2020 and Information Technology Act, 2020 are being implemented.

### **Paragraph 159.218**

#### **Step up efforts in the fight against segregation and discrimination of indigenous peoples and ethnic and caste minorities, including Dalits and Tibetans**

30. The Constitution has ensured equality and non-discrimination together with the right to social justice. Nepal is committed to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion and gender and all forms of caste-based untouchability. There is no law and policy which supports or condones segregation and discrimination against any group, caste or ethnicity or religious faith.

31. The GoN is implementing the Fifth National Human Right Action Plan (2020-2025). The GoN will be implementing the recommendations that it has accepted through the formulation of the UPR implementation action plan.

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