



## Suggested recommendations to Nepal considered in the 23<sup>rd</sup> round of the Universal Periodic Review, 4 November 2015

The following recommendations were made in a submission prepared by Amnesty International for the Universal Periodic Review (UPR) of Nepal in November 2015. In the submission, Amnesty International evaluated the implementation of recommendations made in the previous cycle of the UPR, examined the situation of human rights on the ground and made recommendations to the Government of Nepal on how to address some of the major human rights challenges in the country. The full submission can be found here: <https://www.amnesty.org/en/documents/asa31/2182/2015/en/>

### Recommendations to the Government of Nepal:

#### *International and regional human rights standards*

- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures;
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and subsequently establish an independent and effective National Preventive Mechanism as set out by the Optional Protocol.

#### *Arms Trade Treaty*

- Ratify and implement the Arms Trade Treaty without delay, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, prohibiting the transfer of arms that could be used to commit or facilitate serious violations of international human rights law and international humanitarian law.

#### *National human rights framework*

- Ensure that the new Constitution provides for protection of human rights in a manner fully consistent with international human rights law and standards.

#### *Impunity for human rights violations*

- Investigate all allegations of crimes under international law or human rights violations, both past and present, and, where there is sufficient evidence, prosecute those suspected of committing the crimes before competent, independent and impartial civilian courts, in accordance with international standards;
- Ensure that victims can access effective remedies before the courts, including full and effective reparation;
- Bring the Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act 2014 in line with international law before the Commissioners commence work, including by removing time limits that could inhibit the filing of complaints, ensuring witness protection, and removing provisions that could lead to amnesties being granted to persons suspected of committing crimes under international law;
- Reform the vetting process and reassess current members of the Nepal Army, including those participating in UN peacekeeping missions, to ensure that they are not and have not in the past been implicated in serious human rights violations;
- Accede to the Rome Statute of the International Criminal Court, to implement it in national law, and to ensure that crimes under international law cannot be committed with impunity;

- Accede to the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation.

*Criminal justice and legal reform*

- Introduce new legislation providing appropriate criminal penalties for acts of torture and other ill-treatment;
- Withdraw powers from district-level authorities that permit arbitrary detention.

*Role of national statutory bodies in the protection of human rights*

- Ensure the effective functioning of the National Human Rights Commission of Nepal in accordance with the Paris Principles, in particular by including guarantees in the appointments process to ensure the adequate representation of civilian society involved in the protection and promotion of human rights.

*Enforced disappearances*

- Adhere to the International Convention for the Protection of All Persons from Enforced Disappearance, making the declarations set out in Articles 31 and 32 (recognition of the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims and from other states parties), and to implement it in national law.

*Cooperation with international human rights mechanisms*

- Accept the repeated requests to visit Nepal by the UN Working Group on enforced or involuntary disappearances, the Special Rapporteur on human rights defenders and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and cooperate fully with the mandate holders;
- Extend a standing invitation to UN Special Procedures;
- Submit overdue reports under the International Convention on the Elimination of All Forms of Racial Discrimination and Convention on the Elimination of All Forms of Discrimination against Women.

*Extrajudicial and summary executions*

- Ensure prompt, impartial, independent and effective investigations into all cases of willful killings and that all those suspected of being responsible, irrespective of rank, are brought to justice in trials before ordinary civilian courts that meet international standards of fairness.

*Excessive use of force by police*

- Take all necessary measures to ensure that the police comply with international standards on the use of force, in particular Principle 5 of the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* which states that police officers must exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- Ensure prompt, impartial, independent and effective investigations into all cases of excessive use of force by the police, including killings and beatings during protests.

*Restrictions on freedom of assembly*

- Ensure that the right to freedom of assembly is protected and remove all restrictions placed on the right to peaceful protest;
- Take immediate measures to end the practice of excessive use of force and violence by state forces against the members of the Tibetan and Madhesi communities and others exercising their rights to freedom of expression, association and peaceful assembly.

*Arbitrary detention*

- Ensure that no person is arrested for peacefully exercising their right to freedom of expression, association or assembly and that all arrests are carried out in accordance with the law and in

line with international human rights standards;

- Rescind or reform the Public Security Act so as to remove powers to detain persons in “preventive detention” without charge or trial.

#### *Discrimination*

- Adopt a regulatory framework for the Caste and Untouchability Act and ensure its effective implementation;
- Investigate caste-based violence and, where sufficient admissible evidence exists, prosecute those suspected of such crimes;
- Put in place a comprehensive strategy, with concrete goals and timelines, to eliminate patriarchal attitudes and stereotypes that discriminate against women and girls, in line with the 2011 concluding observations of the CEDAW Committee on Nepal;
- Ensure against all forms of discrimination in access to all relief supplies in the post-earthquake reconstruction effort, participation in decisions on reconstruction, and access to effective remedies where human rights violations have occurred.

#### *Violence against women and girls*

- Ensure that police provide a safe and confidential environment for women and girls to report incidents of violence, including sexual violence, and that all such complaints are recorded and promptly, impartially and effectively investigated;
- Bring rape laws in line with international standards and remove the 35-day limitation on lodging a complaint of rape with the police.

#### *Human rights defenders*

- Respect and protect the right of human rights defenders, especially women human rights defenders, to conduct their work without hindrance, intimidation or harassment in line with the UN Declaration on Human Rights Defenders.

#### *Gender discrimination and uterine prolapse*

- Establish a comprehensive strategy to prevent uterine prolapse, including steps to ensure that women and girls know and understand their rights and to address the underlying gender discrimination to enable women and girls to take control over their lives and make reproductive choices.

#### *Migration-related human rights abuses*

- Investigate government officials and civilians complicit in forging documents for the purposes of migrant work by children under 16 and to initiate a more rigorous system of screening minors requesting passports.

#### *Trafficking in persons*

- Ratify and implement the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Include trafficking in persons and related offences as crimes in the Criminal Code and ensure that the legal definition of trafficking is in line with international standards;
- Thoroughly investigate trafficking-related offences and, where there is sufficient admissible evidence, prosecute those suspected of the crimes in fair trials;
- Take all necessary measures to prevent incidents of trafficking, particularly in the post-earthquake situation.

#### *Human rights protection in the post-earthquake situation*

- Ensure those who need relief continue to receive it, particularly the most marginalized communities;
- Protect and promote all human rights of those affected by the earthquake, including

marginalized groups, including the rights to adequate housing, livelihood, recognition under law, health, food, water and sanitation, education, information, and freedom of movement, including protection against forced relocation of displaced persons.

*Torture and other ill-treatment*

- To ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;
- To end the practice of incommunicado detention;
- To establish independent procedures to ensure that all allegations of torture or other ill-treatment by state officials are investigated promptly, thoroughly, impartially and independently; that any officials responsible for torture or other ill-treatment, including those who instigate, order, inflict or acquiesce to it, are held to account; and that any persons subjected to torture or other ill-treatment have the right to remedy and reparations, including appropriate compensation.