



Submission to the Universal Periodic Review (UPR)

NEPAL

23rd Session of the Human Rights Council's UPR Working Group (October-November 2015)

Submitted by:

Center for Reproductive Rights and Forum for Women, Law and Development

In accordance with Human Rights Council (HRC) Resolution 5/1, the Center for Reproductive Rights (the Center) and the Forum for Women, Law and Development (FWLD) present this submission as non-governmental organizations (NGOs) to supplement the report of the government of Nepal (the Government), scheduled for review by the HRC during its 23rd session. The Center is an international NGO with an office in Nepal dedicated to advancing reproductive freedom as a fundamental right that all governments are legally obligated to protect, respect, and fulfill. FWLD is a Nepal-based NGO working for the protection, promotion, and enjoyment of human rights.

I. Introduction

1. This letter provides information regarding the recommendations raised during the first Universal Periodic Report (UPR) of Nepal concerning violence and discrimination against women and girls. Despite repeated recommendations from Member States and U.N. treaty-monitoring bodies (TMBs) to the Government to address gender-based discrimination and violence, there continues to be impunity for violations of girls' and women's rights arising from child marriage. The Government has a due diligence obligation to address all forms of gender-based violence, including child marriage as well as the sexual violence and reproductive health harms suffered by married girls. This heightened obligation requires the Government to prevent, investigate, punish, and provide legal remedies for all acts of violence against women and girls.¹ Despite this obligation, the Government has failed to strengthen, effectively implement, and enforce laws and policies prohibiting child marriage, leading to a widespread lack of accountability for grave human rights violations suffered by Nepali women and girls.

II. Key Issues: Child Marriage and the Continuum of Harms Against Women and Girls in Nepal

2. Child marriage continues to be among the most pervasive forms of violence experienced by girls in Nepal. The Government's 2011 national census estimated that approximately 75% of married women were married before age 20.² A 2014 UNICEF report found that 15% of women ages 20 to 49 years were married before age 15, and 52% were married by age 18.³ The prevalence of child marriage varies by residence,⁴ region,⁵ education,⁶ household wealth,⁷ caste, and ethnicity,⁸ reflecting that child marriage is most prevalent among the most disadvantaged and marginalized communities.
3. Child marriage disproportionately violates girls' rights both because of the significantly higher incidence among girls (82%) versus boys (18%),⁹ and because of the particular risks of sexual violence and reproductive rights violations experienced by married girls throughout their lives.¹⁰ Child marriage increases the likelihood of early pregnancy, which carries a heightened risk of maternal mortality and morbidity.¹¹ In Nepal, only 42% of births among girls under 20 years of age are attended by a skilled provider.¹² Studies reveal that there is a higher incidence of maternal mortality in Nepal among girls under age 20 than for women in their twenties.¹³ Nepal has the third highest rate of adolescent child birth in South Asia.¹⁴ According to the National Demographic and Health Survey (NDHS), almost one quarter of Nepali women have given birth to children by age 18, and nearly half by age 20.¹⁵ Uterine prolapse, which 10% of Nepali women of reproductive age suffer,¹⁶ is also linked to early and frequent pregnancies. The average woman who has undergone uterine prolapse surgery first experienced symptoms of

uterine prolapse at 26.8 years old, after their third pregnancy.¹⁷ Similarly, obstetric fistula, where a hole develops between the rectum or bladder and the vagina leading to the leakage of urine or feces, is another preventable pregnancy-related injury often suffered by women in Nepal.¹⁸ According to United Nations Population Fund (UNPFA), “early marriage and young age at delivery” is a primary risk factors for obstetric fistula.¹⁹ An estimated 200- 400 new cases of obstetric fistula are reported annually in Nepal.²⁰

4. The barriers faced by women and girls in accessing reproductive health information and services, including contraception and safe abortion procedures, further compound the high rate of adolescent pregnancies and risks of maternal mortality and morbidity.²¹ The NDHS indicates that the unmet need for contraception is highest among married adolescent girls ages 15-19,²² with only 17.6% of married adolescents having access to contraception.²³ Only 38% of girls ages 15-49 are aware that abortion is legal,²⁴ and 46.5% are unaware of a place for seeking safe abortion services.²⁵
5. Child marriage also exposes young girls to physical and sexual violence, including forced initiation into sex and marital rape. According to the NDHS, one in six married girls in Nepal reports experiencing physical violence, and one in three married girls reports being forced to have sex by their husbands.²⁶ A 2014 UNICEF study found that 29% of currently married girls ages 15-19 in the Far and Mid-western region and 37% in the Terai region reported experiencing sexual violence.²⁷ The NDHS reveals that 47% of women who first had sex before age 15 and 28.6% of women who first had sex between ages 15-19 stated that their initial experience was forced and against their will; the majority of these cases occurred within marriage.²⁸ The NDHS also states that husbands are the perpetrators in nearly 90% of sexual abuse cases.²⁹

