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July 27, 2021

Prime Minister Sher Bahadur Deuba
Office of the Prime Minister and Council of Ministers
Singhadurbar
Kathmandu, Nepal

Re: Human Rights Issues in Nepal

Dear Prime Minister Deuba,

Congratulations on becoming prime minister. As you once again assume government leadership, we are writing on behalf of Human Rights Watch to draw your attention to some of the many urgent human rights challenges facing Nepal, and urge you to use your time in office to create a legacy of positive change.

Human Rights Watch is an independent non-governmental organization that works in over 90 countries around the world, including the United States, India, and China. We have worked on human rights in Nepal for several decades, on issues ranging from abuses by all sides during the armed conflict, to LGBT rights, child marriage, and the protection of people with disabilities.

In particular, we wanted to draw your attention to the following issues:

Responding to the Covid-19 emergency: Nepal has been severely affected by the Covid-19 pandemic, which is causing great loss and suffering throughout the world. There remain severe gaps in protecting the right to health, livelihood, and education for children during the pandemic. After decades of progress in reducing maternal and neonatal deaths, there has been a substantial drop in the number of births at health facilities that are overstretched by the pandemic.¹ This has been accompanied by increases in neonatal deaths, still births, and pre-term births. Although the overall situation has partly eased since the recent peak of infections in May, the pandemic has not ended, vaccination rates remain limited, and there may be further major waves of infection in Nepal. We urge your government to take steps now to prepare for possible future largescale outbreaks. Your government should also take measures

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to support those that have lost their income, including migrant workers. It should make every effort to ensure that children continue their education and do not drop out because of economic hardship or because they cannot access online classes.

Your government should carry out a national “back to school” campaign to persuade communities and children who have been out of school—either due to the pandemic or other reasons—to return to school as soon as it is safe to do so. Efforts should focus on marginalized children at greatest risk of not returning to education, including girls. Measures addressing economic hardship and barriers to education are also key to continue progress and avoid increases in child marriage.ⁱⁱ

Transitional Justice: The Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) were established six years ago, but despite receiving over 60,000 complaints from victims and their families, they have made almost no apparent progress. Previous governments have promised to bring the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act (2014) into conformity with international law as directed by the Supreme Court but have failed to do so,ⁱⁱⁱ resulting in a situation where the United Nations and international community do not support these commissions.^{iv}

One of your first acts in government was to renew the terms of the current commissioners for another year,^v ignoring the calls of victims’ groups and Nepali civil society, which long ago lost confidence in the process. We call upon your government to revise the transitional justice legislation in line with Supreme Court rulings and following meaningful and transparent consultations with victims’ groups.

We are particularly concerned about the lack of outreach and interim relief to survivors of sexual violence during the conflict.^{vi} Although previous governments have acknowledged that sexual violence occurred during the conflict, little has been done to redress these abuses through accountability of perpetrators or reparations. Survivors dealing with the long-term impacts of the violence remain—in many cases—completely abandoned and ignored.

We call upon your government to drop the position, put forward by previous administrations, that the regular courts cannot hear conflict era cases due to the existence of a supposed transitional justice process. In fact, no meaningful or credible transitional justice process does exist. This continuing obstruction of justice is a breach of Nepal’s obligations under international human rights law. If justice continues to be denied in

Nepal, alleged perpetrators can face prosecution abroad under the principle of universal jurisdiction.

Uphold the rule of law: A sad consequence of the lack of accountability for conflict era abuses has been to entrench a general culture of impunity in post-conflict Nepal, undermining citizens' enjoyment of fundamental human rights and weakening the rule of law.

Numerous instances of custodial torture and deaths, alleged extra-judicial executions by the police, and deaths resulting from the excessive use of lethal force against protestors, have gone uninvestigated and unpunished in recent years. In some cases, the police have refused to register first information reports (FIRs).^{vii} On January 3 2021, the then government was obliged to respond to a communication from United Nations human rights experts with the claim that “[i]t is explicit and obvious that extrajudicial killing in any form and manner is categorically outlawed by Nepal.”^{viii} However, there are in fact very few, if any, instances of such crimes being credibly investigated much less punished in Nepal.

