



Submission on the Rights of the Child to the Universal Periodic Review of Nepal

51st Session of the UPR Working
Group of the Human Rights Council

Submitted by



Working for Non-discrimination and Equality

1. Complying with Human Rights Council Resolution 5/1, Forum for Women, Law and Development (FWLD) presents this report. FWLD established in 1995, is a non-profit organization that has a proven track record in using law as a transformative tool to advance the rights of women, children, persons with disabilities, and other marginalized groups in Nepal. (www.fwld.org)
2. This submission offers additional insights into the upcoming report from the Government of Nepal, which will be reviewed during the 51st session of the Universal Periodic Review Working Group of the Human Rights Council. This report highlights issues concerning children's rights in Nepal, specifically addressing ongoing legal and procedural barriers that impede their access to legal identity, the complexities arising from child marriage, trafficking of children, and the criminalization of consensual and non-exploitative adolescent sexual relationships, which results in penalties, alongside various forms of violence perpetrated against children in Nepal.
3. UPR 3rd Cycle Recommendations on Rights of Children at the 37th Session of Human Right Council

Recommendations	Recommending State	Status	Reference	Implementation Status
Accede to the Optional Protocols to the Convention on the Rights of the Child on a communication procedure.	Mongolia	Noted	A/HRC/WG.6/37/L.7 6.4	Not implemented
Harmonize the Foreign Employment and Human Trafficking and Transportation Control Act to ensure consistency with the Palermo Protocol.	United Kingdom of Great Britain and Northern Ireland	Supported	A/HRC/WG.6/37/L.7 6.103	In the process of implementation
Continue efforts to combat discrimination against women and the elimination of all forms of sexual violence, as well as child marriage and labor.	Egypt	Supported	A/HRC/WG.6/37/L.7 6.171	In the process of implementation
Adopt legislation that prohibits all forms of violence against women and girls to ensure that all cases are investigated and perpetrators brought to justice and that victims receive compensation as well as strengthen awareness raising programs on harmful practices related to women and girls, like chhaupadi, child marriage, dowry, son	Finland	Supported	A/HRC/WG.6/37/L.7 6.173	In the process of implementation

Recommendations	Recommending State	Status	Reference	Implementation Status
preference, polygamy, and witchcraft.				
Prevent and combat all forms of violence against women and girls, including child, early, and forced marriage and other harmful practices, and take further measures to fight domestic violence.	Italy	Supported	A/HRC/WG.6/37/L.7 6.183	In the process of implementation
End definitively the practice of child marriage.	Holy See	Supported	A/HRC/WG.6/37/L.7 6.206	In the process of implementation
Strengthen the enforcement of existing legislation and policies to eradicate the practice of child labor, in particular regarding hazardous work.	Italy	Supported	A/HRC/WG.6/37/L.7 6.211	Not implemented
Amend the Citizenship Act to enable citizenship documentation at birth and to repeal gender discriminatory provisions.	Germany	Supported	A/HRC/WG.6/37/L.7 159.176	Not implemented

Legal Identity of Children

4. Recognizing the imperative of modernizing citizen identification and vital records, the National ID and Civil Registration Act, 2020, establishes a streamlined system that includes birth registration. To ensure smooth and efficient implementation of this system, the National ID and Civil Registration Regulation, 2021, provides the necessary operational details. Further demonstrating its commitment to implement rights of 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.
5. The right to identity, including a family name and birth registration, is a cornerstone of child protection in Nepal, enshrined as a fundamental right by the Constitution¹. This constitutional mandate is comprehensively supported by the Act relating to Children, 2018². Nepal Citizenship Act, 2006³ provides conditional citizenship by descent to minors found in Nepal whose parentage is unknown, pending parental identification. However, the provision requiring individuals to wait until the age of sixteen to formally acquire citizenship by descent presents a critical gap in ensuring immediate legal identity and rights at birth. This delay contradicts international human rights standards⁴ that provision right to birth registration and citizenship as a universal right.

