

Alternative Report On
**The Convention on the Rights of the Child,
1989 (CRC)**

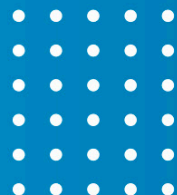
For 101st Pre-session (May 2025) of Nepal

*Thematic Submission on Civil Rights and
Freedom and Violence against Children*

2025



Working for Non-discrimination and Equality



Alternative Report On The Convention on the Rights of the Child, 1989 (CRC)
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Thematic Submission on Civil Rights and Freedom and Violence against Children - 2025



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Introduction and Methodology

The report is an alternative report of Nepal by Forum for Women, Law and Development (FWLD). FWLD is an autonomous, non-profit, non-governmental organization established on May 29, 1995 to work for the protection, promotion and enjoyment human rights. In order to eliminate all forms of discrimination, FWLD uses law as an instrument to ensure the rights of women, children, minorities and all other marginalized groups.

This report synthesizes insights from extensive dialogues and consultations convened by FWLD throughout in 2023/24. It draws upon a robust foundation of evidence, including Nepal Police reports and factsheets, national census data, landmark court judgments, and research conducted by FWLD. Furthermore, a thorough analysis of existing child protection legislation informs the conclusions presented herein.

While Nepal's legal drafting demonstrates a clear commitment to advancing the rights of children at a theoretical level, reality on the ground reveals persistent systemic discrimination and multifaceted challenges that severely undermine child protection and their legal identity. This disparity leaves countless children vulnerable to ongoing discrimination. This document addresses critical issues related to Articles 7 and 8, focusing on civil rights and freedoms, as well as Articles 19, 34, 37, and 39, concerning violence against children, of the CRC. To truly safeguard children, we urge the enactment of comprehensive anti-discrimination legislation, necessary amendments to existing laws that perpetuate inequality, rigorous policy implementation, the strengthening of institutional frameworks, and increased resources dedicated to fostering the full and harmonious development of all children.

Nepal's New Laws and Policies

In a concerted effort to fortify the legal framework surrounding children's welfare, Nepal has undergone significant legislative transformations. The Children's Act, 1992, was superseded by the Act Relating to Children, 2018, enacted on 18 September, 2018, marking a pivotal shift towards a more robust and comprehensive protection of children's rights through amended and codified laws.¹ Simultaneously, recognizing the imperative of modernizing citizen identification and vital records, the National ID and Civil Registration Act, 2020, came into force on 11 February, 2020, establishing a streamlined system that inherently includes

1. Preamble, Act relating to the Children, 2018

birth registration. To ensure the smooth and efficient implementation of this system, the National ID and Civil Registration Regulation, 2021, was promulgated on 15 March, 2021, providing the necessary operational details. Further demonstrating its commitment to children, the Government of Nepal introduced the National Child Policy, 2023, designed to address contemporary challenges in child rights and protection with heightened sensitivity and a results-driven approach, aligning with evolving governance structures and national and international obligations.

Suggested Solutions and Recommendations to Nepal by UN Mechanisms

CEDAW Concluding Observations on the Seventh Periodic Report of Nepal

- Strengthen enforcement and public education against harmful practices, targeting key regions and leaders.²
- Enact comprehensive legislation criminalizing all forms of gender-based violence, including emerging forms like tech-facilitated and climate-induced violence, with specific protections for marginalized groups.³
- Ensure accessible, inclusive specialized services for GBV victims, particularly in rural areas.⁴
- Repeal statutes of limitations for reporting sexual violence.⁵
- Amend Human Trafficking and Transportation (Control) Act to align with the Palermo Protocol and international law.⁶
- Amend Article 11(3) of the Constitution to allow registration by "Father or Mother" to prevent statelessness.⁷
- Ensure universal birth registration for all children, regardless of parental status.⁸
- Prohibit non-essential medical interventions on intersex children without informed consent, and establish human rights-based healthcare protocols.⁹
- Harmonize child marriage strategies, set the minimum marriage age at 18, accede to relevant international conventions, and decriminalize underage marriage.¹⁰
- Strengthen the effective implementation of the Dignified Menstruation Guidelines at all levels of education and school curricula including age-appropriate sexuality education, paying particular attention to responsible sexual behaviour and the prevention of early pregnancies and sexually transmitted diseases.¹¹

