

Joint Submission
to the
Committee on the Elimination of Discrimination Against Women
For the review of the Nepal's 7th periodic report on CEDAW

Nepal

Supplementary Report
for the Adoption of its Concluding Observations
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Submitted by
Center for Reproductive Rights
Forum for Women, Law and Development (FWLD)
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REPRODUCTIVE
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I. Introduction

1. This report is being jointly submitted by the Center for Reproductive Rights (the Center), Forum for Women, Law and development (FWLD) and Youth Led Sexual and Reproductive Health Rights Advocacy Nepal (YoSHAN) to provide additional information to the Committee on the Elimination of Discrimination against Women (“the Committee”) in its upcoming review of the Government of Nepal’s (State party) compliance with the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”) based on the Committee’s Concluding Observations (“2018 COs”) — particularly paras. 38 (b) and 39 (b) — issued during its 71st session on 22 October - 9 November 2018¹, and List of Issues² adopted during its 89th pre-session on February 19 - 23, 2024 (2024 LOIs) and other priority concerns relevant to sexual and reproductive health and rights.
2. In the 2018 COs, the Committee expressed concern that “abortion is criminalized in the State party, whereas estimations indicate that 62 per cent of unplanned pregnancies end in abortion and that more than half of those abortions are conducted clandestinely, endangering the health and life of the mother”³ and recommended the State party to “amend the Safe Motherhood and Reproductive Health Rights Act to fully decriminalize abortion in all cases, to legalize it at least in case of risk to the health of the mother, in addition to the cases for which it is already legalized, including in cases of rape, incest, severe fetal impairment and risk to the life of the mother, and allocate sufficient resources to raise awareness of safe abortion clinics and services.”⁴
3. In the 2024 LOIs, the Committee requested the State party to provide information on “measures taken to decriminalize abortion and legalize it in all cases, and to ensure access to safe abortion and post-abortion services”⁵. The committee also requested the State party to provide information on “coverage and availability of youth-friendly sexual and reproductive health services, and updated data on the prevalence of early pregnancies, disaggregated by age and region.”⁶
4. In its report to the Committee, the State party shared that “the Right to Safe Motherhood and Reproductive Health Act, 2018, and the Regulation, 2020, have been put into enforcement, guaranteeing quality health service delivery to women and protecting their reproductive rights with the objective of making maternal and reproductive health more systematic, qualitative, easily available and accessible, to advance the health rights provisioned in the Constitution of Nepal. It also includes provisions for free abortion care in public health facilities.”⁷ The State party also shared that it has revised Safe Abortion Service Programme Management Guideline, 2021⁸; formulated the disability-friendly Sexual and Reproductive Health and Rights (SRHR) Service Guideline, 2022, to ensure

inclusive SRHR services to people with disabilities.⁹ The government has also formulated Adolescent friendly Health Service Operation Guideline in 2022 but failed to provide information about its formulation in the seventh periodic report. The State party in its seventh periodic report to the CEDAW Committee has provided limited information on adolescent friendly SRH services only mentioning about the formulation of Sanitary Pad (Distribution and Management) Procedure-2019 to provide sanitary pads for adolescent girls studying in community schools free of cost.¹⁰

5. In its response to the Committee's LOIs, the state party shared that "the Safe Motherhood and Reproductive Health Rights Act, 2075 (2018) recognizes access to safe and affordable abortion services as a fundamental human right. Section 189 of the Penal Code permits women to seek abortion up to 12 weeks of gestation with her consent, and up to 18 weeks in cases of rape or incest. Abortion is also legal with the consent of the pregnant woman if a licensed medical practitioner identifies a risk to the woman's mental or physical health or if the foetus to be born will be handicapped and for women with HIV or other incurable diseases of similar nature."¹¹ With regard to the question on coverage and availability of youth-friendly sexual and reproductive health services, programmes to prevent sexually transmitted infections, cervical cancer and human papillomavirus screening programmes, the state reported "conduction of a comprehensive sexual education program for the management of cervical cancer, breast cancer, uterus prolapse related diseases."¹²
6. During the Committee's 89th pre-sessional working group in February 2024, FWLD and the Center along with other CSOs submitted information for the List of Issues¹³ (Civil Society Submission for List of Issues Report) that included a section on health, highlighting the restrictive abortion legal framework in the country, barriers to adolescents' evolving capacity to consent and need for recognizing/developing standards on Sexual and Reproductive Health and Rights (SRHR) in Humanitarian settings. The present submission builds on this section of the 2024 Civil Society report and provides information on status of 1) decriminalization of Abortion in Nepal; (2) decriminalization of age mate consensual and non-exploitative sex among adolescents below 18 years; and (3) ensure SRHR services in humanitarian settings.

