**Response of Government of Nepal (GoN)**

**On**

**Child, early and forced marriage**

1. **What measures have been taken to implement the recommendations of the last report of the Secretary-General on the issues of child, early and forced marriage (A/75/262)?**

The Government of Nepal (GoN) has enacted various Laws, policies and practices to implement the recommendations of the last report of the Secretary-General on the issues of child, early and forced marriage (A/75/262) as to ensure prevention of sexual violence, appropriate punishment to perpetrators in accordance with law, and provides better access to justice and appropriate support to the girls and children affected from early and forced marriage.

Nepal has barred child marriage and the minimum age to get married is set for 20 years and GoN is playing a pivotal role in prohibiting all forms of sexual violence. The National Penal Code, 2017 in its section 219(2) states, “Where any person has sexual intercourse with a woman without her consent or with a girl child below 18 years of age even with her consent, the person shall be considered to commit rape on such woman or girl child.”  Also further Section 219 (3) (b) elaborates raping a girl child of the age 10-14 gets the imprisonment of 18-20 years. The GoN is committed towards accomplishing its responsibilities and duties to respect, protect and fulfill girls and women's rights in every aspect.

1. **What legislative actions have you taken to address the root cause of child, early and forced marriage? Any examples of legislation enacted, beyond the minimum age of marriage, such as laws repealing or amending provisions that enable perpetrators of rape, sexual abuse or abductions to be exempted from prosecution and punishment by marrying their victims?**

The Constitutional and legal provisions in Nepal prohibit child marriage. The Constitution of Nepal has guaranteed children’s fundamental right to be protected from violence, abuse, trafficking and early and forced marriages. Article 39 (5) of the Constitution states that no child shall be subjected to child marriage, transported illegally and kidnapped or taken hostage. Any act contrary to this provision is punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law.

Furthermore, there are several legal mechanisms explicitly prohibiting and criminalizing child, early and forced marriage in Nepal.

1. **National Penal Code 2017**: - The Code criminalizes child marriage[[1]](#footnote-1) and marriage without consent[[2]](#footnote-2). Eligible age for marriage is set at twenty (20) and marriage contrary to this is regarded as void marriage. A consent given by a person who has not attained marriageable age is not deemed as consent and the commission of offence of concluding marriage without consent and child marriage is liable to a sentence of imprisonment and fine. For concluding marriage without consent a person is liable for sentence of imprisonment for a term not exceeding two years and a fine not exceeding twenty thousand rupees and for concluding child marriage a person is liable to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees.

Under the law, adults who marry children, family members and other adults who arrange marriages of children, and religious leaders who perform child marriages are all committing crimes and are subject to prosecution.

1. **The National Civil Code, 2017**: - The Code has also reinforced that marriage can be concluded if both the man and the woman have attained twenty years of age and marriage contrary to this is regarded as void marriage. [[3]](#footnote-3)
2. **The Act relating to Children, 2018**: In the Act relating to Children, 2018 fundamental rights of children have been ensured in accordance with the basic principles and provisions of the Convention on the Rights of the Child. The Act defines "Children" as persons who have not completed the age of eighteen.[[4]](#footnote-4) To fix, marry or cause to marry a child are considered Offences against the child.[[5]](#footnote-5) For which Section 72 (3) (b) prescribes a fine up to seventy-five thousand rupees and imprisonment for up to three years.
3. GoN has endorsed several international instruments including the Convention on the Rights of Child and its two optional protocols, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which prohibit early marriages and make state responsible to act on addressing the problem.
4. **The National Strategy to End Child Marriage, 2015**, aims to eliminate child marriage by the year 2030.
5. **The National Child Policy, 2012** has a long-term goal of creating an environment in which children of all classes and communities can fully enjoy their rights and develop their personality as capable and deserving citizens in coordination with government agencies, local bodies, parents, teachers and national and international NGOs.[[6]](#footnote-6)
6. **What measures have you adopted to support girls that are already married or in informal unions? Do these measures contribute to:**
7. Ensure their free, active and meaningful participation in decision-making on all issues affecting them, particularly when developing and implementing coordinated responses and strategies to prevent and eliminate child, early and forced marriage?

