

## **United Nations Human Right Council**

### **Universal Periodic Review of the Federal Democratic Republic of Nepal**

#### **I. Background**

1. Jubilee Campaign, in special consultative status with ECOSOC, submits this analysis of religious freedom and human rights in the Federal Democratic Republic of Nepal as a contribution to the Universal Periodic Review of UNHRC member-state Nepal

#### **II. Scope of international obligations and cooperation with international human rights mechanisms and bodies.**

2. Nepal has ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography; and the Convention on the Rights of Persons with Disabilities.
3. Nepal has not ratified the Optional Protocol of the Convention against Torture; the Convention on the Protection of All Persons from Enforced Disappearance; the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

#### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

4. Ratify the Optional Protocol of the Convention against Torture; the Convention on the Protection of All Persons from Enforced Disappearance; the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

#### **III. Violations of international human rights law**

##### **A. Freedom of thought, conscience, and religion**

5. Article 26 of the 2015 Constitution of Nepal states that “Each person shall be free to profess, practice, and preserve his/her religion according to his/her faith” and that “Every religious denomination shall, maintaining its independent existence, have the right to manage and protect its religious

places and religious trusts in accordance with law.”<sup>1</sup>

6. Article 26 of the 2015 Constitution of Nepal states that “to convert a person of one religion to another religion” is punishable by law.<sup>2</sup>
7. In Nepal’s most recent Criminal Code 2074, which was ratified in August 201, Section 9 Article 155 states that “1. No one should damage, hate or insult or other related act on religious belief or holy places;” “2. If found guilty, there will be punishment of three years of imprisonment and penalty of thirty thousand rupees;” “If foreigners are found guilty, they will have to be deported within seven days after completing imprisonment mentioned in first clause.”<sup>3</sup>
8. In Section 9 Article 158 of the same Criminal Code, it states that “1. No one should involve or encourage conversion of religion;” “2. No one should convert a person from one religion to another religion or profess [their] own religion and belief with similar intention by using or not using any means of attraction and by disturbing religion or belief of any ethnic groups or community that [has been] practiced since ancient times;” “If found guilty, there will be punishment of five years of imprisonment and penalty of fifty thousand rupees.”<sup>4</sup>
9. According to Open Doors, “revealing the Christian faith is equal to evangelism in the eyes of Hindu radicals.” Christian converts who have publicly revealed their conversion are susceptible to the following: persecution on social media, confiscation of religious text, and rejection from family members, who may reject them due to their newly proclaimed faith.<sup>5</sup>
10. Though the new constitution classifies Nepal as a secular state, because of the deeply woven Hindu customs that have been engrained in society, Hindu celebrations and teachings are very common in schools; Christian children often partake in these traditions despite them not correlating with their family’s chosen faith.<sup>6</sup>
11. There are multiple reports of Hindu radical militant groups ambushing, attacking, setting fire to, and trespassing into Christian and Catholic churches.<sup>7</sup>

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<sup>1</sup> *Constitution of Nepal* [Nepal], 2015 (2072.6.3), 20 September 2015, available at: [https://www.constituteproject.org/constitution/Nepal\\_2015.pdf](https://www.constituteproject.org/constitution/Nepal_2015.pdf) [accessed 17 March 2020]

<sup>2</sup> *ibid.*

<sup>3</sup> Rhema Subedi, *Criminal Code 2074 Enacted by the President*, Nepal Church, 18 October 2017, available at: <https://nepalchurch.com/14432/criminal-code-2074-enacted-by-the-president/>