II. Status of Abortion Access in Nepal

A. Decriminalization of Abortion in Nepal

7. Despite Nepal making progress in ensuring Sexual and Reproductive Health and Rights by enacting specific act, regulation and formulating adolescent and disability friendly guidelines, Nepal has not made sufficient progress in implementing the Concluding Observations made by the CEDAW Committee in 2018.
8. The CEDAW Committee after the review of the 6th periodic report of Nepal on CEDAW in 2018 recommended State party to amend the Safe Motherhood and Reproductive Health Right (SMRHR) Act 2018¹⁴ to fully decriminalize abortion in all cases.¹⁵ The Committee stated that it is concerned that “abortion is criminalized in the State party, whereas estimations indicate that 62 per cent of unplanned pregnancies end in abortion and that more than half of those abortions are conducted clandestinely, endangering the health and life of the mother.”¹⁶ However, the SMRHR Act 2018 has not been amended. The seventh periodic report submitted by the State party has not provided any information regarding the steps or measures taken to implement the concluding observations.
9. The SMRHR Act allows abortion up to 12 weeks on request with the consent of the pregnant woman.¹⁷ However, beyond 12 weeks, abortion remains criminalized in Nepal under certain conditions where women, girls and service providers are at risk of prosecution and punishment. The SMRHR Act only allows abortion up to 28 weeks in cases where there may be danger to the life of the pregnant women or when her physical or mental health may deteriorate.; the conception is the result of rape or incest; pregnant women infected with HIV or suffering from similar incurable disease, and in case of fetal impairment.¹⁸ Abortion beyond the gestational limits provided by the act is criminalized¹⁹ and abortion when it is performed by health service providers not listed/approved by the government is also criminalized.²⁰ The SMRHR Act 2018 together with the National Penal Code 2017 (Penal Code) imposes a penalty of imprisonment of up to 5 years and a fine not exceeding fifty thousand rupees (approximately US\$500) for a pregnant woman undergoing an abortion beyond the legal grounds.²¹
10. The provision of the SMRHR Act 2018 and the National Penal Code 2017 is inconsistent with each other. There is no gestational limit in the Penal Code for abortion in case there is danger to the life and health of the pregnant women and risk of fetal impairment or in case the women is suffering from HIV or any incurable disease and allows for abortion at any period of the pregnancy.²² But the SMRHR Act only allows up to 28 weeks even in

specific circumstances such as mentioned earlier.²³ Similarly, while SMRHR Act allows abortion up to 28 weeks of pregnancy in cases of rape and incest²⁴, the Penal Code permits abortion only up to 18 weeks of pregnancy in such cases.²⁵ This conflict between the legal provisions on abortion has caused confusion among women seeking abortion, health service providers and law enforcement which could often result in interpreting these provisions to deprive women from accessing abortion services.²⁶

11. Also, the definition of abortion i.e., “spontaneous or induced termination of fetus from uterus before it becomes capable of natural birth”²⁷ provided by the SMRHR act is misleading enough to include miscarriage under the purview of abortion, and where the use of the word ‘spontaneous’ may lead to criminalizing women who have a miscarriage. In an earlier instance, a woman was accused of having an abortion when she had a miscarriage, and a case was filed against her. However, the court found no evidence to support the accusation and acquitted her ruling that it was unjustifiable to convict her solely on the grounds of suspicion of abortion.²⁸
12. Despite the Constitution guaranteeing right to reproductive health as a fundamental human right²⁹, it is not fully recognized by the enabling laws i.e. the SMRHR Act 2018 and the National Penal Code 2017 and they continue to criminalize abortion. The criminalization of abortion is likely to lead to unsafe abortion practices and deter women from accessing post abortion care services, posing a serious risk to their health and lives.³⁰ Due to the criminalization of abortion, the prosecution and punishment are being primarily targeted at women and girls.³¹ A fact finding study by FWLD and CRR of 53 abortion related cases filed in district courts of Nepal in between 2011 and 2016 showed that 13 cases were filed against women for terminating their pregnancies. In cases, where women were convicted, they were unaware of the legal exceptions to the abortion and were not aware of the government listed safe abortion facilities which led them to seeking abortion services clandestinely.³² A minor girl was convicted after taking medical pills for abortion her father bought from a local pharmacist. However, her father and the pharmacist were acquitted on the grounds that her father asked her not to take the pills and the involvement of the pharmacist was not proven.³³ This reflects the serious impact of criminalization of abortion on women and girls and it is a major barrier to the recognition of reproductive health as a fundamental human right, as guaranteed under the Constitution. Despite the formulation of the SMRHR Act in 2018, the legal framework on abortion remains same, due to which on-the-ground adverse impact of criminalization continues as before.