III. National Legal Framework

6. Child marriage violates Nepal’s national laws. Under the 2007 Interim Constitution of Nepal, the Government is obligated to protect women and girls from sexual violence and risks to their reproductive health,³⁰ including child marriage, early pregnancy, and marital rape. Under Nepali law, the minimum legal age for marriage for both men and women is 20,³¹ and, with guardian consent, 18.³²
7. **Gaps and weaknesses in the law on child marriage contributing to widespread impunity.** While a person officiating, abetting, or arranging the marriage of a child faces criminal liability under Nepali law, the penalties for such offenses are typically weak and provide a wide range of discretionary sentencing power to judges.³³ Depending on the age of the child, the maximum penalty for child marriage is imprisonment from six months to three years and a fine from NPR 1000 (USD 10) to NPR 10,000 (USD 100).³⁴
8. A marriage where one or both parties are below age 18 is voidable under Nepali law.³⁵ However, such marriages can be voided only if the couple does not have a child at the time of challenging the legality of the marriage.³⁶ Given the correlation between child marriage, the cultural pressure on girls to prove their fertility soon after marriage, and the barriers to contraceptive information and services, this exception can lead to girls effectively being trapped in child marriages.

9. Although marital rape is far too common in child marriages, criminal protections against marital rape are weak. Nepali law recognizes marital rape as a crime,³⁷ but rape within marriage is treated as a less serious offense than rape outside of marriage. The punishment for rape outside of marriage ranges between 5 and 15 years imprisonment depending on the victim's age, while marital rape is punishable by a lesser 3 to 6 months imprisonment.³⁸ In addition, the statute of limitations for rape, including marital rape, is only 35 days,³⁹ which serves as a barrier for young married girls to access appropriate legal mechanisms and seek protection under the judicial system. This barrier is compounded by the fact that married girls often lack the necessary decision-making authority and economic resources to seek legal representation required to avail of protections and remedies under the law.⁴⁰
10. No specific legal protections or services are available for girls who choose to leave child marriages, and leaving is further complicated by issues such as the discriminatory laws related to inheritance rights⁴¹ and Nepal's practice of patrilineal transfer of citizenship.⁴² For example, in Nepal, married daughters are denied the right to inherit property from their parents.⁴³ Thus, if a married girl opts to leave her marriage, she faces the prospect of not receiving any property from either her husband or her parents.⁴⁴ Similarly, since one can only apply for citizenship after the age of 16,⁴⁵ a girl married before this age is expected to apply for citizenship through her husband. Consequently, a girl married before the age of 16, who wants to leave her marriage once she is 18, encounters practical difficulties in obtaining citizenship through her father especially if her decision to end her marriage is not supported by her parents and as a result of the patriarchal mindset of government officials who process citizenship applications.⁴⁶
11. **Poor enforcement of child marriage laws.** The Government's enforcement of its existing laws prohibiting child marriage is far from adequate. From 2009 to 2012, only 22 cases of child marriage were reported to Nepali police.⁴⁷ Nepal's National Women Commission reports having received no complaints regarding child marriage from 2010 to 2013.⁴⁸ The Supreme Court of Nepal has repeatedly noted the poor enforcement of child marriage laws and ordered the Government to address this issue, specifically in *Sapana Pradhan Malla and Others v. Government of Nepal* (2006),⁴⁹ *Rama Panta Kharel and Others v. Government of Nepal* (2007),⁵⁰ and *Kavita Pandey v. Government of Nepal* (2012).⁵¹ Despite these orders, the Supreme Court's Annual Reports indicates that in 2013 only 30 cases of child marriage were filed in the district courts,⁵² 15 cases in the appellate courts,⁵³ and 1 case in the Supreme Court of Nepal.⁵⁴ Moreover, the Government's Plan of Action on Holistic Development of Adolescents aims to reduce child marriage by a mere 5% between 2013 and 2018,⁵⁵ further demonstrating the Government's weak position on child marriage.
12. The lack of enforcement of laws prohibiting child marriage is also attributable to social and legal barriers faced by married girls in accessing legal remedies. A study conducted in 15 districts of Nepal reveals that 53% of household heads are unaware of the minimum legal age of marriage.⁵⁶ Further, although child marriage is a criminal act and the onus is on the State to prosecute child marriage cases,⁵⁷ since child marriages are not automatically void under the law but only voidable, in reality the legal responsibility of ending a child marriage falls on the adolescent girl which has resulted in a minimal number of cases being reported to the police.⁵⁸ Further, the Government's failure to effectively implement its laws on birth and marriage registration⁵⁹ contributes to evidentiary gaps that make it extremely difficult for girls and women to prove the occurrence of child marriages and for the Government to monitor the same.

