

Submission of Universal Periodic Review of Nepal

37th session of the UPR Working Group

Freedom of Religion or Belief and Kurities (Harmful
Traditional Practices) in Nepal

Submitted by: **Society for Humanism Nepal (SOCH
Nepal)**

GPO Box. 670, Kathmandu, Nepal

www.sochnepal.org

sochnepal@gmail.com

+977 1 4484777

I. About SOCH Nepal

- (1) Society for Humanism Nepal (SOCH Nepal) is the only humanist civil society organization campaigning for the rights of humanists, atheists and other non-religious individuals in Nepal. It works on the issues of freedom of religion or belief, tolerance, interfaith dialogue, untouchability, governance and livelihood in Nepal. SOCH Nepal is a philosophic as well as activist organization in Nepal. SOCH Nepal was established in 2006 by humanists and like minded people of Nepal from different backgrounds.
- (2) SOCH Nepal is also a member of Humanists International, which is the global representative body of the humanist movement. Humanists International unites a diversity of non-religious organisations and individuals. Their aim is to achieve a world where everyone can live a life of dignity, where universal human rights are respected and protected, and where states uphold secularism. Humanists International holds Special Consultative Status at the United Nations in Geneva, Vienna, and New York (including General Consultative Status at UNICEF); observer status at the African Commission on Human and Peoples' Rights; General Consultative Status at the Council of Europe, and is a partner in human rights with UNESCO.

II. Executive summary

- (3) In Nepal, various traditional and cultural practices, known as 'kuriti', are carried out in violation of fundamental human rights. Kuriti are regarded by many as "holy" matters, forming part of the identity of a particular society. Being perceived as a vital part of Nepalese culture, they often go unquestioned within Nepali society, despite their brutal and degrading character and the grave suffering they cause.
- (4) Violence resulting from kuriti is one of the major social problems of Nepal. The victims are mainly members of marginalized groups, such as women, children, 'untouchables' (according to the "caste" system) and other economically deprived members of society.
- (5) The Nepalese Ministry of Women, Children and Social Welfare has identified fifty-seven kuriti in Nepal. These include the persecution of individuals accused of practicing witchcraft (*Boksi Pratha*), child marriage, forcing women to stay in a tiny hut far from their own house during the time of their menstruation (*Chhaupadi Pratha*) and the offering of a girl child to a Hindu temple (*Deuki Pratha*).
- (6) Although Nepal has been declared as a secular country by its constitution, the State still grants special privileges to the 'old age religions' and drastically favours Hinduism in public policy.¹ The Nepalese government funds Hindu temples and ceremonies from a federal to local level, whereas very little in comparison is spent on Buddhist and Muslim causes, and there is no public spending in place for other religions or non-religious groups.

¹ Humanists International, *Freedom Of Thought Report: Nepal*, 15 October 2018, available at: <https://fot.humanists.international/countries/asia-southern-asia/nepal/>

III. The existing legal framework

- (7) The Constitution of Nepal guarantees the right of all Nepalese people to live a dignified life with access to fundamental human rights. It also affirms the right to equality and prohibits any kind of discrimination within Nepalese society and guarantees the fundamental rights of Nepalese women.
- (8) The National Code of Nepal (the Muluki Ain 2020) prohibits any kind of discrimination such as on the grounds of caste, religion, gender, ethnicity and so forth. In 2018, the Caste-based Discrimination and Untouchability (Offence and Punishment) Act specifically criminalized untouchability, exclusion, and restriction on the basis of caste.
- (9) Nepal has ratified a number of treaties relevant to its obligations to prevent and punish acts of kuriti. Nepal has ratified the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.
- (10) There is also domestic legislation in place that purports to end certain forms of harmful traditional practices. This includes the Witchcraft Allegation (Offense and Punishment) Act 2016, the law against dowry in the Social Practices (Reform) Act, 1976 and the law against child marriage in the National Code, Chapter on Marriage.² In August 2018, a law criminalising *chhaupadi* was passed by the Nepali parliament.³
- (11) However, effective implementation remains a challenge. This was recognised by the CEDAW in its 2018 Concluding Observations when it expressed strong concerns that:

“notwithstanding the criminalization of many harmful practices, *chhaupadi* (isolating menstruating women and girls), child marriage, dowry, son preference, polygamy, discrimination against widows, accusations of witchcraft, discrimination against Dalit and indigenous women and girls, *jhuma* (offering young girls to Buddhist monasteries to perform religious functions), *deuki* (offering girls to deities to fulfil religious obligations) and *dhan-khaane* (parents receiving money for the solemnization of the marriage of their children) remain persistent.”⁴

² International Federation of the Red Cross, *Nepal Country Case Study, Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters*, 2017, available at https://redcross.eu/uploads/files/Positions/Humanitarian%20aid/SGBV%20in%20disasters/Gender%20SGBV%20Report_%20Nepal%20HR.pdf

³ Foreign Policy, *In Nepal, Tradition Is Killing Women*, 6 January 2019, available at <https://foreignpolicy.com/2019/01/06/in-nepal-tradition-is-killing-women-chhaupadi-womens-rights-menstruation/>

⁴ Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Nepal, 14 November 2018, UN doc no. CEDAW/C/NPL/CO/6.