13. Government of Nepal also accepted the recommendation received from the 37th session of the UN Human Rights Council during the third cycle of Universal Periodic Review (UPR) in 2021 “to decriminalize abortion and concretely protect the rights and sexual and reproductive health of women and girls”³⁴ However, no concrete steps have been taken by government to amend the SMRHR act to decriminalize the abortion and to remove the provisions on abortion in the National Penal Code 2017. Similarly, the Law, Justice, and Human Rights Committee of the earlier federal parliament in 2021 also made strong recommendation³⁵ for decriminalizing abortion to the Ministry of Law, Justice and Parliamentary Affairs, Ministry of Health and Population and Ministry of Women, Children and Senior Citizen.
14. The Abortion Care Guideline by World Health Organization (WHO) in 2022 also recommends “Decriminalization means removing abortion from all penal/criminal laws, not applying other criminal offences (e.g. murder, manslaughter) to abortion, and ensuring there are no criminal penalties for having, assisting with, providing information about, or providing abortion, for all relevant actors”³⁶. It clearly states that forced or coerced abortion would constitute a serious assault.³⁷
15. As noted by the WHO, studies have shown how gestational age limits discriminate and can disproportionately impact vulnerable groups of women such as those with cognitive impairments, adolescents, younger women, women living further from clinics, women who need to travel for abortion, those with lower educational attainment, those facing financial hardship and those who are unemployed.³⁸ It recommended against laws and other regulations that prohibit abortion based on gestational age limits explains that “Imposed through formal law, institutional policy, or personal practice by individual health workers, these [gestational] limits restrict when lawful abortion may be accessed by reference to the gestational age of a pregnancy . . . While methods of abortion may vary by gestation. . . pregnancy can safely be ended regardless of gestation. Gestational limits are not evidence-based; they restrict when lawful abortion may be provided by any method.”³⁹

B. Ensuring Full Access to Abortion in Nepal

Third Party Authorization Requirements.

16. Third-party authorization for abortion is also a barrier to the enjoyment of the right to reproductive health as guaranteed by the Constitution. SMRHR Act provides that in case of pregnant woman below 18 years of age, the consent must be given by her guardian or custodian to the government approved health institution.⁴⁰ Similarly, the National Safe

Abortion Policy 2003 has provided that in case the pregnant woman has not attained 16 years of age, informed consent of her nearest relative is required for pregnancy termination services.⁴¹ The law also requires third party authorization by health service providers for both women and girls under certain circumstances. As per the SMRHR Act, a woman has right to safe abortion up to 28 weeks only after a licensed doctor's opinion regarding the danger to the life and health of the woman⁴² and as per the opinion of the health worker in case of fetal impairment.⁴³ The Penal Code also stipulates that abortion is allowed after the opinion of a licensed doctor regarding the deterioration of physical and mental health of the woman or fetal impairment.⁴⁴

17. Various UN Treaty Monitoring Bodies have called on State parties to eliminate third party authorization such as those from spouses, parent, judges, or health service providers to access reproductive health services and information and deeming these requirements discriminatory towards women and obstacles to their access to reproductive health care and services.⁴⁵ Similarly, the CEDAW Committee in its General Recommendation 33, recommended State parties to “abolish rules and practices that require parental or spousal authorization for access to services such as health, including sexual and reproductive health.”⁴⁶
18. WHO also recommends that “abortion be available on the request of the woman, girl or other pregnant person without the authorization of any other individual, body or institution.”⁴⁷ The study on impact of third party authorization revealed that it was associated with delays to abortion.⁴⁸ Also, the studies reviewed by WHO as an evidence base, reinforced “the associations between mandated parental involvement (including authorization) and barriers to accessing abortion (including delay, continuation of pregnancy, anticipated interpersonal violence or exploitation, reproductive coercion, family disharmony and recourse to unsafe abortion).”⁴⁹
19. Hence, for Nepali women to fully enjoy the fundamental rights guaranteed by the Constitution and to ensure that they have easy access to safe abortion services, the SMRHR Act must be amended to decriminalize abortion in all cases including the gestational limit of 28 weeks and removing the grounds for abortion; and amend the provision of third party authorization for women and girls to obtain abortion services as it may violate the women's right to privacy and access to health care on the basis of equality of men and women.⁵⁰ Similarly, Government of Nepal must also eliminate punitive measures against women and health service providers who undergo abortion and who provides the service respectively by repealing the provision of abortion under the Penal Code.⁵¹