IV. International Legal Framework

13. Treaties and international policy documents adopted by governments worldwide consistently hold that the failure to eliminate child marriage violates a broad range of human rights, and that States parties are accountable for the severe pain, anguish, poor quality of life and even loss of life that married girls suffer as a consequence of a child marriage.⁶⁰ The persistence of child marriage in Nepal contravenes long-standing and growing international condemnation of this practice.⁶¹
14. **Child marriage constitutes violence and discrimination.** Under international law, child marriage is recognized as a violation of the special obligation to protect children's rights.⁶² It also is recognized as a violation of women's rights to equality and non-discrimination,⁶³ causing suffering and marginalization of women.⁶⁴ The U.N. Special Rapporteur on Violence Against Women expressed concern about forced and early marriages as well as sexual violence and reproductive health harm as forms of violence against women.⁶⁵ Child marriage also is condemned as a form of torture and cruel, inhuman and degrading treatment by the Committee Against Torture.⁶⁶ As a signatory to U.N. human rights treaties,⁶⁷ the Government has a due diligence obligation to protect women and girls from child marriage and the resulting harms, which constitute gender-based violence and a form of violence against children.⁶⁸ Thus, States parties must "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitations."⁶⁹ States parties also must ensure that adolescents are provided access to sexual and reproductive health information⁷⁰ and adolescent-friendly health services, including contraception, safe abortion,⁷¹ and obstetric care.⁷²
15. **U.N. TMBs' recommendations on child marriage to the Government.** Since the Government's last UPR, several U.N. TMBs have expressed concern about the prevalence of child marriage in Nepal⁷³ TMBs have also called for the Government to implement its own Supreme Court orders condemning child marriage and to ensure effective implementation and enforcement of national laws prohibiting child marriage, including appropriate sanctions and prosecution of those involved in the performance or promotion of child marriages.⁷⁴ TMBs have expressed concern to the Government about maternal mortality and morbidity among rural, poor, and young women and the barriers such women and girls face in accessing reproductive health services, including maternal health care, preventative services for uterine prolapse, contraceptive information and services, and safe abortion services.⁷⁵ Further, TMBs have called for the Government to ensure proper prevention, investigation, prosecution and remedies for violence against women, including marital rape, and that the penalties for such crimes be made commensurate with their gravity and human rights law.⁷⁶ Finally, TMBs have specifically called for increased birth registration in Nepal.⁷⁷
16. **International political commitments to end child marriage.** In 2013, the Government took a laudable step by co-sponsoring a historic HRC procedural resolution aimed at "strengthening efforts to prevent and eliminate child, early, and forced marriage."⁷⁸ However, by not formally supporting subsequent General Assembly resolutions on child marriage, the Government failed to demonstrate consistency in its international commitment to fully recognize child marriage as a human rights concern and to end the harmful practice.⁷⁹

V. Regional Human Rights Framework

17. The Government should be commended for committing to the Regional Action Plan to End Child Marriage in South Asia (Regional Action Plan), which requires governments to address the social and economic root causes of child marriage and promote laws and policies aimed at eliminating child marriage.⁸⁰ In line with this commitment, since April 2014 the Government has taken steps to develop a National Strategy to End Child Marriage in Nepal (National Strategy). This is a positive step, and swift finalization and effective implementation of the National Strategy will be critical. Further, due credit be given to Nepal's leadership on this issue including by hosting the first ever Regional Convening on Using Law to Promote Accountability to End Child Marriage in November 2014, which led to the adoption of the Kathmandu Call for Action to End Child Marriage in South Asia (Call for Action). The Call for Action enumerates concrete steps that must be taken immediately to end child marriage including strengthening and ensuring effective enforcement of national laws, providing legal remedies in cases of child marriage, and urgently addressing the reproductive health needs of married girls.⁸¹