2. CEDAW Concluding Observations on the Seventh Periodic Report of Nepal, February 24, 2025 (No.25)

3. Ibid. (No. 27(a))

4. Ibid. (No. 27(c))

5. Ibid. (No. 27(d))

6. Ibid. (No. 29(a))

7. Ibid. (No. 35(c))

8. Ibid. (No.35(e))

9. Ibid. (No. 43(f))

10. Ibid. (No. 53(a))

11. Ibid. (No. 37(d))

UPR Recommendations to Nepal

- **Mongolia:** Accede to the Optional Protocols to the CRC.¹²
- **Belarus:** Strengthen efforts against slavery and human trafficking, including action plans, victim identification, and protection.¹³
- **United Kingdom of Great Britain and Northern Ireland:** Harmonize foreign employment and trafficking laws with the Palermo Protocol.¹⁴
- **Finland:** Enact legislation prohibiting all forms of violence against women and girls, ensuring investigations, justice, victim compensation, and public awareness of harmful practices.¹⁵
- **Italy:** Strengthen enforcement to eradicate child labor, especially hazardous work.¹⁶

CRC Concluding Observations on the Combined 3rd-5th Periodic Reports of Nepal

- Boost birth registration efforts through awareness campaigns and active engagement by local authorities.¹⁷
- Enact legislation defining and prohibiting child abuse and neglect in all settings.¹⁸
- Amend rape legislation to ensure equal and commensurate penalties for marital and non-marital rape, provide psychological support for child victims, abolish the statute of limitations, and establish mandatory reporting for child sexual abuse.¹⁹
- Ensure intersex children's access to identity documents reflecting their chosen gender identity.²⁰
- Review adoption mechanisms to ensure professional expertise and prevent trafficking, and consider ratifying the Hague Adoption Convention.²¹
- Implement a comprehensive adolescent sexual and reproductive health policy, including mandatory education in schools, focusing on preventing early pregnancy and STIs.²²
- Amend child labor legislation to cover all work sectors, including the informal sector and worst forms of child labor.²³
- Ratify the Optional Protocol to the Convention on a communications procedure.²⁴

12. Human Rights Council, Working Group on the UPR 37th Session, January 25, 2021 (No.6.4)

13. Ibid. (No. 6.90)

14. Ibid. (No. 6.103)

15. Ibid. (No. 6.173)

16. Ibid. (No. 6.211)

17. CRC Concluding Observations on the combined 3rd-5th Reports of Nepal, July 8, 2016 (No. 25)

18. Ibid. (No. 33(a))

19. Ibid. (No. 35(a), (b) and (c))

20. Ibid. (No. 42(b))

21. Ibid. (No. 45 (d) and (e))

22. Ibid. (No. 54)

23. Ibid. (No. 69(a))

24. Ibid. (No. 73)

Civil Rights and Freedoms

Article 7 and 8

Critical Areas of Concern

- Constitution of Nepal²⁵ requires children of parents who obtained Nepali citizenship by birth to have both a Nepali father and mother to obtain their citizenship. While Nepali men can confer citizenship to their foreign women spouses easily, Nepali women is denied the same right, leaving children of such mothers in stateless situation, unlike those of Nepali fathers.
- Nepal's birth registration law provisions that the notice of birth shall be given by the father or mother, or in their absence, by an adult member of the family who has attained the age of eighteen years.²⁶ Though it considers mother as an informant, a police report²⁷ is mandatory in cases where father is missing or unidentified whereas such document is not required for father to register birth of his child.
- The Constitution²⁸ affirms birth registration as a fundamental right. Yet, the National ID and Civil Registration Act, 2020²⁹ by imposing a late fee for registrations exceeding 35 days, creates a system where children are compelled to pay for a constitutionally guaranteed entitlement.
- In districts without National ID cards, Nepal restricts birth registration for children of undocumented parents³⁰, violating their constitutional right and preventing from obtaining birth certificates.
- National ID and Civil Registration Regulation, 2021 employs terms 'female,' 'male,' and 'other' in designation of gender.³¹ The term "other" is inadequate for intersex individuals; "intersex" should be a distinct designation for children whose intersex status is identifiable at birth.
- 26% of children under five years of age do not have birth registration certificates.³² Insufficient application of universal birth registration right excludes children, whose parents lack legal identity documents, from being registered at birth.
- Despite Supreme Court order,³³ Nepal's lack of refugee legislation causes significant hardship, particularly for women and girls. Tibetan refugees³⁴ lack documentation³⁵ and birth registration for their children, Bhutanese refugees face suspended birth registration since January 2024, and children of Nepali women married to refugee men are also unregistered,³⁶ all leading to lack of access to basic services and legal recognition.