The Constitution has ensured that no woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on any grounds and any act contrary is punishable with the victim entitled to obtain compensation. Similarly, marital rape is also a punishable offence under the National Penal Code with liability to a sentence of imprisonment for a term not exceeding five years.

There is Domestic Violence (Offence and Punishment) Act, 2009 with an objective to respect the right of every person to live in a secure and dignified life, to prevent and control violence occurring within the family and for matters connected therewith and incidental thereto making such violence punishable, and for providing protection to the victims of violence.

There are no discriminatory provisions affecting married girls in the legislative framework of Nepal as there is equal access to divorce, inheritance and nationality.

1. Protect their economic security and that of their families, including equal access to inheritance and property, social protection, employment and financial services?

Article 38 of the Constitution has ensured every woman equal lineage right without gender discrimination along with the right to participate in all bodies of the State on the basis of the principle of proportional inclusion, the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination, and equal right to property and family affairs.

The Act relating to Children, 2018 has also established a children fund for performing acts such as immediate rescue, relief and rehabilitation, and providing compensation.

1. Support them to maintain and return to education, including technical and vocational education?

Right to education is a fundamental right embodied in the constitution as fundamental right in its Article 31 by providing intent of free and compulsory education to citizens and also Compulsory and Free Education Act, 2018 reflects the legacies of the constitutional provision with new initiatives to address the emerging needs of the country and the people aspirations through reorientation of the education system through institutional and functional reforms. Some of the major features of the Act is outlined as:

Every child in the age group of 4-13 has the right to 'free and compulsory education in a school, till the completion of basic education, i.e. grade eight. Also, every child has the right to 'free' education, till the completion of secondary education, i.e., grade 12.

So this provision can equally be entertained by all the children who falls on the prescribed age and also this provision do not laid any specific grounds in prohibiting to attain the quality education even by the girls and child affected by child early and forced marriage.

1. Ensures their access to health services, including services related to sexual and reproductive health?

Right to safe motherhood and reproductive health is ensured by the Constitution. In line with the Constitution to make motherhood and reproductive health service safe, qualitative, easily available and accessible, the Right to Safe Motherhood and Reproductive Health Act was enacted in 2018 which is in force.

1. Ensure their food and nutrition security, and their access to safe and affordable drinking water?

The GoN is committed to ensure the right to food to every citizen, the right to a clean environment, the rights of consumers and the right to compensation as enshrined in the Constitution as well as achieving national targets along with internationally agreed development goals.

The right to food is guaranteed as a fundamental right by the constitution of Nepal. Article 36 of the Constitution guarantees every citizens, the rights related to food and the right to be safe from a state of being in danger of life from the scarcity of food. Likely, GoN is committed to achieving the zero-hunger goal of SDG by ensuring food and nutrition security for all.

1. **What action do you take to support girls and women affected or at risk of child, early and forced marriage, especially those who have fled such a marriage or whose marriage has dissolved, and to support widowed girls or women who were married as girls?**

National Women Commission, National Human Right Commission, Ministry of Women, Children and senior Citizens, Department of women and children are some of the institutions which are supporting girls and women affected or at risk of child, early and forced marriage.

All tiers of government are conducting special initiatives i.e educational awareness, advocacy, rehabilitation programs and other program which facilitates the participation of the girls and women affected or at risk of CEFM in decision making to support girls and women affected or at risk of child, early and forced marriage.