III. Decriminalizing age mate consensual and non-exploitative sex among adolescents below 18 years

20. The General Comment 20 issued by the Committee on the Rights of Child states that “Adolescence is a life stage characterized by growing capacities, aspirations, energy and”⁵² However, adolescent girls’ evolving capacity to consent on matters including their own sexuality is not seriously considered, which is against their right to bodily autonomy. The committee reminds State parties to balance protection and evolving capacities when determining the legal age for sexual consent and that states should avoid criminalizing adolescents of similar ages for factually consensual and non-exploitative sexual activity.⁵³ Similarly, the ICPD Programme of Action also states that responsible sexual behavior installed in the formative years i.e., during adolescence is a key to harmonious relationships in future.⁵⁴

21. Age of consent to sex in Nepal is 18 years, as per the National Penal (Code) Act 2017 provision that when a man has sexual intercourse with a girl below eighteen years of age , it is rape, with or without their consent.⁵⁵ However, the law does not carve out any age-related exceptions, and the age of criminal responsibility is set at 10 years⁵⁶ by the Penal Code. This, therefore, means that factually consensual and non- exploitative sexual activity amongst adolescents of similar ages below 18 years (age mate consensual and non-exploitative sex hereinafter) is also criminalized in Nepal. As per Nepal Demographic Health Survey 2022, 14% of women aged 15 – 19 have ever been pregnant⁵⁷; 2% each of aged 15–19 had sexual intercourse before age 15⁵⁸; 9 % of women aged 25–49 had their first sexual intercourse⁵⁹ and it increased to 47 % of women who had sexual intercourse by age 18.⁶⁰ Hence, while statistics show that criminalizing age mate consensual and non-exploitative sex does not prevent adolescents from having sexual relationships or experimenting, it might instead deter adolescent girls from accessing sexual and reproductive health services, including to contraceptives, safe abortion services, post abortion care services and related information.

22. Criminalization of age mate consensual and non-exploitative sex also reinforces prevalent societal norms and values with adolescent girls especially bearing the brunt of its consequences. A study on impact of the criminalization of age mate consensual sex among adolescents in Nepal for instance, shows that adolescent girls faced various forms of violence in the home, including having their mobility restricted and being barred from expressing their feelings and their sexuality.⁶¹ It also affected their educational opportunities as expulsion of students is a common punishment for adolescents

engaging in consensual sexual activity, forcing the students to change schools.⁶² For instance, a girl who was engaged in consensual sex was later found to be pregnant, she was then isolated and sent away.⁶³ As a result, many adolescent girls reported suffering from psychological stress and anxiety sometimes leading to suicidal thoughts due to parental disapproval and the stigma they face from the society.⁶⁴ Often, marriage is regarded as the solution when adolescent girls and boys are found to have been engaged in sexual conduct which results in forced marriages.⁶⁵

23. Countries such as South Africa and Namibia decriminalized sexual activity between adolescents of similar age groups.⁶⁶ Similarly, in Asia, Philippines decriminalized age mate consensual sexual activity in 2022 where the age gap between the adolescents is not more than 3 years and the sexual activity is proven to be “consensual, non-abusive and non-exploitative.”⁶⁷ The age of consent to sex in Philippines is 16 years which was recently raised from 12 years⁶⁸ providing stronger protection against rape, sexual exploitation and abuse of minors.⁶⁹ This approach towards decriminalizing consensual sexual activity aligns with international human rights law, particularly Philippines’ state obligation under the United Nations Convention on the Rights of the Child (UNCRC).
24. Nepal is also State party to the UNCRC and is under an obligation to balance the need to ensure protection from sexual violence and abuse with improved recognition of adolescents’ bodily autonomy and their lived realities, also in line with the recognized principle of evolving capacities.⁷⁰ The Constitution of Nepal guarantees reproductive health as a fundamental right⁷¹ which is further reinforced by the SMRHR Act 2018 which ensures that every adolescent has the right to obtain education, information, counseling and service relating to sexual and reproductive health.⁷² However, criminalizing age mate consensual and non-exploitative sexual activity will deter adolescent girls from accessing SRH services and information and it will endanger their well-being and will expose them to serious harms⁷³ which therefore is not keeping with the State’s constitutional obligations.

