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Universal periodic review

Report of the Working Group on the Universal Periodic Review

Bhutan

Addendum*

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

* The present document was not edited before being sent to the United Nations translation services.

1. The Royal Government of Bhutan attaches high importance to the universal periodic review in promoting and protecting human rights around the world. Bhutan is fully committed to the UPR mechanism. The Constitution of the Kingdom of Bhutan guarantees all the fundamental rights, liberties and freedoms to the people of Bhutan.

2. During the 33rd session of the UPR Working Group in May 2019, Bhutan received a total of 220 recommendations from the United Nations Member States. The Royal Government accepted 149 recommendations and deferred 71 recommendations for further review. The Royal Government undertook thorough review of the deferred recommendations through consultations with all the government agencies and relevant stakeholders. After careful consideration of national laws, national interests, resource availability and preparedness, the Royal Government has accepted eight (08) recommendations out of the 71 deferred recommendations. Accordingly, sixty-three (63) recommendations have been noted. The positions of the Royal Government on the noted recommendations are listed as below:

<i>SI No.</i>	<i>Recommendation</i>	<i>Position</i>	<i>Responses</i>
I.	158.1–158.34 <i>Accession/ratification of core international human rights treaties/conventions.</i>	Noted	It is the view of the Royal Government that, in order to give meaningful effect to any international obligations such as those arising from international treaties, we must first build the necessary legal, political and social institutions. The Royal Government is also constrained by the lack of adequate financial resources and technical capacity to meet various obligations of the treaties/conventions. Therefore, accession to the remaining human rights treaties will be considered upon thorough study and consultation among national stakeholders, based on national needs, priorities and capabilities. Of utmost importance is the level of national preparedness to assume new international obligations. In view of this, the Royal Government has put in place the Rules of Procedure on treaty making in 2016 as a basis for ratification and/or accession to international conventions. The Royal Government is committed to gradually accede to the remaining human rights instruments depending on resource availability and capacity building. We are happy to report that the national interest analysis on ratifying the CRPD has been submitted to the Government for consideration and we are hopeful that it will be considered in the next few years.
II.	158.35-158.36 <i>Invitation al all special procedures mandate holders of the Human Rights Council.</i>	Noted	The Royal Government of Bhutan is committed to engaging with United Nations human rights mechanisms and will continue to host visits by special procedures mandate holders whenever possible. In that light, the Royal Government welcomed the visit by the Special Rapporteur on the Right to Education from 24th May – 4th June 2014 and the visit by the Working Group on Arbitrary Detention(WGAD) from 14th – 24th January 2019. However, extending invitation to all special procedures mandate holders of the Human Rights Council will be a challenge for the Royal Government on the account of its capacity, national priorities, resource constraints and the need for adequate preparation. Consequently, such visits will be considered on a case by case basis to ensure constructive engagement.
III.	158.37 <i>“Review the Penal Code, the Child Care</i>	Noted	Bhutan takes note of the recommendations on prohibition of corporal punishment in all settings through enactment of law or legislative reform. Section 23 of the Child Care and Protection Act of Bhutan 2011 clearly states that ‘The use of

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	<p><i>and Protection Act, the Child Adoption Act and the Domestic Violence Prevention Act in order to prohibit all forms of corporal punishment in all settings”</i> (Mexico)</p>		<p>restraint or force shall never be used as a means of punishment”. The Ministry of Education (MoE) adopted the resolution of banning the use of corporal punishment during the 11th National Education Conference in 2008. The National Education Policy 2018 (draft) also reinforces this resolution stating that schools shall practice proactive and positive forms of behavioural management. In addition, the policy also states that the use of restraint or force shall never be used as a means of corrective measure or punishment’, which is consistent with the Child Care and Protection Act of Bhutan 2011. The Ministry also has introduced the Mindfulness & Emotional Intelligence and Helping Skills program in July 2019 to build the competencies of teachers in understanding the children under their care in the school setting. In view of the above, the Royal Government does not feel the need to pursue legislative reforms or enactment of new legislation.</p>
IV.	<p>158.38 <i>“Decriminalize same-sex sexual conduct between consenting adults (Belgium); Decriminalize same-sex sexual conduct among consenting adults”</i> (France)</p>	<p>All recommendations accepted</p>	<p>Bhutan accepts all recommendations from 158.38 to 158.44 in view of the amendment of sections 213 and 214 of the Penal Code of Bhutan by the National Assembly of Bhutan.</p>
	<p>158.39 <i>Revoke the provision on sodomy in sections 213 and 214 of the Penal Code, which criminalizes same-sex conduct (Netherlands);</i> <i>/ Repeal sections 213 and 214, which prohibit homosexual acts, from its Penal Code (Switzerland);/</i> <i>Decriminalize same-sex sexual conduct between consenting adults by amending sections 213 and 214 of the Penal Code (Canada);/</i> <i>Revoke section 213 of the Penal Code (Cyprus);/</i> <i>Decriminalize consensual same-sex conduct by revoking or amending sections 213 and 214 of the Penal Code (Germany);/ De-criminalize consensual same-sex acts by either</i></p>		