VI. Questions & Recommendations

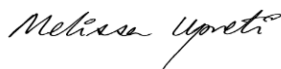
18. Child marriage is a leading cause of discrimination and violence against women and girls in Nepal, and constitutes a grave human rights crisis. We respectfully urge HRC Member States to raise the issue of continuing impunity for child marriage in Nepal and to encourage the Government to do more to prevent and address the resulting human rights violations by raising the following questions:

- i. What specific steps are being taken by the Government to effectively enforce laws prohibiting child marriage and to ensure practical access to effective legal remedies and redress for victims of child marriage?
- ii. What specific steps are being taken by the Government to provide legal remedies for different forms of violence against women that are recognized as crimes, such as marital rape and other forms of physical and sexual abuse of minors?
- iii. What steps are being taken by the Government to address the poor enforcement of legal provisions that prohibit child marriage and inconsistencies between such provisions and inheritance laws that deny married women equal property rights, and consequently deter them from seeking legal remedies against a child marriage? Similarly what is being done to address the practical difficulties and discrimination faced by women married as children, who take steps to legally end their marriage, when they apply for citizenship?
- iv. What measures are being taken by the Government to ensure access to a full range of reproductive health information and services, including contraceptive information and services, maternal health care, and safe abortion services, to young married girls and those at risk of child marriage?

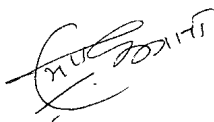
19. Following up on past UPR recommendations to the Government concerning gender-based violence and discrimination, we request that the HRC Member States consider making the following recommendations:

- i. To end child marriage, which is recognized as an impediment to achieving gender equality, immediately review legal provisions on child marriage to identify gaps and inconsistencies with other laws that lead to violations of women's and girls' rights and take steps to reform them in line with Nepal's constitutional obligations and international commitments.
- ii. To end child marriage, a form of gender-based violence, ensure effective enforcement of laws and policies aimed at preventing and prosecuting child marriage and remove barriers to access to effective legal remedies and redress for victims.
- iii. To address human rights violations associated with child marriage, ensure effective enforcement of laws and policies aimed at preventing and prosecuting different forms of sexual and physical violence against women and girls and remove barriers to access to effective legal remedies and redress for victims.
- iv. Take steps to educate girls about the risks of early pregnancy and empower them to protect themselves from child marriage by raising awareness about the law in vulnerable communities.
- v. Ensure access to a full range of reproductive health information and services for married girls, and women who were married as children, as a means to enable them to prevent and address the harmful sexual and reproductive health consequences of child marriage and early pregnancy

Sincerely,



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¹ Rashida Manjoo, *Statement by Rashida Manjoo, Special Rapporteur on Violence Against Women, Commission on the Status of Women 5* (29 February 2012), <http://www.un.org/womenwatch/daw/csw/csw56/statements/statement-specrap-manjoo.pdf> (last accessed Jan. 12, 2015).

² GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION SECRETARIAT, CENTRAL BUREAU OF STATISTICS, NATIONAL POPULATION AND HOUSING CENSUS 2011 131 (2012), *available at* cbs.gov.np/wp-content/uploads/2012/11/National%20Report.pdf. The National census also reveals that over 115,000 girls are married before age ten.

³ UNICEF, ENDING CHILD MARRIAGE: PROGRESS AND PROSPECTS (2014), *available at* unicef.org.au/downloads/publications/Child_Marriage_Data_Brochure_July_2014.aspx [hereinafter UNICEF, ENDING CHILD MARRIAGE].

⁴ According to UNFPA, 42.9% of women residing in rural areas were married before reaching age 18 in comparison to 26.9% of those residing in urban areas. UNFPA, MARRYING TOO YOUNG: END CHILD MARRIAGE 73 (2012), *available at* <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> [hereinafter UNFPA, MARRYING TOO YOUNG].

⁵ The prevalence of child marriage in the mid-western region of Nepal is the highest (53%) followed by the Far-Western region (48%), Central region (40%), Western region (36%) and Eastern region (34%). UNFPA, MARRYING TOO YOUNG, *supra* note 4, at 25.

⁶ Women between ages 25-49 with a school-leaving certificate and higher education marry five years later (21.8 years) than those with no education (16.6 years). UNFPA, MARRYING TOO YOUNG, *supra* note 4, at 68.