6. The National ID and Civil Registration Act, 2019 provides that the notice of birth shall be given by father or mother, or in their absence, by an adult member of the family who has attained the age of eighteen years.⁵ Though it considers mother as an informant, a police report⁶ is mandatory in cases where father is missing or unidentified, whereas such a document is not required for a father to register birth of his child.
7. The Constitution⁷ affirms birth registration as a fundamental right. Yet, the National ID and Civil Registration Act, 2019⁸ by imposing a late fee for registrations exceeding 35 days, it creates a system where children are compelled to pay for a constitutionally guaranteed entitlement.
8. In districts without National ID cards, Nepal restricts birth registration for children of undocumented parents⁹ violating their constitutional right and preventing children obtaining birth registration certificate.
9. National ID and Civil Registration Regulation, 2020 employs the terms 'female', 'male', and 'other' in the designation of gender.¹⁰ The category 'other' broadly encompasses all gender identities beyond male and female. However, the sex's male, female, or intersex can be physically distinguished at the time of birth. The designation 'other' typically reflects gender identities that emerge or are affirmed after a certain period of time. Therefore, 'intersex' should be recognized as a distinct category at birth for children whose intersex status is medically identifiable.
10. 26% of children under five years of age do not have birth registration certificates.¹¹ Insufficient application of the universal birth registration right excludes children, whose parents lack legal identity documents, from being registered at birth.
11. Despite the Supreme Court order,¹² Nepal's lack of refugee legislation causes significant hardship, particularly for women and girls. Tibetan refugees¹³ lack documentation¹⁴ 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 unregistered¹⁵, all leading to a lack of access to basic services and legal recognition.
12. Articles 11(2), 11(5), and 11(7) of the Constitution of Nepal classify Nepali women into three categories: Nepali mother with Nepali father, Nepali mother with unidentified father, and Nepali mother with foreign father, thereby fails to recognize Nepali women's legal identity as mother due to which single mother are restricted to confer citizenship to their children.
13. Section 8(1) (a1) of the Nepal Citizenship Act, 2006 mandates a self-declaration with justification from mothers applying for citizenship for children when the father is unidentified or if the father is a foreigner, and if later found false those mothers are panelized, creating direct gender discrimination.

Violence against Children

14. The data shows 20 underage boys were victims of sexual violence including child sexual abuse and unnatural intercourse, where 14 were age 10 or under, and 6 were ages 11-14.¹⁶ National Penal Code, 2017 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.¹⁷ This definition, by excluding boys under 18, creates a legal loophole that leaves them unprotected, resulting in unequal prosecution.
15. National Penal Code, 2017 defines any sexual intercourse with a minor girl (under 18) as rape regardless of consent.¹⁸ This indirectly criminalizes adolescents' factual, consensual, and non-exploitative sexual relationships and leads to disproportionate punishment. The data shows 437 boys of the age group 11-18 are prosecuted under various pretexts of sexual violence.¹⁹ The Ministry of Law, Justice and Parliamentary Affairs published a draft bill amending the National Penal Code, 2017. The draft bill amending Section 219 of the Code introduces a provision to acknowledge consensual sexual relationships between adolescents within a close age gap (three years or less), commonly referred to as the "Romeo-Juliet" clause. While the intent to balance protection and evolving adolescent autonomy is commendable, the provision fails to stipulate a minimum age threshold for such relationships. This omission raises serious concerns about potential legal and ethical implications of recognizing consensual sexual relations among very young minors. In absence of a defined lower age limit, the law risks unintentionally validating relationships that may be developmentally inappropriate, exploitative, or inconsistent with international child protection standards. A clear minimum age is essential to ensure alignment with best interests of the child and Nepal's obligations under global human rights frameworks.
16. National Penal Code, 2017 prohibits child marriage (under 20),²⁰ voiding such unions²¹ and penalizing offenders who manage or enter into such a marriage with up to three years imprisonment and a fine.²² However, it paradoxically criminalizes children it aims to protect, as evidenced by prosecution of 27 minors under child marriage, some as young as 11-14.²³ Likewise, the draft bill amending Section 173 (Prohibition of concluding Child Marriage) of the National Penal Code, 2017 retains the minimum legal age for marriage at 20. However, it effectively recognizes marriage between individuals aged 16 to under 20 by imposing only a nominal penalty and making it non-voidable.
17. Nepal, having ratified the Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography and Palermo Protocol, is obligated to align its laws, which specifically distinguish between trafficking of adults and more vulnerable trafficking of children.²⁴ 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 exploitation without consent, and neglects to address those profiting from such acts, rendering it inadequate for combating child trafficking.