<sup>4</sup> *ibid.*

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

12. Nepal, being a majority Hindu nation, enforces cow slaughter laws which criminalize killing or physically hunting cows, and which target individuals who eat beef because they are not subscribers to Hinduism, such as Christians, Muslims, and those in poverty. The maximum sentence for any individual convicted of killing cattle can be 3.5 years imprisonment (even though the now-obsolete penal code designated the punishment as 12 years) and a fine of up to the equivalent of \$450 USD.<sup>8</sup>
13. According to the US State Department, “In March [2018] police arrested a woman along with her six-month-old baby on charges of attempting religious conversion and destroying Hindu idols. Officials subsequently released the mother and child, but as of September, the case remained ongoing. Several other arrests in April and May involved accusations of speaking against Hindu gods, encouraging the destruction of Hindu idols, and attempted conversion.”<sup>9</sup>
14. In August 2019, an elderly Christian Nepalese man was detained and imprisoned for distributing bibles under the charges that he was attempting to forcefully convert individuals to Christianity. Since his release from prison, he has been in and out of hospital with health issues he claims he acquired during his time in prison.<sup>10</sup>
15. In Nepal’s Rautahat District in late December of 2019, a group of radical Hindus from the Nepal Hindu Council and the World Hindu Federation publicly burnt a Christian flag in a village in which Christian locals were celebrating Christmas. The group of radicals intended to further attack the participating Christians, but the participants were able to flee before more violence ensued. Local police have not taken any actions regarding the incident.
16. In March 2020, Pastor Keshab Raj Acharya was arrested following the circulation of a video of him preaching in church, “I rebuke you, corona, in the name of Lord Jesus Christ. By the power of the ruler of this Creation, I rebuke you....” On the 23<sup>rd</sup>, Pastor Keshab received a call in which a man requested to visit the pastor’s home to pray for his ill wife; however, when Pastor Keshab opened the door, police officers entered his home and detained him. He was charged with misinformation regarding the novel coronavirus, but was released on bail in early April. Immediately following his initial release, he was re-arrested, this time on charges of evangelism and “outraging religious feelings.” Pastor Keshab’s bail is now set at 500,000 Nepalese

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<sup>8</sup> *ibid.*

<sup>9</sup> *ibid.*

<sup>10</sup> Prescott, Emily. “Elderly man jailed in Nepal for handing out bibles.” *Keep the Faith*, 9 September 2019, available at: <https://www.keepthefait.com/2019/08/12/elderly-man-jailed-in-nepal-for-handing-out-bibles/> [accessed 17 March 2020].

rupees, approximately the equivalent of USD \$4,000.<sup>11</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

17. Repeal anti-conversion laws, blasphemy laws, and cow slaughter laws.
18. Protect non-Hindu minority religious communities from violence, persecution, and discrimination from Hindu radicals.
19. Stop requiring children of Christian families to study a Hinduism-based curriculum.

### **B. Sexual Violence**

20. According to the UN Women Global Database on Violence against Women, the percentage of Nepalese women who have experienced “lifetime physical and/or sexual intimate partner violence” is 25%; the percentage of women who have experienced “physical and/or sexual intimate partner violence in the last 12 months” is 11.2%, and the percentage of women who have experienced child marriage is 39.5%.<sup>12</sup>
21. Province 2 of Nepal is inarguably the most dangerous area in Nepal for women. By November 2019, there were 10,243 complaints regarding “dowry-related violence, polygamy, physical domestic violence against women, trafficking, rape and attempted rape.”<sup>13</sup>
22. In late 2018, UN Special Rapporteur on violence against women Ms. Dubravka Simonovic expressed her concern about the high rates of suicide among young Nepalese women, which she attributed to fear of domestic violence or coercion from family members to forgive perpetrators of violence.<sup>14</sup>

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<sup>11</sup> Morning Star News, “Pastor in Nepal Re-Arrested on New Series of Charges to Keep Him in Jail, Sources Say,” 15 May 2020, available at: <https://morningstarnews.org/2020/05/pastor-in-nepal-re-arrested-on-new-series-of-charges-to-keep-him-in-jail-sources-say/> ; International Christian Concern, “Authorities in Nepal Continue to Imprison Pastor Who Prayed Against COVID-19,” 21 May 2020, available at:

<https://www.persecution.org/2020/05/21/authorities-nepal-continue-imprison-pastor-prayed-covid-19/>

<sup>12</sup> UN Women Global Database on Violence against Women, *Nepal*, available at: <https://evaw-global-database.unwomen.org/en/countries/asia/nepal>

<sup>13</sup> Anuragi, Ajaya. “Alarming Rise in Violence against Women.” *Nepali Times*, 25 November 2019, <https://www.nepalitimes.com/from-the-nepali-press/alarming-rise-in-violence-against-women/>

<sup>14</sup> United Nations Office of the High Commissioner for Human Rights, “UN Expert Urges Nepal to Step Up Fight against Impunity and to Secure Access to Justice for Victims of Gender-Based Violence.” 29 November 2018, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23955&LangID=E> [accessed 17 March 2020].