- (12) In addition, during its second Universal Periodic Review in 2015, Nepal accepted the following recommendations, amongst others:
- (a) 123.7 [To] adopt a bill criminalizing harmful cultural practices, and abolish child, early and enforced marriage (Sierra Leone);
 - (b) 123.17. Strengthen its efforts to effectively implement existing laws and policies to eliminate all forms of discrimination (Thailand); and
 - (c) 123.24. Maintain its resolve to eliminate harmful practices against women and children (Egypt).⁵

IV. Prevalence of kuriti in Nepal

Overview

- (13) SOCH Nepal is one of the few organisations in Nepal committed to monitoring and recording instances of kuriti. Data collected by SOCH Nepal demonstrates that many forms of kuriti remain prevalent in Nepal despite efforts to legislate it away.
- (14) SOCH Nepal estimates that at least **1,860** people are affected by kuriti in Nepal annually. In 2019 alone, SOCH Nepal recorded: **603** cases of girls forced into child marriage, **459** cases of untouchability, **125** cases of *chaupadi* (isolating menstruating women and girls), at least **3** cases of *deuki* (offering girls to deities to fulfil religious obligations), and at least **12** cases of torture of women in the name of witch-hunting. The gravest kuriti in Nepali society is 'human sacrifice'. In 2019, **1** 'virgin girl' was set for sacrifice, fortunately police could rescue her just some hours before she was set to be sacrificed

Caste discrimination

- (15) SOCH Nepal also draws on the 2020 report of the UN body Relief Web on harmful practices in Nepal. This survey found that caste-based discrimination remains extremely common, with 97 percent of respondents stating that discrimination based on caste occurred in their communities and nearly 50 percent of respondents stating that Dalits would not be allowed into the houses of non-Dalits in their communities.⁶
- (16) Untouchability remains deeply embedded in Nepal despite Nepal's frequent commitment to eliminate it in international platforms. Inter-caste marriages and relationships are frequently punished by the community. As an example, 18 year old Nabaraj BK had to lose his life for the crime of loving a so-called high caste girl from the

⁵ Human Rights Council, Report of the Working Group on the Universal Periodic Review, 6 November 2015, UN doc no. A/HRC/WG.6/23/L.6.

⁶ UN Relief Web, *Harmful practices in Nepal: Report on Community Perceptions*, January 2020, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/HP_perception_survey.pdf

same village.⁷ State and the elected MPs from that village appeared to be against the families of 'untouchables' or Dalits.

- (17) Nepal Monitor, a Nepali human rights organization, has recorded 27 incidents of caste-based discrimination or violence in 2020, although Dalit activists say that the vast majority of cases go unreported, and very few result in official action. Although Nepal's 2015 constitution established a National Dalit Commission to promote the rights of the Dalit community, the Commission has remained toothless as the government has not appointed any commissioners.⁸

Chhaupadi

- (18) In Nepal, attitudes and beliefs about menstruation place severe restrictions on women and girls, as menstrual blood is seen as a source of pollution. Deeply rooted in culture and religion, these restrictions stem from a desire to avoid 'impurity' that originates from the Hindu religion. Of the different forms of menstrual restrictions in Nepal, *chhaupadi* is the most extreme form. *Chhaupadi* is a form of menstrual exile where women and girls sleep in small huts (chhaugoth) or animal sheds during menstruation and immediately after child birth.
- (19) Temperatures in Nepal can fall below zero degrees Celsius in winter, but women are still forced to sleep in outdoor sheds that are often poorly insulated and unheated. Every year, there are reports of women dying from the practice. In January 2019, Amba Bohora, a 35-year-old Nepali mother and her sons, aged 9 and 12, died of smoke inhalation while living in their menstrual hut.⁹ In February 2019, 21-year old Parwati Bogati died from suffocation and smoke inhalation after lighting a fire to stay warm.¹⁰
- (20) The 2020 Relief Web survey found that, of the 1,043 respondents who reported the practice of *chhaupadi* in their community, 80 percent reported the practice *chhaupadi* taking place within their own families. Continuance of the practice was explained by tradition (89 percent), fear of polluting local deities (84 percent), and community rules (61 percent).

