



JUST ATONEMENT INC.

justice
hope peace unity equal opportunity
golden age
progress sustainability democracy freedom
human rights harmony civilization

Just Atonement Inc.

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Just Atonement Inc. (JAI) incites transformative social change by empowering lawyers and law students with the opportunities, training and means to defend democracy, human rights, and a livable planet.

JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of the Federal Democratic Republic of Nepal.

Summary of Conclusions

1. Nepal's constitution was adopted just after the last UPR cycle which included Nepal in 2014. The Human Rights Council (HRC) and Stakeholder's reports greatly concerned themselves with what should be included in the new Nepali constitution. The constitution addressed most of those concerns and ensured equal protection on the basis of "origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds," as well as a variety of other rights, including the right to life. The new constitution also granted constitutional protection to various agencies whose responsibilities include monitoring human rights violations and protecting specific ethnic/religious groups within Nepal.



2. Nepal's constitution is very thorough in laying out protections and rights guaranteed by the state. However, Nepal still has far to go in ensuring those rights are upheld. In the future, the Nepal government must build on their strong constitutional framework to put an end to things like racial, ethnic and gender discrimination. The Constitution's inclusion of the right to life means the Nepal government must also affirmatively act to protect all its citizens from the effects of climate change through mitigation and adaptation.

Analysis

Women's Rights

3. Nepal has recently passed laws banning several forms of violence against women and several traditional practices that specifically harm women. The government has also passed laws intending to promote gender equality in society. However, some of those laws do not go far enough and there is a need for more community programs and support of women organizations within the country.
4. Article 11 of the Nepali constitution creates additional hurdles for women to gain citizenship for themselves and for their children in the case of single mothers.
5. The statute of limitations on rape is only one year. This severely limits the amount of rape convictions and put additional pressures on women to report when they already are dealing with the trauma of the rape and the intense stigma rape victims face in Nepal.
6. Women are limited in their employment opportunities. This is especially true for foreign opportunities where there are significant hurdles for women under the age of 24 to secure employment abroad. Because of this, women in the most vulnerable communities are more likely to fall victim to human traffickers who promise them foreign employment. This problem is amplified by Nepal's inadequate framework for identifying the early signs of human trafficking and for reporting traffickers.
7. Unequal representation exists in both national and local governments. Female indigenous voices were perhaps the most excluded during the adoption of the 2015 constitution.
8. Access to education is a problem for both sexes in Nepal due to ongoing infrastructure problems stemming from the 2015 earthquake, but girls and women are being disproportionately affected.
9. Human Rights Watch has highlighted other ongoing women's issues in Nepal. Notably, child marriage, the lack of well-defined gender discrimination laws, selective enforcement of laws meant to protect women, and the prevalence of online abuse towards women.
10. Amnesty International raises similar concerns about the selective enforcement of laws meant to protect women. The biggest area where this is a concern surrounds some



traditional practices, such as chhaupadi (the practice of banning menstruating women from the home), which have only been made illegal recently.

11. The U.S. State Department notes the progress Nepal has made on women's rights issues, but points out how rural women are often still subject to abuse because they are unaware of their rights and rural authorities are less likely to enforce the new laws.

Racial Discrimination

12. Laws aimed at dismantling the caste system in Nepal, like the Caste-based Discrimination and Untouchability (Offence and Punishment) Act of 2011, do not explicitly prohibit racial and ethnic discrimination in either the public or private sectors.
13. The Nepali constitution ensured the existence of seemingly robust commissions for investigating and ruling on cases of discrimination and human rights violations. The little amount of cases brought before those commissions raises concerns that the reporting mechanism is inadequate.
14. Segregation, while illegal, still largely exists in Nepal. That has led to unequal access to every benefit of society ranging from education to access to earthquake relief funds.
15. Slavery and human trafficking is still prevalent in Nepal. The human product of those industries are almost exclusively indigenous people or members of other marginalized communities.
16. Nepal has not signed on to the Convention Against Torture's Optional Protocol, which would allow for greater international inspection to determine if human rights violations with regard to torture are occurring.
17. Nepal has not signed on to the Convention for the Protection of All Persons from Enforced Disappearance.
18. Human Rights Watch (HRW) has identified several areas of concern regarding race and ethnic relations in Nepal. HRW fears the National Human Rights Commission (NHRC), one of the constitutionally-protected commissions tasked with investigating human rights abuses in Nepal, is being limited by the government and losing any autonomy that would allow the Commission to do the proper work necessary to combat discrimination.
19. HRW also points out that minorities and members of lower social castes are more likely to be victims of natural disasters and of torture violence by the police and society as a whole.
20. Violence against minorities (especially against members of a lower caste) is common in Nepal. Close to a month ago, four members of the Dalit caste were killed for allegedly associating with a woman belonging of a higher caste. A fifth man with the group was



taken and is still missing. Disappearances, state-sanctioned or otherwise, are another problem faced by minority groups in Nepal.