⁷ Women between ages 25-49 from the highest wealth quintile marry two years later (19 years) than those from lower wealth quintiles (17 years). GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL DEMOGRAPHIC AND HEALTH SURVEY 2011 68 (2012) [hereinafter NDHS 2011].

⁸ The proportion of women between ages 20-24 years who have married before 20 years of age is highest among the more disadvantaged non-Dalit Terai caste groups (85%) and Dalits (76%) in comparison to upper caste groups (57%) and relatively advantaged Janajatis (42%). GOVERNMENT OF NEPAL, MINISTRY OF HEALTH AND POPULATION, POPULATION DIVISION, NEPAL ADOLESCENT AND YOUTH SURVEY (NAYS) 49 (2012) [hereinafter GOVT. OF NEPAL, NAYS].

⁹ UNICEF, ENDING CHILD MARRIAGE (2014), *supra* note 3 at 1

¹⁰ CENTER FOR REPRODUCTIVE RIGHTS (CRR), CHILD MARRIAGE IN SOUTH ASIA: STOP THE IMPUNITY 16-17 (2013).

¹¹ World Health Organization (WHO) Secretariat, *Early marriages, adolescent and young pregnancies: Report by the Secretariat*, para. 11, A65/13 (Mar. 16, 2012).

¹² NDHS 2011, *supra* note 7 at 127.

¹³ AJIT PRADHAN ET AL., NEPAL MATERNAL MORTALITY AND MORBIDITY STUDY (MMS) 6 (2009)

¹⁴ UNFPA, STATE OF THE WORLD POPULATION: MOTHERHOOD IN CHILDHOOD 103 (2013).

¹⁵ NDHS 2011, *supra* note 7 at 67.

¹⁶ *Id.* at 143.

¹⁷ UNFPA, HEALTH RELATED QUALITY OF LIFE OF WOMEN SUFFERING FROM PELVIC ORGAN PROLAPSE, QUALITY OF LIFE 21-22 (2013), *available at* <http://countryoffice.unfpa.org/nepal/drive/UNFPA-QualityBook-Final-ALL.pdf>.

¹⁸ UNFPA, CAMPAIGN TO END FISTULA IN NEPAL: REPORT ON NEED ASSESSMENT FOR OBSTETRIC FISTULA IN NEPAL (2011) *available at* <http://countryoffice.unfpa.org/nepal/drive/NeedAssesmentofObstetricFistulainNepal.pdf>. UNFPA [hereinafter UNFPA, CAMPAIGN TO END FISTULA IN NEPAL].

¹⁹ *Id.* at 10.

²⁰ *Id.*

²¹ See UNFPA, STATE OF THE WORLD POPULATION 2012, BY CHOICE, NOT BY CHANCE: FAMILY PLANNING, HUMAN RIGHTS AND DEVELOPMENT 1, 73-76 (2012).

²² NDHS 2011, *supra* note 7 at 105.

²³ *Id.* at 104.

²⁴ *Id.* at 137.

²⁵ *Id.* at 139.

²⁶ *Id.* at 238.

²⁷ POPULATION COUNCIL, HIGHLIGHTS FROM THE UNICEF ADOLESCENT DEVELOPMENT AND PARTICIPATION BASELINE STUDY, NEPAL 9 (2014).

²⁸ NDHS 2011, *supra* note 7 at 239.

²⁹ *Id.* at 238.

³⁰ NEPAL (INTERIM) CONST., art. 20.

³¹ Muluki Ain (Nepal), Part 4, ch. 17 on marriage, no. 2 (1963) [hereinafter Muluki Ain (Nepal)].

³² *Id.*

³³ FWLD AND UNIFEM, CHILD MARRIAGE: LEGAL RESPONSES , p. 54; *see also* Muluki Ain (Nepal), *supra note* 31, part 4, ch. 17 on marriage, no. 2.

³⁴ If the marriage is contracted contrary to this provision, the principal offenders having attained majority, out of those committing the offense, shall be liable to the following punishment: (1) Where the marriage of a girl below 10 years of age is contracted or procured, punishment of imprisonment for a term from six months to three years and a fine of NPR 1000 to NPR 10,000; (2) Where the marriage of a girl over 10 years and below 14 years of age is contracted or procured, punishment of imprisonment for a term from three months to one year and a fine of up to NPR 5,000; (3) Where the marriage of a woman over age 14 and below age 18 is contracted or procured, punishment of imprisonment for a term not exceeding six months or a fine of up to NPR 10,000 or both; (4) Where the marriage of a woman or man below 20 years of age is contracted or procured, punishment of imprisonment for a term not exceeding six months or a fine of up to NPR 10,000 or both. Muluki Ain (Nepal), *supra note* 31, Part 4, ch. 17 on marriage, no. 2 (1-4).