18. The Hague Convention prohibits profiting from intercountry adoptions, allowing only the recovery of legitimate costs to prevent child commodification.²⁵ HTTCA lacks this Convention's safeguard, leaving a regulatory gap that could allow financial exploitation in inter-country adoptions.

Suggested Questions to the Government of Nepal by Member States

We encourage Member States to pose the following specific questions to the Government;

Legal Identity of Children

1. Why does the Government of Nepal maintain a provision that delays formal citizenship for children of unknown parentage until age sixteen, despite constitutional guarantees of identity and birth registration? How does this align with Nepal's obligations under international human rights standards regarding universal access to legal identity from birth?
2. Why does Nepal's 2020 Civil Registration Regulation require a police report for mothers registering a child if the father is missing, a barrier not imposed on fathers, thereby hindering children's right to identity?
3. Why does the Nepali government charge a late fee for birth registration, a constitutionally guaranteed right, thereby creating a financial barrier to a child's identity?
4. Despite birth registration being a fundamental right in Nepal, why does the 2019 National ID and Civil Registration Act restrict it for children of undocumented parents in certain districts, denying them identity documents? What actions is the government taking to ensure universal birth registration regardless of parental status or location?
5. Given that Nepal's civil registration uses "other" for gender, why hasn't the government introduced a specific "intersex" designation to accurately recognize intersex children at birth in official records?
6. What steps is the Government of Nepal taking to address the exclusion of children from birth registration when their parents lack legal identity documents, given that 26% of children under five remain unregistered? How does this align with the constitutional guarantee of universal birth registration?
7. How does Nepal intend to address this barrier and ensure equal recognition of mothers as independent rights-holders in conferring citizenship?

8. Despite Nepal is party to the various international human rights conventions including CEDAW and CRC, why only mothers are subjected to punishment while conferring citizenship to their children?

Violence against Children

1. Despite increasing sexual violence against underage boys, why does Nepal's National Penal Code, 2017 define rape to exclude male victims, leaving a legal loophole that denies equal protection to all child victims?
2. How does the Government of Nepal justify prosecuting 437 boys aged 11–18 under sexual violence laws despite the factual, consensual nature of many cases, and why has the Romeo-Juliet provision failed to incorporate a minimum age safeguard to protect younger adolescents?
3. How will the Government of Nepal reform the National Penal Code, 2017 to prevent the prosecution of minors in child marriage cases, instead focusing on those who facilitate or coerce such unions, thereby protecting the children it aims to serve? Why does the proposed amendment impose only a nominal penalty for marriages involving individuals aged 18 to under 20, despite retaining 20 as the legal minimum age?
4. Despite ratifying the Optional Protocol to CRC on the sale of children, child prostitution and child pornography and Palermo Protocol, why does Nepal's HTTCA fail to distinguish child trafficking from adult trafficking, explicitly criminalize transporting minors for exploitation, and prosecute those who profit from such acts?
5. Given that The Hague Convention prohibits profiting from inter-country adoptions, why does Nepal's HTTCA lack safeguards against financial exploitation in such adoptions, and what amendments will align it with international standards to prioritize child welfare over profit?

Proposed Recommendations to the Government of Nepal by Member States

1. Amend the Nepal Citizenship Act, 2006 to establish a system that guarantees the issuance of citizenship certificates at birth for all children born in Nepal, including those whose parentage is unknown.
2. Amend the National ID and Civil Registration Act, 2019 to eliminate the unequal requirement of a police report when the father is missing or unidentified. Birth registration should be accessible through either parent without additional documentation, ensuring non-discriminatory access in accordance with human rights principles of equality and legal identity for all children.
3. Amend the National ID and Civil Registration Act, 2019 to eliminate the late fee imposed for birth registrations beyond 35 days.