Climate Change

21. **The breakdown and collapse of the Earth's climate system is imminent and may have already commenced.** Nepal is not and will not be excluded from the effects of climate change, and is actually one of the most vulnerable countries on the planet.
22. As climate change worsens, glacial melt in the Himalayas will continue to occur at an increasing rate. This will lead to increased flooding and loss of freshwater for villages scattered throughout the mountain range. Both these things will lead to the displacement of villagers who are usually members of persecuted minority groups.
23. Flooding will also become more severe and frequent due to climate change's effects on monsoon season in Nepal.
24. Droughts will also become more common and cause severe strain on Nepal's developing agricultural industry. Most of the workers in this industry belong to minority groups in rural areas. The loss of income from agriculture will slow economic development in those communities. Harms to the agriculture industry will also affect food security in Nepal.
25. The preservation of forested habitat was and is a major goal of the Nepal government. Community forest protection and restoration programs have been successful and the amount of forested area has increased in recent years. However, more frequent and more severe droughts could lead to worse wildfires and undo Nepal's reforestation efforts.
26. Nepal currently receives funding from the UNFCCC's Least Developed Countries Fund. The country has acceded to all requirements for receiving that funding. This includes agreeing to a National Adaptation Program of Action, which outlines what a country feels is their most pressing issue relating to climate change.
27. Nepal has signed onto the Paris Climate Accords, but has not submitted a long term goal or completely submitted the information required by the Nationally Determined Contribution process.
28. Nepal's 2019 Environmental Protection Act created stricter carbon standards as well as an enforcement mechanism to bring carbon emitters to task for failing to curb their emissions. The Act also creates a framework for carbon trading between all emitters within the nation and with Nepal itself and other countries.

Recommendations



29. To give legitimacy to the words within the constitution preventing discrimination on the basis of sex, the Nepali legislature should pass clear legislation defining what gender discrimination is. That legislation should prevent both direct and indirect legislation in the public and private sectors. This would not only help prevent cases of discrimination, but it would give women the ability to seek remedies in instances of discrimination and also help integrate women into more areas of society.
30. Because so many discriminatory practices towards women stem from traditional practices, increased resources should be used to educate the public about the harms caused by those practices. Furthermore, widespread educational programs about the rights women have should be adopted, so they know when to assert their rights and report violations.
31. Making citizenship rights equal for men and women would give greater security to women in Nepal as they would not have to worry about proving the citizen-status of themselves or their children in the county.
32. Improving employment opportunities through both revising legislation and investment in female-focused organizations and improving education for young girls would be beneficial to improving the quality of life of women. This would also protect them from falling victim to sex traffickers or slavery.
33. A better framework for recognizing the early signs of human trafficking would also help prevent women from falling victim to that industry. Since many cases go unreported, a robust community education program could help members of the community alert authorities to possible instances of trafficking. Female-led organizations funded by the government could help accomplish this goal.
34. Ending or significantly extending the statute of limitations on rape would increase the number of convictions and get more rapists off the street. This would both reduce the amount of rapes by serial rapists and also give greater mental security to victims who would know their rapists were held accountable. Community education programs should also be implemented to help remove the stigma rape victims face so that more women are willing to come forward.
35. Adopting International Labour Organization Convention 189 (which protects domestic workers who are primarily women) and Convention 102 (which guarantees maternity rights) would be beneficial for strengthening women's rights in the country.
36. Police oversight should be increased to prevent further instances of police violence and torture against minority groups. Hiring members of the minority groups in question might help reduce the amount of discrimination shown by the police. Community policing efforts and local outreach programs could help create goodwill between minority communities and the police. A greater sense of trust between minority communities and the police would lead to more crimes being reported and hopefully less crime overall.



37. Nepal should accede to both the Convention Against Torture's Optional Protocol's enforcement mechanism and the Convention for the Protection of All Persons from Enforced Disappearance to allow for greater international oversight of police practices.
38. Expanded anti-discrimination legislation should be adopted that explicitly defines and prohibits discrimination on the basis of race and ethnicity.
39. The National Human Rights Commission and other commissions should remain independent. An easier pathway should be developed so that more cases can be heard by these commissions in order to actually combat instances of discrimination.
40. Nepal should submit a long term carbon goal to the Paris Climate Accords. By doing this, Nepal would be able to better work with international allies in the global effort to combat climate change.
41. Because some effects of climate change are already likely irreversible, a system should be put in place to house, ensure the safety of, and provide opportunities for climate refugees within Nepal. Droughts, flooding, and glacial melt will force many out of their rural villages with nowhere else to go.
42. Agricultural practices in Nepal should be modernized to most efficiently use resources and prevent environmental degradation on existing farmland. This would include things like developing irrigation systems and encouraging the planting of crops that will minimize erosion.
43. Modern forest management practices should also be adopted in order to continue Nepal's reforestation efforts in the face of new challenges caused by climate change, like increasingly severe wildfires.
44. Along with passing additional climate change legislation, Nepal should ensure their current legislation (the 2019 Environmental Protection Act) is administered with sufficient oversight. Carbon trading policies have come under criticism in recent years and are often exploited by the largest carbon emitters. Nepal needs to ensure their policy is not exploited so that it achieves its goal in reducing emissions nationwide.

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This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005) and Cody Aceveda (University of Washington 2019, Columbia Law School 2022)