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revoking or amending sections 213 and 214 of the Penal Code (Iceland);/De-criminalize consensual same-sex conduct by repealing or amending sections 213 and 214 of the Penal Code of Bhutan (Ireland)

158.40

“Repeal legislation that criminalizes same-sex sexual conduct, and institute the recognition of non-discrimination based on sexual orientation, identity or expression of gender or sexual characteristics” (Spain)

158.41

“Introduce reforms to the Criminal Code to decriminalize consensual same-sex relations as an essential step for the acceptance of sexual diversity in the country” (Uruguay)

158.42

“Amend provisions of the Penal Code that are discriminatory, and that penalize relations between persons of the same sex” (Argentina)

158.43

“Continue to implement legislative reforms to decriminalize consensual same-sex sexual conduct” (Australia)

158.44

“Repeal criminal provisions that sanction consensual sexual relations between adults of the same sex, and combat

<i>SI No.</i>	<i>Recommendation</i>	<i>Position</i>	<i>Responses</i>
	<i>discrimination against people based on their sexual orientation or gender identity” (Chile)</i>		
V.	158.45 “Decriminalize abortion and take measures to ensure that all women have access to legal abortion and high-quality post-abortion services” (Iceland)	Noted	As per the Penal Code of Bhutan, abortion is legal if the pregnancy is a result of rape, incest or when the mother is of unsound mental condition or to save the mother’s life. To guide the health workers in the complications of abortion, a “Guideline for Health Workers on Management of Complications of Abortion” is also in place to serve the purpose. However, full legalization of abortion is not under consideration.
VI.	158.46 “Consider establishing a national human rights institution in accordance with the Paris Principles (Tunisia);/Consider establishing an independent national human rights institution” (Nepal)	Noted	Bhutan takes note of this recommendation. The Royal Government will study different options that may be best suited for the country taking into considerations the need and national state of preparedness.
	158.47 “Take steps to set up a national human rights institution compliant with the Paris Principles” (Ukraine)		
	158.48 “Establish an independent national human rights institution with a wide-ranging mandate and in line with the Paris Principles” (Seychelles)		
	158.49 “Establish a National Human Rights Institution in compliance with the Paris Principles (Australia);/ Establish a national human rights institution in accordance with the Paris Principles”		

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	(Indonesia)		
VII.	158.50 <i>“Continue measures to eradicate discrimination against children of Nepalese ethnic origin, particularly with regard to their access to education and citizenship”</i> (Peru)	Noted	All Bhutanese citizens, regardless of their ethnic origin, enjoy equal rights and access to social services under the Constitution. Provision of free education up to higher secondary and access to higher education based on merit are enshrined in Articles 9(15) and 16 of the Constitution. Therefore, there is no discrimination on the basis of ethnicity for access to education and citizenship.
VIII.	158.51 <i>“Amend anti-discrimination laws to include discrimination based on sexual orientation, gender identity and expression and sex characteristics”</i> (Iceland)	Accepted	
IX.	158.52 <i>“Enable greater inclusion and participation of women, children, persons with disabilities, and indigenous and other marginalized communities in devising holistic strategies towards managing climate change and its impact on livelihoods”</i> (Fiji)	Noted	The Royal Government of Bhutan is finalizing national climate change policy which sets the direction of domestic climate actions with positive impacts at the global scale. This policy document is formulated based on the intensive stakeholder consultations in the country. As a result, the policy provides strategic space to ensure that implementation of climate actions addresses concerns of the vulnerable groups in the country. The consideration of vulnerable group in the policy document adequately addresses the recommendations.
X.	158.53 <i>“Pursue legislative reform efforts to completely prohibit corporal punishment in all contexts, particularly in the home and at school”</i> (Algeria)	Noted	Please refer recommendation 158.37.
	158.54 <i>“Invest more efforts to ensure the unequivocal prohibition of corporal punishment against children in all settings</i>		

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	<p><i>by law, including at home and in schools”</i> (Croatia)</p> <p>158.55 <i>“Prohibit corporal punishment of children in all settings, including the home and schools, and take all measures to enforce this prohibition in practice”</i> (Iceland)</p> <p>158.56 <i>“Enact legislation to explicitly prohibit corporal punishment of all children in all settings”</i> (Austria)</p>		
XI.	<p>158.57 <i>“Develop a new national action plan for combating trafficking in persons, which includes the ratification of the United Nations Convention against Transnational Organized Crime”</i> (United Kingdom of Great Britain and Northern Ireland)</p>	Noted	<p>The Royal Government of Bhutan is working towards a National Action Plan on combating trafficking in persons. A SOP for a multi-sectoral Response to Address Trafficking in Persons is in place. The Royal Government in collaboration with UNODC is enhancing its capacity to address TIP related issues in Bhutan. However, the ratification of the United Nations Convention against Transnational Organized Crime will be considered based on national need and state of preparedness. Therefore, the Royal Government takes note of this recommendation for future consideration.</p>
XII.	<p>158.58 <i>“Review the registration system for religious organizations to ensure that registration is not a prerequisite for exercising the right to freedom of religion or belief”</i> (Netherlands)</p> <p>158.59 <i>“Amend the Law on Religious Organizations to protect the free practice of religion and the ability of religious organizations to obtain</i></p>	Noted	<p>The Royal Government of Bhutan is fully committed to protecting and promoting fundamental rights and freedom of its people, as enshrined in the Constitution of the country. The right to freedom of thought and religion is protected by Article 7, section 4 of the Constitution. The second sentence of Article 7, section 4 stating that, <i>“No person shall be compelled to belong to another faith by means of coercion or inducement”</i> is recognition that the right to freedom of thought and religion of one person entails equal right to freedom of thought and religion of another person.</p> <p>All persons are entitled to the same right to freedom under the Constitution. One’s right is not superior to others, and freedom of one person cannot be invaded by others. We believe that the change of faith should come through internal evolution and not through external inducement. Accordingly, inducement to entice an individual to subscribe to another faith is tantamount to infringement and violation of individual’s right to freedom of religion.</p> <p>Therefore, the spirit and intention of Article 7, section 4 of</p>