1. **What measures are in place to facilitate access by girls and women at risk and for already married girls and women to protective mechanisms and services, including legal services, safe accommodation and psychological support?**
2. The Constitution of Nepal provides the right to free legal[[7]](#footnote-7) aid in accordance with law for indigent persons. The Constitution also provides the right to Constitutional Remedies[[8]](#footnote-8) for the enforcement of the rights that are provided as fundamental rights.
3. The Act relating to Children, 2018 ensures the right of child victim and provides the right to get free legal aid and socio-psychological counselling service as required.
4. Domestic Violence (Offence and Punishment) Act, 2009, has provision that the Government of Nepal, as per necessity, may establish Service Centers for the purpose of immediate protection of the Victim, and for the separate accommodation of the Victim during the course of treatment. The Service Centre shall provide, as per necessity, legal aid, psycho-consultation service, psychological Service and economic aid to the Victim.
5. The Crime Victim Protection Act, 2018 has ensured the following rights of a victim in Criminal Justice Process:
* Right to information relating to the judicial proceedings,
* Right to become safe,
* Right to express opinion,
* Right to appoint legal practitioner
* Right to attendance and participation in hearing
* Right to have property returned,
* Right of Compensation and social rehabilitation
1. **What progress is made in gathering data disaggregated by sex/gender, age, geographical location, socio economic status, disabilities, educational level and other factors, in particular on the situation of already married girls and girls in informal unions?**

The National Census is conducted to collect precise and synchronized information on demographic and other parameters. Recently in the year 2078 (2021), National Census has been conducted which gathered data disaggregated by sex/gender, age, geographical location, socio economic status, disabilities, educational level and other factors.

1. **What research have been conducted on married girls, including widow girls and women and whose husbands have left them to fight or seek refuge internally or across borders, or who have been detained or disappeared?**

**-N/A**

1. **Please share any examples of national reports on CEFM submitted to relevant international treaty bodies and the Universal Periodic Review, and national voluntary reviews conducted through the high level political forum on sustainable development?**

**-N/A**

**In the context of Covid-19 pandemic:**

1. **Please share data and evidence on the impact of the COVID-19 pandemic on the trends of child, early and forced marriage.**

**Statistical Analysis of cases of Child Marriage in Nepal (Cases registered in Police)**

**Table 1**

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| Comparative Data of Child Marriage |
| S.N. | Province | FY 075-076 | FY 076-077 | FY 077-078 | Total |
| 1 | Province-1 | 8 | 7 | 13 | 28 |
| 2 | Madhesh Province | 20 | 13 | 12 | 45 |
| 3 | Bagmati Province | 9 | 9 | 9 | 27 |
| 4 | Gandaki Province | 3 | 5 | 8 | 16 |
| 5 | Lumbini Province | 22 | 11 | 10 | 43 |
| 6 | Karnali Province | 18 | 9 | 19 | 46 |
| 7 | Sudurpachim Province | 3 | 5 | 10 | 18 |
| 8 | Metro | 3 | 5 | 3 | 11 |
| **Total** | **86** | **64** | **84** | **234** |

* Table 1 above depicts province wise cases of child marriage registered in police during three fiscal years which covers the pre and post pandemic periods.

**Table 2**

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| **Three-year data of child marriage based on age** |
| FY | Under 10 years | 11- 16 years | 17-18 years | 19-25 years | Total | Grand Total | NO.of case registered |
| Boy | Girl |  Boy | Girl |  Boy | Girl | Woman | Man | Boy | Girl | Woman | Man |
| FY o75-076 | 0 | 0 | 0 | 50 | 0 | 26 | 4 | 3 | 0 | 76 | 4 | 3 | 83 | 86 |
| FY o76-077 | 0 | 0 | 0 | 24 | 0 | 18 | 1 | 0 | 0 | 42 | 1 | 0 | 43 | 64 |
| FY o77-078 | 0 | 0 | 0 | 28 | 0 | 20 | 7 | 0 | 0 | 48 | 7 | 0 | 55 | 84 |
| Total | 0 | 0 | 0 | 102 | 0 | 64 | 12 | 3 | 0 | 166 | 12 | 3 | 181 | 234 |

* Data above in table 2 shows that maximum number of victims of child marriage is girls between the age of 11-16.