IV. Sexual and Reproductive Health and Right in Humanitarian settings

25. Nepal is highly prone to disasters due to its topography and climatic conditions. Every year, Nepal bears loss of lives and property due to floods and landslides.⁷⁴ More than 200 were killed during the flood in 2024 that hit the capital city, Kathmandu.⁷⁵ The fatalities have been reported across 22 districts including Kathmandu, Lalitpur and Bhaktapur districts of the valley.⁷⁶ Similarly, Nepal is also highly susceptible to earthquakes as it lies

in seismically active region.⁷⁷ During these situations of humanitarian crisis, sexual and reproductive health rights is often neglected and compromised⁷⁸ whereas it is an integral part of the humanitarian response; overlooking SRH during emergencies and crisis might lead to maternal and new born deaths, unsafe abortion, sexual violence, unwanted pregnancies and spread of sexually transmitted diseases including HIV.⁷⁹

26. However, in Nepal, the legal framework governing the SRHR and disaster management such as Safe Motherhood and Reproductive Health Right (SMRHR) Act 2018, Disaster Risk Reduction and Management Act 2017 and Public Health Service Act 2018 have significant gaps in ensuring SRHR as essential services during humanitarian situations. The Disaster Victim Rescue and Relief Standard (7th Amendment) 2020 also does not provide SRH related specific services under the emergency rescue and relief distribution section apart from prioritizing the need of pregnant women during relief distribution.⁸⁰ Similarly, the Monsoon Preparedness and Response Plan 2024 does not assign responsibility to the Ministry of Health and Population for providing SRH services aside from making arrangements of nutritious food, medicine and health check-up for antenatal and postnatal women.⁸¹ The Plan also outlines actions to be taken with high priority; however aside from nutritious supplies for antenatal and postnatal women and dignity kit for adolescent girls, no SRH services such as access to contraceptives or safe abortion, were prioritized.⁸² The laws, policies and action plans too do not have provisions related to arrangement of SRH services and information during disaster preparedness and response efforts.
27. Since 2018, Nepal has faced a lot of disasters - Melamchi flood in 2021, Jajarkot Earthquake in 2023, Kathmandu and Sudurpashchim flood and landslides in 2024 being some of the major ones. However, the Government of Nepal in its seventh periodic report to the Committee has not provided any information regarding the steps taken to ensure the availability, accessibility and quality of the sexual and reproductive health services and information to the women and girls during these humanitarian settings.
28. “Human rights relevant to the obligation to provide SRH services can be found in multiple and inter-dependent treaty provisions”⁸³ such as International Convention on Economic, Social and Cultural Rights (ICESCR) to which Nepal is also a State party and human rights law applies to all contexts including humanitarian settings.⁸⁴ The General Comment 22 of the ESCR Committee requires State parties to adopt all measures⁸⁵ to ensure the full realization of SRHR; ensure universal access to all without any discrimination to “a full range of quality sexual and reproductive health care, including maternal health care; contraceptive information and services; safe abortion care; and prevention, diagnosis

and treatment of infertility, reproductive cancers, sexually transmitted infections and HIV/AIDS, including with generic medicines”⁸⁶. Hence, it is necessary for a systematic integration of human rights standards into all aspects of SRHR service delivery during humanitarian settings.

Proposed Questions and Recommendations

Considering the information above and the State party’s obligations under the Convention, we propose that the Committee raise the following questions to the State party:

- What measures has the State party taken to amend the SMRHR Act 2018 to fully decriminalize abortion and ensure safe abortion and post abortion care services?
- What actions will the State party take to repeal provisions related to abortion from the National Penal Code 2017 and ensure that women are not prosecuted and imprisoned under any circumstances for undertaking abortion?
- What steps has the State party taken to implement the recommendations of the Abortion Care Guideline 2022 by WHO?
- What actions has the State party taken to ensure adolescent girls’ access to SRHR services and information and align its legal framework with its international human rights obligations under the UNCRC and CEDAW, particularly relating to adolescents’ bodily autonomy and the principle of evolving capacities?
- What measures has the State party taken to decriminalize consensual and non-exploitative sexual activity between adolescents of similar age group below 18 years with no major age gap while continuing to implement existing strong legal mechanisms to protect adolescents from sexual violence?
- What measures has the State party taken to ensure that adolescent girls are fully informed about the sexual and reproductive health services and information including access to contraceptives and safe abortion and are not subjected to discrimination?
- What measures has the State party taken to amend the SMRHR Act 2018 and related laws i.e. Disaster Risk Reduction and Management Act 2017 and Public Health Service Act 2018 to include provisions to ensure SRH as essential services in humanitarian settings?
- What measures has the State party taken to ensure that the SRHR services are included in the disaster relief and response protocols?

We further propose that the Committee urge the State party to:

- Amend the SMRHR Act 2018 to fully decriminalize abortion in all cases removing all the grounds acting as barriers to accessing abortion, and repeal abortion related provisions from the National Penal Code 2017.
- Decriminalize consensual and non-exploitative sexual activity between adolescents of similar age group below 18 years with no major age gap by reviewing and amending National Penal Code 2017, while, continuing to implement existing strong legal mechanisms to protect adolescents from sexual violence.
- Amend the SMRHR Act 2018, Disaster Risk Reduction and Management Act 2017 and Public Health Service Act 2018 to explicitly include SRHR as an essential service during humanitarian settings, define essential SRH services, and develop and implement comprehensive national disaster preparedness and response guidelines integrating SRHR services, including the Minimum Initial Service Package (MISP), into all disaster management frameworks and response protocols, with regular review and update provisions.