In a separate response to UN experts on February 10, 2021, the then government acknowledged that an investigation had concluded three police officers were responsible for the killing of a young Dalit man, Bijay Mahara, in police custody in Rautahat district on August 15, 2020.^{ix} However, according to officials, “all three accused are absconding and at large”. We urge your government to actively seek to arrest and prosecute these three police officers, as well as other officers implicated in abuses. In October 2020, the National Human Rights Commission concluded that five officers were responsible for the extrajudicial killing of two men, Gopal Tamang and Ajay Tamang, in 2018.^x On July 22, one of those officers, Dipendra Chand, was promoted to the rank of inspector.^{xi} His promotion should be suspended pending a thorough criminal investigation of the alleged extra-judicial killings.

Recent attacks on Dalits, including killings, show that caste-based violence and discrimination is rarely investigated or prosecuted, despite the adoption of the Caste-based Discrimination and Untouchability (Crime and Punishment) Act ten years ago. In particular, we urge your government to ensure proper prosecution of perpetrators, including elected local government representatives, for their role in the May 23, 2020, death of a 12-year-old Dalit girl, a day after she was forced to marry her alleged rapist, and the killing of five men in Rukum West district, after a young Dalit man arrived to marry his girlfriend from another caste.

In 2015, violence in the Terai region cost the lives of over 60 people, including police, protesters, and bystanders. Human Rights Watch^{xii} and other organizations found evidence of serious human rights abuses by government security forces deployed to curb protests, as well as evidence of lethal violence by some protestors. The then government established an independent high-level commission of inquiry into these events. But, while the commission submitted its report in December 2017, it is yet to have been made public despite repeated promises to do so.^{xiii} We urge you to make the report public and instruct the relevant authorities to act on its recommendations, including follow-up investigations and prosecutions of people allegedly responsible for serious crimes irrespective of their political or institutional affiliation.

Protect the independence of constitutional bodies: On April 19, 2021, five UN experts wrote to the government raising concerns that recent appointments to the National Human Rights Commission (NHRC) are in breach of the Paris Principles, the international standards for maintaining the independence of national human rights institutions.^{xiv} The same process was used to make appointments to other constitutional bodies, including the Election Commission. It has subsequently been reported that the Global Alliance of National Human Rights Institutions (GANHRI) will review the current ‘A’ status of the NHRC.^{xv} Your government should reverse these appointments and comply with international standards.

On October 15, 2020, the previous National Human Rights Commissions published 20 years of data, naming 286 people, mostly police officials, military personnel, and former Maoist insurgents, as suspects in serious crimes.^{xvi} In particular, the information relates to cases where its investigators concluded there is evidence warranting investigation and prosecution for abuses including torture, enforced disappearance, and extrajudicial killing. We urge that you instruct the attorney general’s office to pursue these cases.

Respect the full citizenship rights of all Nepalis: Due to flawed citizenship laws, an estimated 5 million people are forced to live without citizenship and are at risk of statelessness.^{xvii} In particular, Nepal’s 2006 Citizenship Act, as well as the 2015 constitution, contain provisions that discriminate against women. A draft citizenship bill, which passed the parliamentary committee stage last year, retains several discriminatory provisions. In September 2020, three UN human rights experts wrote to the government raising concerns that “the bill would continue to discriminate systematically against women, regarding their ability to transmit citizenship through marriage and to their children.”^{xviii} The bill also contains a clause that would require transgender people to provide “proof” of their transition to access citizenship documents according to their gender identity—which violates international human rights law and the 2007 Nepal

Supreme Court judgment in *Pant v. Nepal*, which mandated gender identity be recognized based on “self-feeling.” Your government should ensure that all Nepalis enjoy equal and full citizenship rights regardless of gender, caste, or ethnicity.