**Table 3**

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| **Comparative data of child marriage before and after lockdown** |
| **Before lockdown ( 2076Asbin - Falgun)** | **After lockdown ( 2076 Chaitra - Bhadra)** |
| Crime | October | November | December | January | February | March | **Total** | April | May | June | July | August | September | **Total** |
| Child Marriage | 4 | 5 | 4 | 8 | 13 | 7 | 41 | 3 | 3 | 5 | 4 | 13 | 5 | 33 |

* Table 3 Data shows that comparatively fewer cases of Child Marriage were registered during COVID- 19 pandemic.
1. **What measures are taken to mitigate the impact of Covid-19 on girls and women survivors of CEFM and at risk? For instance, have you continued or enhanced provision of protection and support services for survivors of gender-based violence, and adapted essential health care services, including sexual and reproductive health care services?**

The Government has adopted the following measures to mitigate the impact of Covid-19 pandemic on girls and women survivors of CEFM who are at risk:

* Steering Committee with plan of Action at Federal, Provincial and Local Level has been constituted,
* Ministry of Women, Children and Senior citizens has lead Protection cluster with the coordination and collaboration of other stakeholders,
* National and international non- governmental organizations and civil societies have been mobilized in coordination with local government to response the impact of Covid-19 up to the community level,
* Gender response guideline to response Covid has been formulated,
* Psycho-social counsellors have been mobilized up to the community level and also 24 Hour Toll Free Women Service Cells, Rehabilitation Centers and help lines are in operation,
* Distributing Dignity kits, organizing awareness programs,
* Strong coordination with the related stakeholders to minimize the genderbased violence and even coordinating in case of problems due to Covid-19,
* Awareness Campaign has been launched on Radio, Television, Newspaper and Digital platforms and confidential reporting opportunity for children,
* Recognizing the emerging risk of abuse and exploitation in online platform,
* The Local Level Planning process and disaster prevention and response act has provisioned for children to participate in local level planning process,
* Nepal has taken robust action to end child labor, child slavery and child trafficking by mobilizing National Child Rights Council, Missing Children Alert Helpline (104), Child Helpline (1098) and promoting child labor free municipals,
* The government has implemented several programs and efforts on elimination of harmful traditional practices such as menstrual discrimination, early marriages and others.

**II. A report to the Human Rights Council on progress, gaps and challenges in addressing CEFM and measures to ensure accountability**

1. **Measures implemented to ensure accountability at the community and national levels, including the applicable legal framework, policies and programmes.**

The Act relating to Children, 2018 has incorporated Institutional provisions relating to Rights and Welfare of the Child and has provided for the following:

* National Child Rights Council under the chairpersonship of the Government of Nepal, Minister for Women, Children and Senior Citizens, in order to protect and promote the rights and interests of the child (Section 59).
* Provincial and Local Level Child Right Committee in each province and each local level (Section 60).
* Child welfare authority at the local level (Section 61).

Similarly, Section 64 has provided the authority for enforcement of the rights of child to the local level.

And there are the institutions and mechanism responsible for preventing and responding to abuse and violations of human rights of women and girls (including children in preventing child early and forced marriage) as:

* National Women Commission, (NWC)
* National Human Right Commission, (NHRC)
* Ministry of Women, Children and senior Citizens, (MoWCSC)
* Department of women and children,
* Gender focal point in each Ministry/Agency,
* Social Development Ministries in 7 provinces,
* Gender responsive budget committee in the Ministry of Finance,
* Women and Children Service Directorate in Nepal Police,
* Women and Children Services Centre (WCSC) in Police offices
* Rehabilitation Centers for women and girls victims of trafficking and those affected by trafficking.
1. **The legal consequences of CEFM, including criminal, civil, administrative and other legal consequences, as well as any documented effects, positive or negative, planned or unintended, of the application of the legal framework.**

Same as the response to question 2 of the above stated response to a comprehensive report to the general assembly on progress made towards ending child, early and forced marriage.

1. **Statistical data on the enforcement of legal measures, including, when relevant**,
2. If CEFM is prohibited and/or criminalized, the number of cases prosecuted, who initiated the legal action (prosecutorial authorities, victims or others) and who is prosecuted (children parents other relatives or others); as well as data on the number of cases investigated, and cases that results in a conviction; and

Following table demonstrates the comparative analysis of 3 fiscal year on number of cases registered on gender-based violence depicting the ongoing investigation and the conviction by courts.

