



Human Rights Watch Submission to the CEDAW Committee on Nepal's Periodic Report for the 71st Session

October 2018

We write in advance of the 71st session of the Committee on the Elimination of Discrimination against Women, and its review of Nepal's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹ This submission addresses issues related to articles 1, 2, 3, 5, 9, 10, 12, 13a, and 16 of CEDAW, and includes suggested recommendations to put to the Nepal government.

Nationality (Articles 1, 2, and 9)

Nepal's constitution of 2015 does not address the rights of Nepal's estimated four million people who are without any official status and at risk of statelessness. Despite promises of reform, many people, particularly women, children born out of wedlock, and children of a refugee or naturalized parent, remain unable to secure drivers' licenses, passports, bank accounts, voting rights, higher education, and other government welfare schemes. Women face discrimination in the form of being denied the ability to pass on their citizenship to their children who have foreign fathers, while Nepali men with foreign partners are permitted to pass on citizenship.

Violence against women (CEDAW articles 1, 2, 3, and 12)

¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc.A/34/46, entered into force September 3, 1981. Nepal ratified CEDAW on April 22, 1991.

Nepal went through a decade-long armed conflict between 1996-2006 between Maoist forces and the government. Civilians were caught between Maoists who demanded support, including food and shelter, and government forces who punished civilians who had provided support, regardless of whether they did so under duress. Both security forces and Maoist combatants committed physical and psychological abuse, and sexual violence. Security force personnel raped and sexually abused female combatants after arrest, and targeted female relatives of Maoist suspects, or those they believed to be Maoist supporters because they provided food and shelter. Maoist combatants raped women who stood up to them and refused to support their party's activities. Impunity for these crimes continues, with little hope for accountability or justice. The fear of speaking out, combined with ongoing cultural stigma, still stops many from seeking justice before the courts or the transitional justice mechanisms.

Menstrual segregation, stigma, and barriers to menstrual hygiene management (article 5)

Practical barriers to managing menstruation may prevent equal enjoyment of human rights. Thirty-eight percent of Nepalis are without a toilet, and 15 percent are without a water supply.

Cultural norms related to menarche and menstruation may also act to further entrench discriminatory practices, policies, or laws. Taboos and stigma around menstruation are rooted in perceptions that menstruation is something dirty, to be ashamed of, and to be hidden. This can create or reinforce discriminatory practices against women and girls, hampering gender equality and impacting women's and girls' dignity.

Chaupadi, a practice that forces menstruating women and girls from their homes, was criminalized under a new law that entered into force in August 2018, after a series of publicized deaths of women and girls in menstrual sheds. However, the Supreme Court had already outlawed the practice in 2005 with little practical outcome. *Chaupadi* remains widely practiced in communities in western Nepal. Menstruating women are sometimes segregated within the family home but often required to sleep in outside sheds or huts where this segregation makes women and girls vulnerable to sexual violence and has led to deaths from fire, wild animals, and cold.

Article 5 of CEDAW obligates governments to take appropriate measures to address abusive gender norms—to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” For real change in ending the practice, the Nepali government should educate communities, debunk myths about menstruating women, and help develop social norms that stigmatize continued practice of *chaupadi*. The government’s network of village-based health volunteers is an excellent resource for this task.

Stigma against menstruating girls also harms their access to education, a problem compounded by lack of the adequate water and sanitation facilities needed for them to manage menstruation with dignity. The government should also do more to ensure that people have universal access to water and toilets, including in schools. In 2016, Human Rights Watch spoke with women and girls in Nepal who described the difficulties of managing menstrual hygiene at school, and the consequences this had upon girls’ education.

Chandni Rai, 19, said:

We had a toilet, but it was not good. If there are proper toilets, girls will feel better when they are on their periods and have to change their pads. Many girls stay home during their periods. They were marked absent and wouldn’t be able to learn. They couldn’t catch up because the course would have moved on. They would try to sit with their friends and catch up, but the teacher wouldn’t repeat [information]. Some of them left school because of this.²

In 2011, Human Rights Watch found that girls with disabilities often drop out of school once they reach puberty because there are no support services in school to help them during their periods.³ One parent explained the difficult decision to keep her daughter with a disability home from school once she started menstruating:

² Human Rights Watch, *Going to the Toilet When You Want. Sanitation as a Human Right*. April 2017, <https://www.hrw.org/report/2017/04/19/going-toilet-when-you-want/sanitation-human-right>

³ Human Rights Watch, *Nepal: Futures Stolen. Barriers to Education for Children with Disabilities in Nepal*. August 2011, <https://www.hrw.org/sites/default/files/reports/nepalo811ForWebUpload.pdf>.

When [my daughter] was 12, she started getting her periods. I would put the pad on her and she would take it out. She was also attracted to boys. I was scared that something could happen. Something sexual. There are no bolts on the doors. She got no sexual education. Neither do we know how to teach them nor did the teachers in her school. I decided not to send her to school.⁴

Suggested Questions for Nepal:

- What steps will the government take to educate communities and families about the illegality and harmfulness of *chaupadi*?
- What steps will the government take to ensure that the new law against *chaupadi* is enforced?
- What plans does the government have to increase access to safe and adequate toilets in schools, especially for adolescent girls?
- What plans does the government have to increase the provision of sex education in schools, ensure that it is provided in an age-appropriate and universal manner, and ensure that it includes a focus on destigmatizing menstruation?