³⁵ Muluki Ain (Nepal), *supra note* 31, part 4, ch. 17 on marriage, no. 2 (9).

³⁶ *Id.*

³⁷ *Id.* at ch. 14 on rape, no. 1.

³⁸ *Id.* at no. 3.

³⁹ *Id.* at no. 11.

⁴⁰ CRR, CHILD MARRIAGE IN SOUTH ASIA 18 (2013).

⁴¹ Muluki Ain (Nepal), *supra note* 31, part 3, ch. 13 on partition of property, no. 1(a).

⁴² National Women Commission, Forum for Women, Law and Development, Analysis of Nepalese Citizenship Laws from a Gender Perspective, February 2014, at 13.

⁴³ Muluki Ain (Nepal), *supra note* 31, part 4, ch. 17 on partition of property, no. 1(a).

⁴⁴ Sarita Adhikari from Dailekh District, who was married off at age 13 and divorced at age 17 is having difficulty obtaining a share of ancestral property from her father. The Dailekh District Court declared Sarita's marriage void and awarded her a share of property from her father. However, Sarita's father denied the share and appealed the Court's decision. January 16, 2015, Kantipur (Nepali Daily), *available at* <http://www.ekantipur.com/kantipur/2071/10/1/full-story/338102.html>.

⁴⁵ Minimum age for obtaining citizenship is 16 years. Nepal Citizenship Act, Section 8.

⁴⁶ Sharing of girls who chose to leave marriage and have faced difficulties in receiving citizenship through their father at different meetings organized by National Women's Commission, Nepal. Interview with Adv. Mohana Ansari who is currently member of the National Human Rights Commission of Nepal and was Member of National Women's Commission, Nepal till June 2014. *See also* National Women Commission, Forum for Women, Law and Development, Analysis of Nepalese Citizenship Laws from a Gender Perspective, February 2014, at 13

⁴⁷ CREHPA ET AL., TRACKING CASES OF GENDER-BASED VIOLENCE IN NEPAL: INDIVIDUAL, INSTITUTIONAL, LEGAL AND POLICY ANALYSES 20 (2013) *available at* <http://countryoffice.unfpa.org/nepal/drive/TrackingViolence.pdf>.

⁴⁸ *See generally* NATIONAL WOMEN COMMISSION, YEARLY REPORT OF VIOLENCE AGAINST WOMEN, *available at* <http://www.nwc.gov.np/mainStory/showActivity/9>.

⁴⁹ Sapana Pradhan & Others v. Office of the Prime Minister & Council of Ministers & Others, decision no. 7659, N.K.P. 2063, Vol. 3 at 289 (2006).

⁵⁰ Rama Panta Kharel & Others v. Government of Nepal, Writ no. WS-128/2063 B.S. (2007) *in* CRR, FWLD AND NWC, A COMPILATION OF SUPREME COURT DECISIONS ON REPRODUCTIVE RIGHTS at 69.

⁵¹ Kavita Pandey v. Office of the Prime Minister & Council of Ministers & Others, decision no. 8901, N.K.P. 2069, Vol. 10 at 1534 (2012).

⁵² SUPREME COURT OF NEPAL, ANNUAL REPORT 2068/069, 144 (2013); SUPREME COURT OF NEPAL, ANNUAL REPORT 2068/069, 88, 107, 156 (2012).

⁵³ *Id.*

⁵⁴ *Id.* at 79.

⁵⁵ GOVERNMENT OF NEPAL, NATIONAL PLANNING COMMISSION, NATIONAL PLAN OF ACTION ON THE HOLISTIC DEVELOPMENT OF ADOLESCENTS 14 (2013/14-2017/18) (2013).

⁵⁶ PLAN NEPAL ET AL., CHILD MARRIAGE IN NEPAL: RESEARCH REPORT 29 (2012).

⁵⁷ State Cases Act, 2046, Annex 1 (1992).

⁵⁸ *in* the last 15 years (between 1999- 214) only 68 cases of child marriage have been reported to the Police. *See* <http://www.nepalpolice.gov.np/women-children-service-directorate.html>

⁵⁹ NDHS 2011, *supra note* 7 at 25.