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| * **3 years Investigation completed and ongoing Data of Crimes against Gender Based violence**
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| S.N. | Crime | **(2018-2019)****FY 075-076** | **(2019-2020)****FY 076-077** | **(2020-2021)****FY 077-078** | **Total** |
| Total case Registered  | Investigation completed | Investigation ongoing | Total case Registered  | Investigation completed | Investigation ongoing | Total case Registered  | Investigation completed | Investigation ongoing | Total case Registered  |  Investigation completed | Investigation ongoing |
| 1 | Rape | 2230 | 2032 | 198 | 2144 | 1859 | 285 | 2532 | 2214 | 318 | 6906 | 6105 | 801 |
| 2 | Attempt to Rape | 786 | 735 | 51 | 676 | 584 | 92 | 735 | 628 | 107 | 2197 | 1947 | 250 |
| 3 | Polygamy | 1001 | 971 | 30 | 734 | 663 | 71 | 852 | 751 | 101 | 2587 | 2385 | 202 |
| **4** | **Child Marriage** | **86** | **86** | **0** | **64** | **62** | **2** | **84** | **76** | **8** | **234** | **224** | **10** |
| 5 | Witchcraft | 46 | 42 | 4 | 34 | 28 | 6 | 61 | 52 | 9 | 141 | 122 | 19 |
| 6 | Abortion | 27 | 24 | 3 | 29 | 26 | 3 | 27 | 23 | 4 | 83 | 73 | 10 |
| 7 | Untouchability | 43 | 42 | 1 | 31 | 30 | 1 | 39 | 33 | 6 | 113 | 105 | 8 |
| 8 | Child sexual abuse | 211 | 211 | 0 | 232 | 220 | 12 | 281 | 258 | 23 | 724 | 689 | 35 |
| Total | 4430 | 4143 | 287 | 3944 | 3472 | 472 | 4611 | 4035 | 576 | 12985 | 11650 | 1335 |

* Table 4 Data shows that among 234 registered cases of CM, 224 were Convicted by the court in the last 3 fiscal years
1. The number of CEFM annulled and other civil or administrative related procedures.

 - N/A

1. **Concrete measures implemented to ensure the integration of a human right based approach in judicial proceeding against CEFM, including age and gender sensitivity, victim-centered approach, respect of the best interest of the child, considerations of the evolving capacities of children, including adolescents, as well as their rights to be heard.**

In order to support accountability for the rights of women and girls (including children) in **CEFM,** the GoN taken following measures:

1. Nepal police has established a dedicated unit since 1992 at central and operational level to address the cases of vulnerable groups called women, children & senior citizen service centers. Currently 233 service centers are operational throughout the nation.
2. Nepal police has signed MoU with 753 local bodies through Community Police Partnership (CPP) Program to conduct awareness program to control CEFM and other crime against woman, child and senior citizens. In F.Y 2077-78 alone, Nepal Police conducted 695 various awareness programs especially in CM
3. Regular coordination with local bodies and judicial committee to minimize CEFM and other social crime issues.
4. 6136 GBV Control Networks are operational throughout the country which is led by the dedicated police personnel from Women, Children & Senior Citizen Service Centers
5. Integrated outreach programs are also in operation which is found effective in raising awareness on CEFM with stakeholders from various non-government organizations, Judiciary & Public prosecutor
6. 24/7 hotline number **104** for children at risk throughout its units.
7. **The domestic articulation of the right to remedy for victim of CEFM, including concrete measures to guarantee their right to reparations.**

The Constitutional and other legal measures have guaranteed the right to remedy for the victims of CEFM in the ground of Equal Access to justice, Adequate, effective and prompt reparation for harmed suffered, right to know the information about the investigations and proceeding of the case.

Similarly, Article 21 of the Constitution explicitly defines the redress and reparation for the victim of gross violation of human rights. The victim participation in the proceedings with protective special measures and substantive remedies to victims, including compensation, rehabilitation and reintegration is the core intent of the Article.

The Victims of Crime Protection Act, 2018 provides safeguard against attack, damage, fears, intimidation, or threat by the suspect, accused, offender, or person related to him or her or the witness of the accused against the victim or close relative and person dependent on the victim.