Child marriage and Deuki Pratha

- (21) Despite being illegal since 1963, according to UNICEF Nepal still has the 17th highest prevalence rate of child marriage in the world. The practice is driven by a complex web of factors, but key among them is gender discrimination, especially when combined with poverty. Discriminatory social norms mean that girls are often seen as a

⁷ Kathmandu Post, *One more body recovered from the Bheri River on Monday*, 26 May 2020, available at <https://kathmandupost.com/national/2020/05/26/one-more-body-recovered-from-the-bheri-river-on-monday>

⁸ Human Rights Watch, *Nepal: Ensure Justice for Caste-Based Killings*, 1 June 2020, available at: <https://www.hrw.org/news/2020/06/01/nepal-ensure-justice-caste-based-killings>

⁹ BBC News, *Nepal woman and children die in banned 'menstruation hut'*, 10 January 2019, available at <https://www.bbc.com/news/world-asia-46823289>

¹⁰ BBC News, *Nepal woman suffocates in banned 'menstruation hut'*, 4 February 2019, available at <https://www.bbc.co.uk/news/world-asia-47112769>

“burden” to be unloaded as early as possible through marriage. Traditional beliefs and social pressures also encourage child marriage. In some communities it is believed that women will go to heaven if they marry before their first period.¹¹

- (22) *Deuki Pratha* is an ancient custom practiced in a rural western part of Nepal, where a young girl is offered to the local temple. Though the practice is in decline, there are still reports of girls being offered as deukis. Girls who are abandoned by their families to become deukis are deprived of educational and economic opportunities, and many deukis are forced to turn to sex work for survival.¹²

Boksi Pratha (witchcraft accusations)

- (23) Enforcement of the Anti-Witchcraft Allegation Act 2016 remains weak. Witchcraft accusations are a form of gender-based violence, as the vast majority of persons who are accused of being witches in Nepal are women, especially those who are poor or who are said to belong to a lower caste.
- (24) Belief in witchcraft is not tied to a particular religion, but stems from deeply rooted, culturally constructed beliefs. The survival of such beliefs to this day is attributable to factors such as enduring poverty and lack of access to education and healthcare. Recently, concerns have been raised regarding the instrumentalisation of witchcraft accusations for financial gain, to enable individuals to seize property and land.¹³
- (25) Upon being accused of witchcraft, a person may face extreme forms of physical and psychosocial violence imposed by other members of the community or members of their own family. Frequently these crimes go unreported by the media and unmonitored by official bodies.¹⁴
- (26) In August 2019, a 35-year-old woman was branded as a 'witch'. She suffered beatings and was forced to eat human excreta by her tormentors;¹⁵ and in November 2018, a 73-year-old single woman was thrashed and force-fed human excrement by a group of

¹¹ Human Rights Watch, *Child Marriage in Nepal*, 8 September 2016, available at

<https://www.hrw.org/report/2016/09/09/our-time-sing-and-play/child-marriage-nepal#>

¹² Global Press Journal, *Women Sacrificed to Gods Struggle to Rehabilitate, Deuki Tradition Wanes in Nepal* 10 September 2012, available at

<https://globalpressjournal.com/asia/nepal/women-sacrificed-to-gods-struggle-to-rehabilitate-deuki-tradition-wanes-in-nepal/>

¹³ Ugnè Grigaitė, *Witchcraft Accusation and Persecution of Women in Nepal*, 2018, available at

http://www.vbplatforma.org/uploaded_files/articles/Nepal%20WAP%20Report.pdf

¹⁴ UN Relief Web, *Harmful practices in Nepal: Report on Community Perceptions*, January 2020, available at:

https://reliefweb.int/sites/reliefweb.int/files/resources/HP_perception_survey.pdf

¹⁵ Mirror Now News, *Woman force-fed human excreta after being branded as 'witch' in Nepal*, 18 August 2019, available at:

<https://www.timesnownews.com/mirror-now/crime/article/woman-force-fed-human-excreta-after-being-branded-as-witch-in-nepal/471207>

men led by a Nepal Army officer, after three local shamans accused her of being the village witch.¹⁶

V. Recommendations

SOCH Nepal respectfully requests that the UPR Working Group and the Human Rights Council urge the Government of Nepal to implement the following recommendations.

- (27) Nepal should uphold the secular values enshrined in the constitution. Public funds spent on establishing temples and conducting religious ceremonies should be applied towards secular causes which are to the benefit of the entire population, such as education, health and economic growth.**
- (28) Despite constitutional and legal safeguards, evidence shows that kuriti is still prevalent in many regions. Nepal should prioritise efforts to effectively implement legislation and fight impunity for kuriti offences. As part of this, Nepal should establish a national commission and appoint commissioners whose role will be to monitor kuriti offences and develop and implement a strategy to eradicate kuriti.**
- (29) Information campaigns must be implemented in order to educate and mobilise public opinion against harmful traditional and cultural practices and caste discrimination. Health and education practitioners, law enforcement agencies and the judiciary should receive training on the negative implications of kuriti on health, well-being and human rights. They also should be legally obliged to report kuriti when they come across them.**
- (30) All states have the obligation to exercise due diligence to prevent, investigate and punish acts of violence against women, children and minorities. Nepal should ensure that those who have suffered torture, or other cruel, inhuman or degrading treatment as a consequence of kuriti are granted compensation and any necessary rehabilitation services.**

¹⁶Kathmandu Post, *Woman, 73, tortured over witchcraft allegation*, 20 November 2018, <https://kathmandupost.com/national/2018/11/19/woman-73-beaten-fed-feces-on-witchcraft-charges-in-dhading>