We sincerely hope that this information is useful to the Committee as it prepares to review the government's compliance with the provisions of the Convention. This submission can be published on the OHCHR website for CEDAW. If you have any questions or would like further information, please contact Prabhakar Shrestha, Senior Legal Adviser for Asia at shresthap@reprorights.org, or Roshana Pradhan, Marshall Weinberg Global Legal Fellow for Asia at rpradhan@reprorights.org of the Center for Reproductive Rights.

¹ Committee on the Elimination of Discrimination against Women, Concluding Observations²Nepal, paras. 38(b), 39(b), U.N. Doc. CEDAW/C/NPL/CO/6 (2018) [hereinafter CEDAW Committee]

² CEDAW Committee³List of Issues and questions in relation to the seventh periodic report of Nepal (45th Session), para. 18, U.N. Doc. CEDAW/C/NPL/Q/7 (2024)

³ CEDAW Committee, Concluding Observations⁴Nepal, supra note 1, para. 38 (b).

⁴ Id⁵ para. 39 (b).

⁵ CEDAW Committee, 2024 LOIs, supra note 2, para. 18 (a)

⁶ Id. Para 18 (e)

⁷ CEDAW Committee, Seventh Periodic Report submitted by Nepal, CEDAW/C/NPL/7, para 170 (f)

⁸ Id⁹ para 78.

⁹ Id. para 79

¹⁰ Id. para 82.

¹¹ CEDAW Committee, Reply.to.List.of.Issues.submitted.by.Nepal, CEDAW/C/NPL/RQ/7 (2024), para 123, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNPPL%2FRQ%2F7&Lang=en

¹² Id., para 128.

¹³ CEDAW Committee, 2024 LOIs, supra.note 2.

¹⁴ Safe Motherhood and Reproductive Health Rights Act 2018 [hereinafter SMRHR Act] available at

<https://reproductiverights.org/sites/default/files/2020-01/Safe%20Motherhood%20and%20Reproductive%20Health%20Rights%20Act%20in%20English.pdf>

¹⁵ CEDAW Committee, Concluding.Observations;Nepal, supra note 1, para. 39 (b).

¹⁶ Id., para 38(b).

¹⁷ SMRHR Act, supra note 14, sec. 15 (a).

¹⁸ Id. Sec. 15 (b), (c), (d), (e).

¹⁹ Id., Sec 16.

²⁰ Id., sec. 18.

²¹ The National Penal (Code) Act, part 1.2, Ch. 13, sec. 188 (2017) [hereinafter Penal Code].

²² Id., sec 189 (b) and (d)

²³ SMRHR Act, supra note 14, sec. 15(b) and (d).

²⁴ Id;?sec. 15(c)

²⁵ Penal Code, supra note 21, sec. 189 (c).

²⁶ “Activists seek amendment to Penal Code, safe motherhood act”, The Himalayan Times, March.9?867, available at <https://thehimalayantimes.com/kathmandu/activists-seek-amendment-to-penal-code-safe-motherhood-act/>

²⁷ SMRHR Act, supra Note 14, sec. 2(d).

²⁸ Decision of Siraha District Court, cited by CENTER FOR REPRODUCTIVE RIGHTS, FORUM FOR WOMEN, LAW AND DEVELOPMENT, FACTSHEET: REFORMS REQUIRED IN LAWS RELATED TO ABORTION AND ITS ENFORCEMENT (2017) [hereinafter 2017 fact-finding study]. The study was based on the abortion cases registered between fiscal year 2011/12 to 2015/16 in 16 districts of Nepal where the fact-finding was conducted; out of the 53 cases, 13 cases were against women ending pregnancies, seven were related to infanticide, five were related to forced abortion, and 28 were abortion caused as a result of third-party actions, including by beating available at https://fwld.org/wp-content/uploads/2020/03/Abortion-factsheetNepali_17June018final.pdf

²⁹ THE CONSTITUTION OF NEPAL, 2072 (2015), art. 38(2) (Nepal) [hereinafter the Constitution].

³⁰ “Decriminalizing Abortion in Asia: Perspectives from India and Nepal”, The Leaflet, May.8?8689, available at <https://theleaflet.in/criminal-justice/decriminalising-abortion-in-asia-perspectives-from-india-and-nepal>

³¹ 2017 fact-finding study, supra.note 28.