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	<p><i>legal status” (United States of America)</i></p> <p>158.60</p> <p><i>“Ensure respect for the rights of individuals belonging to religious communities and ensure their inclusion by facilitating the registration of minority religious groups”</i></p> <p>(Canada)</p> <p>158.61</p> <p><i>“Ensure freedom of religion and belief and actively combat discrimination against religious minorities”</i></p> <p>(Estonia)</p>		<p>the Constitution is to protect the rights of an individual to practice a faith of his or her choosing from those who may compel or induce or entice, and not to limit the rights.</p> <p><i>Registration of religious organization is not a prerequisite for practice. Religious groups are free to practice without registering with the Chhoday Lhentshog (Commission for Religious Organizations).</i></p>
XIII.	<p>158.62</p> <p><i>“Strengthen measures to combat school dropout, especially of pregnant girls, girls from rural areas and girls belonging to communities discriminated against on grounds of their language, caste, race, religion and any other status” (Peru)</i></p>	Noted	<p>As one of the initiatives to retain female students in schools, the Royal Government has started providing free sanitary napkins and other sanitation facilities. In addition to sexual and reproductive health education included in the curriculum, advocacy programs are carried out in secondary schools to raise awareness on teenage pregnancy, mental illness, and substance abuse. However, the recommendation that the girls are discriminated on the grounds of their language, caste, race, religion etc. is factually incorrect. Therefore, this recommendation does not enjoy the support of the Royal Government.</p>
XIV.	<p>158.63</p> <p><i>“Enable women to transmit Bhutanese nationality to their children under the same conditions as men”</i></p> <p>(France)</p>	Noted	<p>On the matter of citizenship, the Constitution of Bhutan is very clear. As in any other country, there are clear procedures and criteria laid down to obtain citizenship, irrespective of ethnicity, gender or religion. These criteria are followed both in letter and spirit. Besides natural born citizenship, there are two avenues to obtain citizenship through a) registration and b) naturalization.</p> <p>Since the enactment of the Constitution of Bhutan in 2008, more than ten thousand applicants have been granted citizenship till date. These include people from all walks of life, ethnicity and gender.</p>
XV.	<p>158.64</p> <p><i>“Take all necessary measures to end the practice of child marriage and define child marriage as an offence in the Criminal Code”</i></p> <p>(Belgium)</p>	Noted	<p>Article 9, section 18 of the Constitution of Bhutan protects children against all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation. The Penal Code of Bhutan further criminalizes the rape of a child. Further, the Child Care & Protection Act clearly specifies the age of children as all persons below 18 years of age. Child marriage is prohibited and marriage certificates are not issued to persons below 18 years. Additional efforts to prevent child marriage include the Ministry of Health’s</p>

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			Adolescent Health Programme, and Education on Adolescent Sexual and Reproductive Health. A 3-phased Violence Against Children study was conducted from 2013-2016 to understand the situation and prevalence of physical, sexual and emotional violence, their drivers and access to services. Further, the National Law Review Taskforce has recommended the creation of a Law Reform Commission or an equivalent body for a systemic approach to review laws periodically.
XVI.	158.65 <i>“Ensure that children of Nepalese origin are aware of their rights under the law, and that these rights are explained in an accessible manner, including in schools and in official documents”</i> (United Kingdom of Great Britain and Northern Ireland)	Noted	Refer recommendation 158.50.
XVII.	158.66 <i>“Identify and correct practices that discriminate against children based on their ethnic origin, in particular in their access to education and health services”</i> (Austria)		Refer recommendation 158.50.
XVIII.	158.67–158.71 Repatriation of people in the camps and related matters.	Noted	The problem of the people in the camps in eastern Nepal is not a typical refugee situation. It is a highly complex issue with its genesis in illegal immigration. Recognizing the humanitarian nature of this issue, the core group of countries led by the United States of America had initiated the resettlement process. Third country resettlement offers the best option for the resolution of this long standing humanitarian problem. Therefore, the resettlement process should be allowed to continue in order to take it to its logical conclusion. Bhutan remains in contact with the Government of Nepal. Bhutan is also in regular touch with the UNHCR.