25. Article 11(3), Constitution of Nepal

26. Section 18, National ID and Civil Registration Act, 2020

27. No. 5 of Annex 10, the National ID and Civil Registration Regulation, 2021

28. Article 39(a), Constitution of Nepal

29. Section 19(c), National ID and Civil Registration Act, 2020

30. Section 20(2), Ibid.

31. Annex 10, Ibid.

32. https://censusnepal.cbs.gov.np/results/population#birth_reg

33. Mahmood Rashid vs. the Ministry of Home Affairs et.al. Writ no. 0040 of 2064 BS (2007).

34. The Government of Nepal Ministry of Home Affairs (NUCRA), REFUGEES IN NEPAL: A SHORT GLIMPSE, October 2019.

35. UNHCR Nepal Factsheet November 2024.

36. Consultations with Refugee Women for CEDAW/ Shadow Report Preparation in Jhapa and Kaski dated on 28 December 2024 by FWLD.

Birth Registration Certificate: Journey of Karan K.C.

Karan K.C., aged 29 years old lives with his single mother, Ms. Ganga Bhandari. Karan and his mother are unknown about his father's whereabouts. He continued his studies till +2 with the help of discharge paper, issued by maternity hospital at the time of his birth. He was unable to continue his study as he lacked legal identity documents. He then applied for citizenship certificate. But the District Administration Office, Dhading denied him to issue citizenship certificate in the absence of his birth registration certificate. Then he applied for Birth Registration Certificate in Local Registrar but he was again denied as he did not have any documents that proved his father was a Nepali Citizen.

With the support of FWLD, Karan filed a writ petition in the Supreme Court on 15th December, 2023 to obtain the citizenship certificate. On 22nd December, 2023, the Supreme Court issued an Interim Order to Local Registrar, Dhunibeshi, Metropolitan-8 to issue Karan the Birth Registration Certificate stating his own mother as the informant. Following the order, he finally succeeded to get the Birth Registration Certificate on 1st January, 2024 and citizenship certificate on January 8, 2024.

Implementation of Concluding Observations

- Enactment of Act relating to the Children, 2018 and Regulations, 2022.
- Enactment of National ID and Civil Registration Act, 2020 and Regulation, 2021.
- Enactment of National Child Policy, 2023.

Recommendations

- Amend Article 11(3) of Constitution to replace "Father and Mother" with "Father or Mother".
- Guarantee universal birth registration for all children, including those of single mother, stateless persons, refugees, migrants, and sex workers.
- Remove the additional clause of Number 5 of Annex 10 of National ID and Civil Registration Regulation, 2021 that mandates a police report in case where father is missing or unidentified.
- Amend the National ID and Civil Registration Act, 2020 to significantly restrict the unfair practice of charging fees for late birth registration paving the way for all children to enjoy their fundamental rights without any financial obligation, and exemptions to address birth registration challenges faced by children born to people involved in foreign employment, rape victims, trafficking survivors, and refugees, ensuring equitable and universal access to legal identity for all children.
- Amend the National ID and Civil Registration Regulation, 2021 to replace "others" with "intersex."
- Implement a nationwide, uniform birth registration system that is independent of national identity card implementation, ensuring that all children, regardless of their parents' documentation status, have immediate and unrestricted access to birth registration, thereby upholding their constitutional right to legal identity.

Violence against Children

Article 19, 34, 37 and 39

Critical Areas of Concern

- The data shows 20 underage boys were victims of sexual violence comprising of rape, attempt to rape, child sexual abuse, unnatural intercourse, abduction and rape, trafficking and rape and indecent behavior (sexual abuse against women and children in public place) out of 3,489 total cases: 14 were age 10 or under, and 6 were ages 11-14.³⁷ National Penal Code defines rape as act of sexual intercourse with a woman without her consent, or with a girl child below age of 18, regardless of her consent.³⁸ This definition by excluding boys under 18 creates legal loophole that leaves them unprotected resulting in unequal prosecution.
- Nepal Police data shows 20 boys were victims of sexual violence out of 3,489 total cases: 14 were age 10 or under, and 6 were ages 11-14.³⁹ National Penal Code defines rape as act of sexual intercourse with a woman without her consent, or with a girl child below age of eighteen, regardless of her consent.⁴⁰ This definition, by excluding the sexual violation of boys under eighteen, creates legal loophole that leaves them unprotected resulting in unequal prosecution.
- The National Penal Code defines any sexual intercourse with a minor (under 18) as rape regardless of consent. This indirectly criminalizes adolescent's factual, consensual and non-exploitative sexual relationships and potentially leading to disproportionate punishment. The data shows 437 boys of the age group 11-18 are prosecuted under various pretext of sexual violence.⁴¹
- National Penal Code prohibits child marriage (under 20),⁴² voiding such unions⁴³ and penalizing offenders who manage or enter into such marriage with up to three years imprisonment and a fine.⁴⁴ However, it paradoxically criminalizes children it aims to protect, as evidenced by the prosecution of 27 minors under child marriage some as young as 11-14.⁴⁵
- National Penal Code criminalizes child sexual abuse,⁴⁶ defining specific acts like sexual contact with genitals⁴⁷ and imposing penalties of up to three years imprisonment and a 30,000 rupee fine.⁴⁸ The implementation of this provisions has inadvertently introduced ambiguities into the prosecution of rape cases. The overlap between this provision and existing laws, such as those concerning attempted rape within the same Penal Code,⁴⁹