4. Revise the National ID and Civil Registration Regulation, 2020 to include 'intersex' as a distinct category in gender designation at birth.
5. Establish a comprehensive legal and administrative framework to guarantee universal birth registration for all children in Nepal, regardless of their parents' legal status or refugee background.
6. Take action on amend/repeal discriminatory provisions that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men in the Constitution particularly Article 11(2), 11(5) and 11(7).
7. Remove the self-declaration and penalties for Nepali mothers to transfer citizenship to their children with unidentified fathers, ensuring both parents can confer citizenship on an equal basis without added terms, which aligns with Nepal's constitutional commitment to gender equality and international commitments.
8. Amend the statutory definition of rape in the National Penal Code to ensure inclusive protection for all individuals under the age of 18, including boy child recognizing that children, regardless of sex, can be victims of rape and sexual violence.
9. Enact legislative amendments to explicitly exempt children subjected to child marriage from criminal prosecution, recognizing them as victims and prioritizing their rehabilitation and reintegration.
10. Amend existing laws related to rape to ensure that minors involved in factual, consensual, and non-exploitative sexual relationships within a close age range are not prosecuted. Likewise, ensure that the Romeo-Juliet provision introduced under Section 219 of the Bill amending the National Penal Code, 2017 incorporates a clearly defined minimum age threshold. This safeguard is critical to delineate appropriate legal boundaries for age-mate relationships, protect younger adolescents from premature sexual exposure, and prevent unintended legal and ethical consequences.
11. Amend HTTCA to explicitly differentiate between trafficking of persons and trafficking of children, creating distinct legal provisions addressing the heightened vulnerability of minors, and fully align with the Optional Protocol to CRC on the sale of children, child prostitution and child pornography, and Palermo Protocol.
12. Amend HTTCA in line with the Optional Protocol to CRC on the sale of children, child prostitution and child pornography, and Palermo Protocol, to establish a distinct legal framework for child trafficking that explicitly disregards elements of consent for minors under eighteen, and that focuses solely on acts of exploitation and handover, thereby recognizing the inherent vulnerability of children and ensuring effective prosecution of such offenses.
13. Expedite ratification and implementation of the Hague Convention to establish a robust legal framework that safeguards children involved in

intercountry adoptions, thereby effectively combating child smuggling and trafficking.

14. Amend the HTTCA to explicitly incorporate provisions that mirror Article 32 of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993, thereby prohibiting the derivation of improper financial benefits and ensuring that only legitimate costs and expenses are recoverable.
15. Ratify the 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 the Convention.

If you have any questions or would like further information, please contact:

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- 1 Article 39(1), Constitution of Nepal.
 - 2 Section 4, Act relating to Children, 2018.
 - 3 Section 3(3), Nepal Citizenship Act, 2006.
 - 4 Article 7(1), (2), Convention on the Rights of the Child (CRC), Article 24(2), (3),
International Covenant on Civil and Political Rights (ICCPR), Article 15, Universal
Declaration of Human Rights (UDHR), Human Rights Council Resolution 22/7 (2013),
Sustainable Development Goal (SDG) Target 16.9.
 - 5 Section 18, National ID and Civil Registration Act, 2019.
 - 6 Number 5 of Annex 10, the National ID and Civil Registration Regulation, 2020.
 - 7 Article 39(a), Constitution of Nepal.
 - 8 Section 19(c), National ID and Civil Registration Act, 2019.
 - 9 Section 20(2), Ibid.
 - 10 Annex 10, the National ID and Civil Registration Regulation, 2020.
 - 11 https://censusnepal.cbs.gov.np/results/population#birth_reg
 - 12 Mahmood Rashid vs. the Ministry of Home Affairs et.al. Writ Number 0040 of 2064 B.S
(2007).
 - 13 The Government of Nepal Ministry of Home Affairs (NUCRA), REFUGEES IN NEPAL: A
SHORT GLIMPSE. October 2019.
 - 14 UNHCR Nepal Factsheet, November 2024.
 - 15 Consultations with Refugee Women for CEDAW Shadow Report Preparation in Jhapa and
Kaski dated on December 28, 2024 by FWLD.
 - 16 Annual Factsheet on GBV, July/August 2023 to June/July 2024, Police Headquarters, CID
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 - 17 Section 219(2), Chapter on Sexual Offences, National Penal Code, 2017.
 - 18 Section 219(2), Chapter on Sexual Offences, National Penal Code, 2017.
 - 19 Annual Factsheet on GBV, July/August 2023 to June/July 2024, Police Headquarters, CID
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 - 20 Section 173(1), Chapter on Offense relating to Marriage, National Penal Code, 2017.
 - 21 Section 173(2), Ibid.

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- ²² Section 173(3), Ibid.
- ²³ Annual Factsheet on GBV, July/August 2023 to June/July 2024, Police Headquarters, CID (Page 8)
- ²⁴ Preamble, The Palermo Protocol.
- ²⁵ Article 32, Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993.