23. In October 2019, the Embassies of Australia, Finland, France, Norway, Switzerland, and the United Kingdom collaborated on a statement in which they expressed concern about violence against Nepalese women, drawing particular attention to the tragic stories of Nirmala Panta and Maya BK.<sup>15</sup> Nirmala Panta was a 13 year old Nepalese girl from Kanchanpur whose body was found in July 2018 not far from her home. She had been raped and murdered by asphyxiation, and contaminated DNA tests prevent the perpetrator(s) from being identified and prosecuted.<sup>16</sup> Maya BK, a 21-year-old Dalit caste woman was gang-raped by her coworker, Ganesh Baduwal, and his friends before suffocating to death as a result of being gagged.<sup>17</sup>
24. Nepal's Ministry of Health and Population (MOHP) revealed in a 2006 survey that 21% of Nepalese men believe a husband "justified in beating his wife;" 13% believe a husband may "get angry and reprimand his wife;" and 5% of respondents believe it is okay for a man to "use force to have sexual intercourse."<sup>18</sup>
25. Nepalese women and young girls are often trafficked into nearby nations such as India and Sri Lanka, where they often become victims of sexual exploitation and manipulation. In the case of pregnancy, many Nepalese women who return to Nepal after being trafficked into another country undergo abortions to "avoid social stigma."<sup>19</sup>
26. Perpetrators of domestic and sexual violence against women, including traffickers and/or brokers, are rarely prosecuted or punished, as confirmed by former Chief Justice Sushila Karki. This recurring impunity further emboldens them to continue violating, abusing, and murdering women and girls, creating a dangerous and seemingly irreversible cycle.<sup>20</sup>

## Recommendation(s)

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

<sup>15</sup> Embassy of Australia, Embassy of Finland, Embassy of France, Embassy of Norway, Embassy of Switzerland, Embassy of the United Kingdom, United Nations in Nepal, *Statement on Combating Violence Against Women*, 4 October 2019, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Statement%20on%20Combating%20Violence%20Against%20Women%20%28002%29.pdf>

<sup>16</sup> Wikipedia, *Rape and Murder of Nirmala Panta*, [https://en.wikipedia.org/wiki/Rape\\_and\\_murder\\_of\\_Nirmala\\_Panta](https://en.wikipedia.org/wiki/Rape_and_murder_of_Nirmala_Panta) [accessed 17 March 2020].

<sup>17</sup> Chhatyal, Dil Bahadur. "Girl Gang-Raped and Murdered for Refusing Sex Proposal." *My Republica*, 8 July 2018, <https://myrepublica.nagariknetwork.com/news/girl-gang-raped-and-murdered-for-refusing-sex-proposal/> [accessed 17 March 2020].

<sup>18</sup> Poudel-Tandukar, Kalpana; Poudel, Krishna C.; Yasuoka, Junko; Eto, Takahashi; and Jimba, Masamine. "Domestic Violence against Women in Nepal." *The Lancet*, 17 May 2008. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(08\)60723-0/fulltext#back-bib3](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(08)60723-0/fulltext#back-bib3) [accessed 17 March 2020].

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid.*

27. Take actions to eliminate sexual violence, rape, exploitation, and domestic violence of Nepali citizens.
28. Condemn commonly held beliefs that domestic violence is justified.
29. Punish all perpetrators of sexual violence.

### C. Human Trafficking and Exploitation

30. Nepal is one of the only 18 nations that has not ratified and therefore is not party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which modifies the United Nations Convention against Transnational Organized Crime.<sup>21</sup>
31. Nepal has established the Anti-Trafficking-in-Persons Bureau to combat human trafficking.<sup>22</sup>
32. According to the US State Department Trafficking in Persons Report 2019, it states about Nepal: “Official complicity in trafficking offenses remained a serious problem.”<sup>23</sup>
33. According to the same Trafficking in Persons Report 2019, the US State Department reveals “The HTTCA [Human Trafficking and Transportation (Control) Act] criminalized slavery and bonded labor, but did not criminalize the recruitment, transportation, harboring, or receipt of persons by force, fraud, or coercion for the purpose of forced labor.”<sup>24</sup>
34. In late 2018, the Office of the Special Rapporteur on Trafficking in Persons of the National Human Rights Commission of Nepal released a report regarding the human trafficking situation in Nepal. Below are some of the most notable findings:
  - a. The number of Nepalese girls who are trafficked into neighboring India has drastically risen from 2013 to 2018; “the number of trafficking cases increased from 8 in 2012 to 147 in 2017.”<sup>25</sup> The most common jobs these girls are trafficked into are prostitution and domestic work.