Suggested Recommendations for Nepal:

- Launch a village-by-village and house-by-house campaign in communities where *chaupadi* is practiced to educate them about the new law, about why *chaupadi* is unnecessary, about the harm caused by *chaupadi*, and about how the law will be enforced.
- Use the network of female community health volunteers to work at a community level to monitor whether families continue to practice *chaupadi* and intervene to stop the practice when it occurs.
- Develop a plan for ensuring that all schools, especially schools serving adolescent girls, have safe and adequate toilet facilities, including a plan for maintaining these facilities.
- Reform the curriculum for sex education, to ensure that it contains practical information, lower the age at which students begin learning about this topic in an age-appropriate manner, and ensure that it is taught in all schools.

⁴ Ibid.

Education (article 10)

Protecting students, teachers, and schools during armed conflict

As detailed by this Committee in its concept note for its 2014 discussion on girls' and women's right to education, in conflict-affected areas, "girl's access to education is jeopardized due to among others, insecurity, the occupation of schools by state and non-state actors as well as targeted attacks and threats against girls and their teachers by non-State actors."

Nepal has been a world leader in developing domestic protections for schools from military use. The peace agreement that ended the civil war between the government of Nepal and Maoist rebels in 2006 included a commitment by both sides to "immediately put an end to such activities as capturing educational institutions and using them ... and not to set up army barracks in a way that would adversely impact schools and hospitals."⁵ In 2011, this protection was further solidified when the country's Council of Ministers declared all schools "zones of peace," and the education ministry promulgated guidelines on keeping schools free from armed activities.⁶

However, Nepal has not endorsed the Safe Schools Declaration, a political commitment to better protect students, educational staff, schools, and universities during armed conflict. It was drafted through a consultative process led by Norway and Argentina in 2015. The declaration includes a commitment to use the "Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict." As of August 30, 80 countries have joined on.

Nepal is one of the biggest contributors of personnel to UN peacekeeping around the world. As of July 2018, 4,884 Nepali troops were participating in peacekeeping missions around the world, including in Central African Republic, Democratic Republic of Congo, Lebanon, South Sudan, and Sudan—all of which have already endorsed the Safe Schools Declaration. Troops that participate in UN peacekeeping operations are also obliged to not use schools in their operations.⁷

⁵ Comprehensive Peace Agreement concluded between the Government of Nepal and the Communist Party of Nepal (Maoist), 2006, art. 7.5.4.

⁶ Decision of the Government of Nepal, 25 May 2011; and Ministry of Education, Schools as Zones of Peace National Framework and Implementation Guideline, 2011.

⁷ United Nations Infantry Battalion Manual, 2012, section 2.13, "Schools shall not be used by the military in their operations."

Suggested Question for Nepal:

- Are protections for schools from military use included in any policies, rules, or pre-deployment trainings for Nepal’s armed forces?

Suggested Recommendation for Nepal:

- Endorse and implement the Safe Schools Declaration.

Marriage Rights (articles 16 and 13a)

Child marriage

Nepal has the third highest rate of child marriage in Asia—37 percent of girls are married before age 18, and 10 percent by 15—despite the fact that the minimum legal age of marriage is 20. Boys also often marry young in Nepal, though in lower numbers than girls. Progress toward ending the practice has stalled. In 2016, the government launched a national strategy to end child marriage by 2030, but action on operationalizing and implementing the plan is long stalled.

In interviewing dozens of children and young people for a 2016 report, Human Rights Watch learned that these marriages result from a web of factors including poverty, lack of access to education, child labor, social pressures, and harmful practices.⁸ Cutting across all of these is entrenched gender inequality and damaging social norms that make girls less valued than boys in Nepali society. Many of the marriages we heard about were arranged—and, often, forced—by girls’ parents, or other family members. In some areas of the country, families marry girls at ages as young as one-and-half years old.

We heard some children describe their unions as “love marriages.” In Nepal, the term love marriage is commonly used to refer to a marriage not arranged by the bride and groom’s families. Typically, it refers to a situation where the two spouses have decided themselves to get married, sometimes over the opposition of one or both of their families. Although different from arranged marriages, love marriages among children are often triggered by the same social and economic factors.

⁸ Human Rights Watch, *Nepal: Our Time to Sing and Play*, September 2016, https://www.hrw.org/sites/default/files/report_pdf/nepalo816_web.pdf.

The consequences of child marriage among those we interviewed are deeply harmful. Married children usually dropped out of school. Married girls had babies early, sometimes because they did not have information about and access to contraception, and sometimes because their in-laws and husbands pressured them to give birth as soon, and as frequently, as possible.

Early childbearing is risky for both mother and child, and many girls and their babies suffer devastating health consequences. Six of the young women we interviewed had babies that had died, and two of them had each endured the death of two of their children.

Suggested Questions for Nepal:

- What is the status of operationalizing and implementing Nepal’s National Action Plan to end child marriage by 2030?
- How is the government coordinating between the different government entities—schools, health, local government, police, etcetera—who need to contribute to ending child marriage by 2030, and ensuring that all of these entities make this effort a priority?

Suggested Recommendations for Nepal:

- Convene a high-level committee including all of the government bodies—schools, health, local government, police, etcetera--necessary to take effective action to end child marriage.
- Develop, through this committee, and in consultation with communities, youth, NGOs, and experts, an implementation plan for ending child marriage by 2030, complete with specific activities, responsibility allocated for each activity, budget allocations, timelines, and a plan for monitoring the implementation of each activity and the overall progress toward ending child marriage by 2030.