The rights of children: Nepal has been working towards ending child marriage, but progress has been slow. Nepal has the third highest rate of child marriage in Asia, with 37 percent of girls marrying before 18 years, and 10 percent below 15 years. An estimated 11 percent of boys marry before the age of 15. Human Rights Watch’s interviews with victims of child marriage, the majority of whom were from Dalit or indigenous groups, revealed that government officers often turned a blind eye to child marriages.^{xix} There are reports from around the world that early marriages have increased during the pandemic, and we request that your government take immediate steps to prevent child marriage.

Nepal has made rapid progress in reducing child labor, but the unprecedented economic impact of the Covid-19 pandemic, together with school closures and inadequate government assistance, is pushing children back into exploitative and dangerous child labor.^{xx} Nepal’s Child Grant program provides important support to families with children aged under 5, but does not reach families with school-age children. Nepal should ensure all children benefit from adequate social security, helping to keep them in school and out of work, including through the progressive introduction of universal child allowances for all families with children.^{xxi}

In 2018, the Committee on the Elimination of Discrimination Against Women recommended^{xxii} that Nepal endorse the Safe Schools Declaration.^{xxiii} Nepal should build on its pioneering 2011 declaration of all schools as a “Zone of Peace” by joining the 110 other countries that have endorsed this international commitment.

Refugee Rights: Over the last several years, Nepal has imposed increased restrictions on Tibetans living in the country, due to strong pressure from China.^{xxiv} Your government should accept Tibetans who flee persecution as refugees, by honoring the so-called “gentleman’s agreement” which allows their onward passage to India, and by issuing refugee cards to earlier refugees many of whom have lived in Nepal for decades. Your government should not restrict the freedom of religion or rights to peaceful assembly, expression, and association of Tibetans in Nepal.

Nepal is a member of the United Nations Human Rights Council as a voting member, and should uphold the highest standards of international law, both internally and towards member states who appear before the Council.

We look forward to working with your government on these issues.

Yours sincerely,

Meenakshi Ganguly
South Asia Director
Human Rights Watch

ⁱ Meenakshi Ganguly, “Nepal Health Facility Births Decline by Half During Covid-19 Lockdown: Study,” Human Rights Watch dispatch, August 18, 2020, <https://www.hrw.org/news/2020/08/18/nepal-health-facility-births-decline-half-during-covid-19-lockdown-study>.

ⁱⁱ Bhadra Sharma and Jeffrey Gettleman, “In Nepal and Across the World, Child Marriage Is Rising,” *The New York Times*, March 8, 2021, <https://www.nytimes.com/2021/03/08/world/asia/child-marriage-nepal-covid19.html> (accessed July 27, 2021); “Nepal: Child Marriage Threatens Girls’ Futures,” Human Rights Watch news release, September 8, 2016, <https://www.hrw.org/news/2016/09/08/nepal-child-marriage-threatens-girls-futures>.

ⁱⁱⁱ Amnesty International, the International Commission of Jurists, and Human Rights Watch, “Nepal: Transitional Justice Proving Elusive,” February 13, 2018, <https://www.hrw.org/news/2018/02/13/nepal-transitional-justice-proving-elusive>.

^{iv} Office of the High Commissioner for Human Rights, “Nepal: OHCHR position on UN support to the Commission on Investigation of Disappeared Persons and the Truth and Reconciliation Commission,” February 16, 2016, https://www.ohchr.org/Documents/Countries/NP/Nepal_UN%20osition_supportTRC_COIDP_Feb2016.pdf (accessed July 27, 2021).

^v Binod Ghimire, “Transitional justice bodies get new term but conflict victims have little hope,” *The Kathmandu Post*, July 16, 2021, <https://kathmandupost.com/national/2021/07/16/transitional-justice-bodies-get-new-term-but-conflict-victims-have-little-hope> (accessed July 27, 2021).

^{vi} Human Rights Watch, *Silenced and Forgotten: Survivors of Nepal’s Conflict-Era Sexual Violence* (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/09/23/silenced-and-forgotten/survivors-nepals-conflict-era-sexual-violence>.

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