1. **Any examples, good practices or lessons learnt on the use of strategic litigation related to CEFM and the impact of such initiatives.**

Good practices that deemed to maintain the confidentiality and right of the victims of crime by the legislative frameworks are:

Sub section (1) of Section 183 of the National Criminal Procedure Code, 2017 ensures maintaining the confidentiality of the victims of a crime by stating: if the investigating authority thinks that the disclosure of the identity of a person who is a victim or witness of any particular offence may be prejudicial to the social prestige or honor of such person or witness or may result in undue fear, terror or fright by the accused or other party or be prejudicial to his or her body or life, the authority may request the court, through the government attorney, that the name, surname, address of such person or witness or the name of his or her father or any other description which may disclose his or her identity be kept secret. If a request is made before the court, for keeping the identity secret, the court may order that the name, surname and address of such victim or witness and his or her father's name or his or her identity be kept secret; to make the disclosure under the fake name, surname, address or father's name, at the time of hearing the concerned case or publishing details.

The Procedural Guidelines for Protecting the Privacy of the Parties in the Proceedings of Special Types of Cases, 2007 provide for maintaining confidentiality including code names of victims and in-camera hearing of the cases involving women such as rape, abortion, sexual abuse, trafficking in human beings, incest and violence against women.

1. **Any examples, good practices or lesson learnt on the use of international and regional human rights protection mechanisms in relation to CEFM, including efforts made to include information on CEFM in the reporting to such mechanisms**.

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1. **Any examples, good practices and lessons learnt by national human rights institution to enhance State accountability for preventing and responding to CEFM.**
* The Constitutional bodies, such as National Human Right Commission, National Women Commission, National Dalit Commission, National Inclusion Commission, Indigenous Nationalities Commission, Madhesi Commission, Muslim Commission and Tharu Commission are mandated for the protection and promotion of human rights including those of women and girls. The NHRC has the power to inquire and investigate any complaint of human rights violation ad make a recommendation for action against the perpetrators including compensation to the victims.
* The MoWCSC is responsible for formulation of policies and laws concerning gender equality and women and children rights and monitors implementation of plans of actions developed in this regard. Nepal Police has established gender-based violence information management system to collect nationwide data on cases of violence against women and girl including children. The system maintains data of all cases reported to the police system.
* NWC keeps record of cases on violence against women reported to the Commission and refers it to the police as required. The NWC has run a 24 hours Helpline “Khabar Garau 1145” (Lets Inform 1145), which is the GBV Helpline that provides integrated services from one platform that includes shelter, psychological services, children related services and legal aid.
* The Women and Social Committee, a Parliamentary oversight mechanism, monitors and evaluate the work done by the GoN related to women and children and gives necessary opinion and direction for proper functioning.
1. **Budgetary implication for the state for all measures related to CEFM and the design of gender and age sensitive budgeting and expenditure to prevent and respond to CEFM.**

**-N/A**

1. **Methodologies and approaches used by State to measures progress in the eradication of CEFM, including in line with relevant Sustainable Development Goals indicators.**

The GoN have been taking various initiatives to strengthen preventive intervention in protecting the girls and child from CEFM. All tiers of Government have been carrying out different policy framework to eradicate child marriage by every means possible.

**Efforts made by GoN to address CEFM**

1. National Strategy, 2015 to end child marriage till 2030,
2. Regional Action Plan to end child marriage in south Asia (2015-2018),
3. Local Government Operation Act, 2074 section 12 directed local bodies to end child marriage,
4. Kathmandu call for action to end child marriage in South Asia is accepted and implemented by Nepalese Government,
5. National Action Plan (2076-2077).
1. National Penal Code (2017), section 171. [↑](#footnote-ref-1)
2. National Penal Code (2017), section 173. [↑](#footnote-ref-2)
3. National Civil Code (2017), section 72 (1)(c). [↑](#footnote-ref-3)
4. The Act relating to Children, 2018, Section 1 (2) (j) [↑](#footnote-ref-4)
5. The Act relating to Children, 2018, Section 66 (2) (o) [↑](#footnote-ref-5)
6. https://ncrc.gov.np/uploads/topics/16439517325633.pdf [↑](#footnote-ref-6)
7. Article 20 (10). [↑](#footnote-ref-7)
8. Article 46. [↑](#footnote-ref-8)