37. Annual Factsheet on GBV, July/Aug 2023 to Jun/July 2024, Police Headquarter, CID (Page 3)

38. Section 219(2), Chapter on Sexual Offences, National Penal Code, 2017

39. Annual Factsheet on GBV, July/Aug 2023 to Jun/July 2024, Police Headquarter, CID (Page 3)

40. Section 219(2), Chapter on Sexual Offences, National Penal Code, 2017

41. Annual Factsheet on GBV, July/Aug 2023 to Jun/July 2024, Police Headquarter, CID (Page 3)

42. Section 173(1), Chapter on Offense relating to Marriage, National Penal Code, 2017

43. Section 173(2), Ibid.

44. Section 173(3), Ibid.

45. Annual Factsheet on GBV, July/Aug 2023 to Jun/July 2024, Police Headquarter, CID (Page 8)

46. Section 225(1), Chapter on Sexual Offense, National Penal Code, 2017

47. Section 225(2), Ibid.

48. Section 225(3), Ibid.

49. Section 34, National Penal Code, 2017

commercial sexual exploitation, and child sexual abuse as outlined in the Act Relating to Children, 2018,⁵⁰ has created a legal complexity. This overlapping child sexual abuse laws are exploited for plea bargains, reducing penalties and undermining justice for child victims.

- Despite Safe Motherhood and Reproductive Health Rights Act, 2018, ensuring abortion access up to 28 weeks,⁵¹ its inconsistent application to minors impregnated through sexual assault constitutes a grave violation of their rights, compelling them to endure traumatic childbirth and inflicting severe physical and psychological damage.⁵²
- Child Labor (Prohibition and Regulation) Act, 2000 defines “child” as under 16,⁵³ conflicting with the Act Relating to Children, 2018 definition of under 18.⁵⁴ This age discrepancy leaves 16–18-year-olds unprotected from exploitation, contradicting child protection goals. The 2000 Child Labor Act, prohibiting labor for those under 14, is undermined by conflicting definition of “child,” leaving 14–18-year-olds, recognized as children in the 2018 Act, vulnerable to exploitation. Likewise, it fails to address rehabilitation, rescue, and compensation for child laborers.
- Nepal, having ratified the Palermo Protocol in 2020, is obligated to align its laws, which specifically distinguishes between trafficking of adults and the more vulnerable trafficking of children.⁵⁵ Despite this distinction in Palermo Protocol, Nepal’s Human Trafficking and Transportation (Control) Act, 2007 (HTTCA) fails to differentiate, lacks explicit criminalization of transporting minors for

A 12-year-old girl from a poor family in Achham, Nepal, became pregnant (now 28 weeks) after being repeatedly raped by a relative while her parents were working in India. The pregnancy was discovered when her father took her to a hospital for a swollen abdomen. The hospital reported a pregnancy over 25 weeks. Following this, the girl disclosed the repeated rapes due to threats from the perpetrator.

Due to the advanced stage of the pregnancy (over 28 weeks), both Bayalpata Hospital and District Hospital Mangalsen refused to perform an abortion, citing legal limitations in Nepal. Consequently, the girl was taken to Dhangadhi for further assessment, where it was confirmed, the pregnancy was beyond 28 weeks, leaving the family with the difficult reality that the child must be born. The girl is currently under the protection of a local One-Stop Crisis Management Center, and her family is distraught and seeking help from the government as they navigate this challenging situation. The accused relative is in India, hindering immediate arrest.

<https://ekantipur.com/news/2025/02/23/12-year-old-girl-raped-by-a-relative-28-weeks-pregnant-in-her-stomach-39-41>

50. Prohibition of attempt to commit offence:
(1) No person shall make attempt to commit an offence.
(2) Even if it is impossible for an offence to be committed for which attempt is made, attempt shall be considered to have been committed.
(3) Except as otherwise provided elsewhere in this Act, a person who attempts, or causes attempt, to commit an offence shall be punished with one half of the punishment specified for such offence.