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<sup>21</sup> United States Department of State. *Trafficking in Persons Report*, June 2019, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf> [accessed 17 March 2020].

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.*

<sup>24</sup> *ibid.*

<sup>25</sup> National Human Rights Commission, Nepal, Office of the Special Rapporteur on Trafficking in Persons. *Trafficking in Persons in Nepal: National Report*. September 2018. [http://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NHRC\\_National\\_Report\\_TIP\\_in\\_Nepal\\_September\\_2018.pdf](http://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRC_National_Report_TIP_in_Nepal_September_2018.pdf) [accessed 17 March 2020].

- b. In FY 2017-2018, 78% of trafficking victims were female, and 22% were male.<sup>26</sup> According to the US State Department, these proportions have unfortunately caused a trend in which cases of trafficking of men and boys are overlooked in order to focus on cases with female victims.<sup>27</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

35. Provide sufficient funding to the Anti-trafficking in Persons Bureau.
36. Amend the Human Trafficking and Transportation Control Act to include all aspects of human trafficking, including recruitment and receipt of trafficked individuals.

## **IV. Restriction of Political Freedoms**

37. The 2015 Constitution of Nepal grants all Nepalese citizens the freedoms of expression, association, assembly, and movement.<sup>28</sup>
38. According to the US Embassy of Nepal, “The constitution, however, also provides for ‘reasonable restrictions’ of these rights for acts or incitement that ‘may undermine the sovereignty, territorial integrity, nationality of Nepal, or harmonious relations between the federal units or harmonious relations between the various castes, tribes, religions, or communities.’”<sup>29</sup>

### **A. Freedom of Expression**

39. According to Freedom House, the Nepalese government recently implemented a new criminal code which includes “provisions that criminalize publicizing private information,” taking pictures of individuals without permission, or “disrespectful” satire or criticism.<sup>30</sup> Critics of this new legislation rightfully claim that this code targets journalists and newscasters and inherently violates freedom of expression.<sup>31</sup>
40. According to the Human Rights Watch 2020 Report on Nepal, the Electronic Transactions Act has been used by police to arrest journalists, reporters, and online writers who have criticized government officials or discussed

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<sup>26</sup> *ibid.*

<sup>27</sup> United States Department of States. *Trafficking in Persons Report*, June 2019, *supra* note 28.

<sup>28</sup> *Constitution of Nepal* [Nepal], 2015 (2072.6.3), 20 September 2015, *supra* note 2.

<sup>29</sup> United States Department of State, *2018 Human Rights Report – Nepal*, available at: <https://np.usembassy.gov/wp-content/uploads/sites/79/Country-Reports-on-Human-Rights-Practices-for-2018.pdf> [accessed 17 March 2020].

<sup>30</sup> Freedom House, *Nepal*, available at: <https://freedomhouse.org/country/nepal/freedom-world/2019> [accessed 17 March 2020].

<sup>31</sup> *ibid.*

institutional and governmental corruption.<sup>32</sup>

41. Also according to Human Rights Watch, the Information Technology Bill that was recently passed is “creating new offences so broadly defined they could plausibly be interpreted to include much online expression, and imposing custodial penalties for those who are convicted.”<sup>33</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

42. Cease all unjust applications of the Electronic Transactions Act and the Information Technology Bill which violate freedom of expression.

## **B. Freedom of Assembly**

43. Religious assemblies and gatherings, notably those of the Tibetan Buddhist community, are often restricted by curfews and police intervention.<sup>34</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

44. Cease police interruption and interference in peaceful assemblies, particularly those of Tibetan Buddhists and other minorities.