³² Id.

³³ Id., case filed in Illam District Court.

³⁴ Report of the Working Group on the Universal Periodic Review Nepal, rec. 159.135,

U.N. Doc. A/HRC/47/10 (2021). Available at

<https://documents.un.org/doc/undoc/gen/g21/074/68/pdf/g2107468.pdf>

³⁵ “Nepal dispatches: government of Nepal moves to decriminalize abortion in response to rights campaign”, Jurist News, August.96?8687, available at <https://www.jurist.org/news/2021/08/nepal-dispatches-government-of-nepal-moves-to-decriminalize-abortion-in-response-to-rights-campaign/>

³⁶ WORLD HEALTH ORGANIZATION (WHO), Abortion Care Guideline, p.24 (2022) [hereinafter 2022 WHO ACG].

³⁷ Id.

³⁸ Id. p. 28

³⁹ Id.

⁴⁰ SMRHR Act, supra note 14, sec. 18(4).

⁴¹ National Safe Abortion Policy, sec. 4.3 (2003). Available at <https://mohp.gov.np/uploads/Resources/1657877539133National%20Safe%20Abortion%20Policy.pdf>

⁴² SMRHR Act, *supra* note 14, sec.15 (b).

⁴³ *Id.*, sec. 15 (e).

⁴⁴ Penal Code, *supra* note 21, sec. 189 (b).

⁴⁵ Committee on Economic, Social and Cultural Rights, General.Comment.No.88;On.the.right.to.sexual.and.reproductive.health.(Art.78.of.the.International.Covenant.on.Economic?Social.and.Cultural.Rights), para. 28, U.N. Doc. E/C.12/GC/22 (2016) [hereinafter ESCR Committee?Gen;.Comment.No.88]; Committee on the Rights of Persons with Disabilities, General.Comment.No.9;Women.and.girls.with.disabilities, in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 44, U.N. Doc. CRPD/C/GC/3 (2016) [hereinafter CRPD Committee, Gen. Comment No. 3]; Committee on the Rights of the Child, General.Comment.No.70;The.right.of.the.child.to.the.enjoyment.of.the.highest.attainable.standard.of.health (Art.80), (62nd Sess., 2013), in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 31, U.N. Doc. CRC/C/GC/15 (2013) [hereinafter CRC Committee, Gen. Comment No. 15].

⁴⁶ CEDAW Committee, General Recommendation No. 33, Women's Access to Justice, para. 25(c), U.N. Doc. CEDAW/C/GC/33 (2015).

⁴⁷ 2022 WHO ACG, *supra* note 36, Recommendation 7.

⁴⁸ *Id.*, p.43.

⁴⁹ *Id.*

⁵⁰ WHO, SAFE ABORTION: TECHNICAL AND POLICY GUIDANCE FOR HEALTH SYSTEMS p.95 (2nd ed. 2012)

⁵¹ CENTER FOR REPRODUCTIVE RIGHTS, FORUM FOR WOMEN, LAW AND DEVELOPMENT, FACTSHEET: DECRIMINALIZATION OF ABORTION IN NEPAL: IMPERATIVE TO UPHOLD WOMEN'S RIGHTS, p. 6 (2021).

⁵² Committee on the Rights of the Child, General.Comment.No.86;The.implementation.of.the.rights.of.the.child.during.adolescence, in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, para. 2, U.N. Doc. CRC/C/GC/20* (2016) [hereinafter CRC Committee, Gen;.Comment.No.86].

⁵³ *Id.*, para 40.

⁵⁴ Programme.of.Action.of.the.International.Conference.on.Population.and.Development, Cairo, Egypt, Sept. 5-13, 1994, para 7.34 U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter ICPD.Programme.of.Action]

⁵⁵ Penal Code, *supra* note 21, sec. 219.

⁵⁶ *Id.*, sec. 45(1).

⁵⁷ Ministry of Health and Population [Nepal], New ERA, and ICF. 2023. Nepal.Demographic.and.Health.Survey 8688. Kathmandu, Nepal: Ministry of Health and Population [Nepal], p. 114.

⁵⁸ *Id.*

⁵⁹ *Id.*, p. 96.

⁶⁰ *Id*

⁶¹ CENTER FOR REPRODUCTIVE RIGHTS, YOUTH LED SEXUAL AND REPRODUCTIVE HEALTH RIGHTS ADVOCACY NEPAL?Forbidden.Desires;Exploring.Impact.of.Criminalization.of.Age_mate.conensual.sexual.activities.among.adolescents.in.Nepal, p.23 (Forthcoming Report)

⁶² *Id.* p. 28.