51. Section 15, Safe Motherhood and Reproductive Health Rights Act, 2018

52. <https://ekantipur.com/news/2025/02/23/12-year-old-girl-raped-by-a-relative-28-weeks-pregnant-in-her-stomach-39-41.html?author=1>

53. Section 2(a), Child Labor (Prohibition and Regulation) Act, 2000

54. Section 2(j), The Act relating to the Children, 2018

55. Preamble, The Palermo Protocol

exploitation without consent, and neglects to address those profiting from such acts, rendering it inadequate for combating child trafficking.

- The Hague Convention prohibits profiting from intercountry adoptions, allowing only the recovery of legitimate costs to prevent child commodification.⁵⁶ HTTCA lacks this Convention's safeguard, leaving a regulatory gap that could allow financial exploitation in intercountry adoptions.
- Educational institutions lack universal design and reasonable accommodation in infrastructure, creating barriers for students, particularly children with disabilities.

Implementation of Concluding Observations

- In July 2022, the House of Representatives, Nepal passed a bill amending sexual violence laws, increasing the statute of limitations for rape cases to two years, and to three years in specific circumstances, including for minors filing after reaching 18.

Recommendations

- Amend statutory definition of rape in National Penal Code to replace gender-specific language ("woman" and "girl child") with gender-neutral terms ("person" and "child"), thereby ensuring uniformity of legal protection for all children and individuals, regardless of gender, and acknowledging gender-neutral nature of sexual violence.
- Enact legislative amendments to explicitly exempt children subjected to child marriage from criminal prosecution, recognizing them as victims and prioritizing their rehabilitation and reintegration.
- Implement a comprehensive legislative reform to harmonize all legislations pertaining to child rights, specifically amending the legislation to uniformly define "child" as any individual below age of eighteen and to establish a consistent, standardized system of punitive measures for child marriage offenses, thereby ensuring legal clarity, equitable enforcement, and effective protection of children across all legal domains.
- Conduct an immediate and thorough legislative review of National Penal Code and Act Relating to Children, 2018, to eliminate overlapping provisions concerning child sexual abuse, attempted rape, commercial sexual exploitation, and child sexual harassment, and to establish clear, distinct, and non-negotiable penalties for such offense, thereby preventing use of these provisions for plea bargaining and ensuring robust protection of child victims.
- Decriminalize abortion for minors, eliminating practice of reporting to police prior legal abortion prioritizing their health with confidential medical care; and implement a comprehensive, adolescent-friendly sexual and reproductive health policy.
- Amend existing laws against rape of prosecuting minors involved in factual consensual and non-exploitative sexual relation.
- Revise Child Labor (Prohibition and Regulation) Act, 2000, aligning definition of "child" with Act Relating to Children, defining it as any person under eighteen years of age; prohibiting all forms of child labor, without exception, for individuals under age of

56. Article 32, Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993

eighteen; and establishing a clear, enforceable standards to prevent exploitation of children, eliminating any ambiguity regarding “regulation” of child labor.

- Amend Child Labor (Prohibition and Regulation) Act to incorporate mandatory and comprehensive provisions for immediate and safe rescue of children engaged in labor; provision of holistic rehabilitation services, including medical, psychological, and educational support; and establishment of a compensation mechanism for child laborers and their families, ensuring full redress for harm suffered.
- Amend HTTCA, to explicitly differentiate between trafficking of persons and trafficking of children, creating distinct legal provisions addressing heightened vulnerability of minors, and fully align with Palermo Protocol.
- Amend HTTCA in line with Palermo Protocol, to establish a distinct legal framework for child trafficking that explicitly disregards element of consent for minors under eighteen, and that focuses solely on acts of exploitation and handover, thereby recognizing inherent vulnerability of children and ensuring effective prosecution of such offenses.
- Expedite ratification and implementation of Hague Convention to establish a robust legal framework that safeguards children involved in intercountry adoptions, thereby effectively combating child smuggling and trafficking.
- Amend the HTTCA to explicitly incorporate provisions that mirror Article 32 of Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993, thereby prohibiting derivation of improper financial and ensuring that only legitimate costs and expenses are recoverable.
- Ratify Optional Protocol to CRC on a Communications Procedure to empower children to directly seek redress for violations of their rights, thereby strengthening accountability and ensuring effective implementation of Convention.
- Implement mandatory, universally designed infrastructural upgrades and resource allocation to ensure all school environments are accessible for students with disabilities.

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