⁶⁰ UN Committee on the Rights of the Child; UN Committee on the Elimination of Discrimination against Women; UN Committee on Economic, Social, and Cultural Rights; 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; the UN Working Group on Discrimination Against Women in Law and Practice; Joint Statement by a group of UN human rights experts to mark the 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*, <http://www.un.org/en/events/girlchild/2012/hrexper.html> (last accessed Dec. 9, 2014); and Joint General Recommendation/Gen. Comment No. 31 of the Committee on the Elimination of Discrimination Against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices, CEDAW/C/GC-31-CRC/C/GC/18, Nov. 4, 2014.

⁶¹ See World Conference of the International Women's Year, Mexico City, Mexico, June 19-July 2, 1975, *Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace*, para. 28, U.N. Doc. E/CONF.66/34 (July 2, 1975); *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, paras. 5.5, 6.11, U.N. Doc. A/CONF.171/13/Rev.1 (1995); *Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, para. 107(a), U.N. Doc. A/CONF.177/20/Rev.1 (1996); Human Rights Council Res. 23/25, *Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence*, preamble, U.N. Doc. A/HRC/23/L.28-1 (June 25, 2013); Human Rights Council Res. 22/32, *Rights of the child: the right of the child to the enjoyment of the highest attainable standard of health*, paras. 22-23, U.N. Doc. A/HRC/RES/22/32 (Apr. 17, 2013); Human Rights Council Res. 19/37, Rep. of the Human Rights Council, 19th Sess., U.N. Doc. A/HRC/19/2, at 104, para. 17(b) (May 24, 2013); Commission on the Status of Women, *Draft agreed conclusions submitted by the Chair of the Commission, Ms. Marjon V. Kamara (Liberia), on the basis of informal consultations: The elimination and prevention of all forms of violence against women and girls*, para. 34(qq), U.N. Doc. E/CN.6/2013/L.5 (Mar. 19, 2013).

⁶² See, e.g., Human Rights Committee, *General Comment No. 28: (Article 3) The equality of rights between men and women* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 233, para. 28, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); CRC Committee, *Concluding Observations: Cameroon*, para. 59, U.N. Doc. CRC/C/CMR/CO/2 (2010); CRC Committee, *Concluding Observations: Afghanistan*, para. 53, U.N. Doc. CRC/C/AFG/CO/1 (2001); *Togo*, para. 55, U.N. Doc. CRC/C/TGO/CO/3-4 (2012). Special protection for children is enshrined in international human rights law. See Convention on the Rights of the Child, *adopted* Nov. 20, 1989, art. 1, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter CRC], preamble; see also International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) [hereinafter ICCPR], art. 24; 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], para. 3.

⁶³ ESCR Committee, *General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social, and cultural rights (Art. 3)*, (34th Sess., 2005) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 199, para. 27, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I)(2008); CEDAW Committee, *Gen. Recommendation No. 21: Equality in marriage and family relations*, (13th Sess., 1994) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 337, para. 37, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

⁶⁴ CEDAW Committee, *Gen. Recommendation No. 21: Equality in marriage and family relations*, (13th Sess., 1994) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 337, para. 37, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

⁶⁵ See, e.g., Special Rapporteur on Violence against women, its causes and consequences (SRVAW) finalises country mission to Bangladesh (May 29, 2013), *available at* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13374&LangID=E>.

⁶⁶ Committee Against Torture, *Concluding Observations: Yemen*, para. 31, U.N. Doc. CAT/C/YEM/CO/2 (2009).

⁶⁷ See, e.g., International Covenant on Civil and Political Rights; *adopted* Dec. 16, 1955, G.A. Res.2200A (XXI), (*entered into force* March 23, 1976); ICESCR, *adopted* Dec. 16, 1996, G.A. Res.2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (1966) (*entered into force* Jan. 3, 1976); CRC, *adopted* Nov. 20, 1989, G.A. Res.44/25 (*entered into force* Sept. 2, 1990).

⁶⁸ For an explanation of Nepal's due diligence obligation, see CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 40 at 28-31.

⁶⁹ Human Rights Committee, *Concluding Observations: Nepal*, para. 13, U.N. Doc. CCPR/C/NPL/CO/2(2014); Committee on Economic, Social and Cultural Rights, *Concluding Observations on the third periodic report of Nepal*, para. 20, U.N. Doc. E/C.12/NPL/CO/3 (2014); Committee on the Elimination of Discrimination Against Women,

Concluding observations of the Committee on the Elimination of Discrimination Against Women: Nepal, para. 19, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

⁷⁰ CRC Committee, *Gen. Comment No. 4*, paras. 10, 28.