⁶³ *Id.* Information from a FGD participant.

⁶⁴ *Id.*, p.24.

⁶⁵ *Id.*, Information from Community Activist from Udaypur, p.26.

⁶⁶ Kangaude, G. D., & Skelton, A, (De)Criminalizing Adolescent.Sex;A.Rights_Based.Assessment.of.Age.of.Consent.Laws.in.Eastern.and.Southern.Africa, p. 6 (2018). Available at <https://doi.org/10.1177/2158244018806036>

⁶⁷ Act no. 3815 aka Revised Penal Code amended by the Republic Act No. 11648, Article 266 A 1(d).

⁶⁸ CENTER FOR REPRODUCTIVE RIGHTS ET AL., SUPPLEMENTARY INFORMATION ON PHILIPPINES SUBMITTED TO THE COMMITTEE ON THE RIGHTS OF THE CHILD p.8 (2022), available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCRC%2FNGO%2FPHL%2F49730&Lang=en

⁶⁹ "Duterte signs bill raising age of sexual consent to 16", Philippine News Agency, March 7, 2022, available at <https://www.pna.gov.ph/articles/1169147#:~:text=MANILA%20%20%80%93%20President%20Rodrigo%20Roa%20Duterte,%2C%20Exploitation%2C%20and%20Discrimination%20Act>.

⁷⁰ Convention on the Rights of the Child, adopted Nov. 20, 1989, art. 5, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (entered into force Sept. 2, 1990) [hereinafter CRC].

⁷¹ The Constitution, *supra*.note 29.

⁷² SMRHR Act, *supra* note 14, sec. 3(1).

⁷³ CENTER FOR REPRODUCTIVE RIGHTS, SOUTH ASIA REPRODUCTIVE JUSTICE AND ACCOUNTABILITY INITIATIVE, IMPROVING INTERNATIONAL HUMAN RIGHTS STANDARDS ON ADOLESCENT SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS p. 5, available at https://reproductiverights.org/wp-content/uploads/2021/05/CRR_Improving-international-human-rights-standards-on-adolescents-sexual-and-reproductive-health-and-rights_05132021.pdf

⁷⁴ https://civil-protection-humanitarian-aid.ec.europa.eu/where/asia-and-pacific/nepal_en viewed on 9 December 2024

⁷⁵ "More than 200 dead in Nepal floods, as parts of Kathmandu left under water", The Guardian, September. 96⁸²⁸⁶⁸⁰.available at <https://www.theguardian.com/world/2024/sep/30/more-than-200-dead-in-nepal-floods-as-parts-of-kathmandu-left-under-water>

⁷⁶ "Death toll from recent floods and landslides rises to 228", The Kathmandu Post, October.8²⁸⁶⁸⁰, available at <https://kathmandupost.com/national/2024/10/02/death-toll-from-recent-floods-and-landslides-rises-to-228>

⁷⁷ <https://seismonepal.gov.np/> viewed on 9 December 2024

⁷⁸ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR), EMERGENCY HANDBOOK: SEXUAL AND REPRODUCTIVE HEALTH (INCLUDING HIV), 2024, available at [https://emergency.unhcr.org/emergency-assistance/health-and-nutrition/sexual-and-reproductive-health-including-hiv#:~:text=Neglecting%20SRH%20in%20emergencies%20may,sexually%20transmitted%20infections%20\(SIIs\).](https://emergency.unhcr.org/emergency-assistance/health-and-nutrition/sexual-and-reproductive-health-including-hiv#:~:text=Neglecting%20SRH%20in%20emergencies%20may,sexually%20transmitted%20infections%20(SIIs).)

⁷⁹ *Id*;

⁸⁰ Disaster Victim Rescue and Relief Standard (7th Amendment), sec. 2(n) (2020).

⁸¹ Monsoon Preparedness and Response National Action Plan, sec. 4.6 (2024).

⁸² *Id*; sec. 12.

⁸³ CENTER FOR REPRODUCTIVE RIGHTS, TECHNICAL PAPER ON ACCOUNTABILITY FOR SEXUAL AND REPRODUCTIVE HEALTH RIGHTS IN HUMANITARIAN SETTINGS: EXAMINING THE ROLE AND RELATIONSHIP OF DIVERSE BRANCHES OF INTERNATIONAL LAW, p. 3 (2021), available at <https://reproductiverights.org/accountability-for-sexual-and-reproductive-health-and-rights-in-humanitarian-settings/>

⁸⁴ *Id.*, p.4.

⁸⁵ Legislative, administrative, budgetary, judicial, promotional and other measures

⁸⁶ ESCR Committee, Genj.Comment.Noj.88, *supra* note 45, para. 45.