## **C. Freedom of Movement**

45. The right to freedom of movement is often restricted in regard to refugees. Even Tibetan Buddhist refugees that have resided in Nepal for some decades are denied identification documentation, rendering them unable to present such information when they travel.<sup>35</sup>
46. There are no laws or framework that clarify how to determine refugee status and subsequently provide protective services and aid to such refugees.<sup>36</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

47. Provide necessary documentation to Tibetan Buddhists so that their freedom of movement is not hindered.

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<sup>32</sup> Human Rights Watch, *Nepal Events 2019*, available at: <https://www.hrw.org/world-report/2020/country-chapters/nepal> [accessed 17 March 2020].

<sup>33</sup> *ibid.*

<sup>34</sup> United States Department of State, *2018 Human Rights Report – Nepal*, 2019, *supra note* 46.

<sup>35</sup> *ibid.*

<sup>36</sup> *ibid.*

## V. Rights of Children

### A. Child Labor

48. According to the US Department of Labor, 37.2% (6,755,852 individuals) of Nepal's population aged 5 to 14 years are engaged in some type of labor, whereas 39.1% of Nepalese children aged 7 to 14 are combining education and work.<sup>37</sup>
49. This report also states that “many children in Nepal are engaged in the production of bricks, which exposes them to hazardous working conditions, including carrying heavy loads, using dangerous machinery, and working in extreme heat.”<sup>38</sup>
50. Nepal recently established Anti-Trafficking in Persons Bureau, which is tasked with taking measures to prevent the trafficking of children into labor and punish perpetrators and recruiters; however, the government does not have sufficient “human resource and financial capacity” to enforce legislation combatting child labor, nor does it have a general database of all cases of child labor in Nepal, which prevents them from publishing accurate statistics.<sup>39</sup>

### Recommendation(s)

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

51. Make efforts to properly enforce anti-child labor laws, and prosecute individuals involved in recruiting and employing child laborers.

### B. Sexual Exploitation

52. “Nepal ranked 39 out of the 60 countries scored by the Out of the Shadows Index on the country's response to child sexual exploitation and abuse, with a score of 46.4. Nepal's position on the lower end of the index's ranking, is partially explained by an uncoordinated national policy framework on child sexual abuse and exploitation that includes loopholes and inconsistencies which hamper efforts to tackle this crime.”

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<sup>37</sup> United States Department of Labor, *2018 Findings on the Worst Forms of Child Labor – Nepal*, available at: [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2018/Nepal.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2018/Nepal.pdf) [accessed 17 March 2020].

<sup>38</sup> *ibid.*

<sup>39</sup> *ibid.*

53. Nepal's Child Act 2018 forbids sexual exploitation and prostitution of children, though it does not address cybersex trafficking or sex tourism.<sup>40</sup>

### **Recommendation(s)**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

54. Amend the Child Act 2018 to include all aspects of sexual exploitation of children, and take concrete steps to enforce relevant legislation and punish perpetrators.

## **VI. Summary of Recommendations**

Jubilee Campaign urges the Federal Democratic Republic of Nepal to:

55. Ratify the Optional Protocol of the Convention against Torture; the Convention on the Protection of All Persons from Enforced Disappearance; the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

56. Repeal anti-conversion laws, blasphemy laws, and cow slaughter laws.

57. Protect non-Hindu minority groups from violence, persecution, and discrimination from Hindu radicals.

58. Take actions to eliminate sexual violence, rape, human trafficking, exploitation, and domestic violence against Nepali citizens and prosecute perpetrators.

59. Amend the Human Trafficking and Transportation Control Act to include all aspects of human trafficking, including recruitment and receipt of trafficked individuals.

60. Cease all unjust applications of the Electronic Transactions Act and the Information Technology Bill which violate freedom of expression.

61. Cease police interruption and interference in peaceful assemblies, particularly those of Tibetan Buddhists and other minorities.

62. Make efforts to properly enforce anti-child labor laws, and prosecute individuals involved in recruiting and employing child laborers.

63. Amend the Child Act 2018 to include all aspects of sexual exploitation of children, and take concrete steps to enforce relevant legislation and punish perpetrators.

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<sup>40</sup> ECPAT International, *Briefing Paper: Sexual Exploitation of Children in Nepal*, <https://www.ecpat.org/wp-content/uploads/2020/01/ECPAT-Briefing-Paper-on-the-Sexual-Exploitation-of-Children-in-Nepal-2020-ENG.pdf> [accessed 17 March 2020].