⁷¹ CRC Committee, *Gen. Comment No. 15*, paras. 69-70; *see also* Human Rights Committee, *Communication No. 1153/2003*, para. 6.5, U.N. Doc. CCPR/C/85/D/1153/2003 (2005).

⁷² CRC Committee, *Gen. Comment No. 4*, para. 31; CRC Committee, *Concluding Observations: Pakistan*, para. 65, U.N. Doc. CRC/C/PAK/CO/3-4 (2009).

⁷³ Human Rights Committee, *Concluding Observations: Nepal*, para. 13, U.N. Doc. CCPR/C/NPL/CO/2 (2014); Committee on Economic, Social and Cultural Rights, *Concluding Observations on the third periodic report of Nepal*, para. 14, U.N. Doc. E/C.12/NPL/CO/3 (2014); Committee on the Elimination of Discrimination Against Women, *Concluding observations of the Committee on the Elimination of Discrimination Against Women: Nepal*, para. 17, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

⁷⁴ CRC Committee, *Concluding Observations: Nepal*, paras. 28, U.N. Doc. CRC/C/OPSC/NPL/CO/1 (2012); Human Rights Committee, *Concluding Observations: Nepal*, para. 13, U.N. Doc. CCPR/C/NPL/CO/2 (2014); Committee on Economic, Social and Cultural Rights, *Concluding Observations on the third periodic report of Nepal*, para. 14, U.N. Doc. E/C.12/NPL/CO/3 (2014); *see also* CRC Committee, *Concluding Observations: Pakistan*, paras. 28, 29, U.N. Doc. CRC/C/PAK/CO/3-4 (2009); *Democratic Republic of Congo*, para. 60, U.N. Doc. CRC/C/COD/2 (2009); *Chad*, para. 13, U.N. Doc. CRC/C/TCD/CO/2 (2009).

⁷⁵ CEDAW Committee, *Concluding Observations: Nepal*, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/450/52/PDF/N1145052.pdf?OpenElement>.

⁷⁶ CCPR, *Concluding Observations: Nepal*, U.N. Doc. CCPR/C/NPL/CO/2 (2014), para 13 available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/NPL/CO/2&Lang=En; CEDAW Committee, *Concluding Observations: Nepal*, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/450/52/PDF/N1145052.pdf?OpenElement>. para 19.

⁷⁷ CCPR, *Concluding Observations: Nepal*, U.N. Doc. CCPR/C/NPL/CO/2 (2014), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/NPL/CO/2&Lang=En para 21.

⁷⁸ Human Rights Committee, *Report of the Human Rights Council on its twenty-fourth session. Part Two: Summary of proceedings*, para. 195, U.N. Doc. A/HRC/24/2 (2014).

⁷⁹ *See Girls Not Brides statement on UN General Assembly resolution on child, early and forced marriage* (Nov. 2014), available at <http://www.girlsnotbrides.org/girls-brides-statement-un-general-assembly-resolution-child-early-forced-marriage/>.

⁸⁰ South Asia Initiative To End Violence Against Children, *Regional Action Plan to End Child Marriage in South Asia* (2015-2018), available at

http://www.saievac.org/download/Thematic%20Area%20Resources/Child%20Marriage/RAP_Child_Marriage.pdf.

⁸¹ The actions include: (1) formally denouncing child marriage as a human rights violation; (2) harmonizing laws and policies in line with constitutional guarantees of fundamental rights; (3) eliminating discriminatory provisions concerning marriage in all laws; (4) ensuring access to legal remedies for girls whose rights are violated as a result of child marriage; (5) harmonizing child marriage prevention laws with laws that protect against violence, required birth and marriage registration, determine property rights, etc.; (6) introducing legal reform to recognize marital rape as a punishable offense; (7) strengthening enforcement of national laws prohibiting child marriage; (8) ensuring child brides or women who have left child marriages have access to support networks; (9) ensuring access to a full range of sexual and reproductive health information and services; (10) ensuring compliance with international norms regarding human rights; (11) supporting inclusion of a target to end child marriage in the post-2015 Sustainable Development Goals; and (12) ensuring effective implementation of the Regional Action Plan to End Child Marriage in South Asia by allocating successful resources. *Kathmandu Call for Action to End Child Marriage in South Asia*, 7 November 2014 available at http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/SA%20End%20Child%20Marriage%20Brochure_20Nov14%28final%29-2%20%281%29.pdf.