

NEPAL

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Joint Submission by a Coalition of NGOs on Human Rights and Drug Policies for UPR-
Nepal
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Reporting Organisations

1. **Recovering Nepal** is a national federation of people who use drugs and organisations providing services to people who use drugs in Nepal. Founded in 2001 as a support group for drug users and persons living with HIV, Recovering Nepal was formally registered in 2003 with the aim of improving the quality of life of people who use drugs through the delivery of HIV and harm reduction services, addressing stigma and discrimination, mobilizing communities and advocating human rights and policy reform. Its current membership includes 85 drugs-related service organizations from the Central Region (Mid-Terai), Eastern Region, Kathmandu Valley, mid-far Western Region (Nepalgunj), South West Region (Butwal) and Western Region (Pokhara) of Nepal.
2. **Recovering Nepal Women or RN Women** acts as the national network of women who use drugs in Nepal. RN Women is a registered organization and has been engaged in advocacy around the national strategic plan for HIV and harm reduction in order to amplify the voices and concerns of women who use drugs.
3. **Dristi Nepal** is a registered organization that seeks to create a stigma and discrimination-free society for female drug users in Nepal and prevent HIV infection through the provision of education, outreach, counseling and healthcare services and advocacy for the rights and empowerment of women who use drugs.
4. **Coalition of Drug Users in Nepal or CDUN** is an alliance of people who use drugs with members drawn from all the five development regions of Nepal. Initiated in April 2016, CDUN seeks to advocate for health, human rights, harm reduction, prevention of drug addiction among youth, social demarginalisation and drug policy reform in Nepal by consolidating and strengthening the voices of people who use drugs.
5. **Youth Rise International** is an organization which mobilizes youth to be engaged in the full spectrum of harm reduction and drug policy reform in order to promote health and human rights. Youth Rise Nepal is a loose network of young people who use drugs in Nepal, who engage and empower their peers in community, national and regional drug programming processes through various interventions.
6. **YKP (Young Key Affected People) LEAD Nepal** engages with young people who use drugs, young men who have sex with men, young people living with HIV/AIDS and Hepatitis C, young transgender people, migrant workers and young sex workers to strengthen their leadership abilities and impart knowledge and training on human rights

issues affecting them. It is led by young people from drug use, sex work and HIV backgrounds and communities of gay and transgender people, thus bringing diversity of voices for advocacy and empowerment.

7. **Sparsha Nepal** began as a support group for people living with HIV in Nepal and was registered as an NGO in 2004 to work with ‘most at risk populations’ of people who use and inject drugs and female sex workers in Nepal. It is currently implementing community based programmes that offer the UN recommended core interventions for HIV prevention, treatment and care among people who inject drugs in six districts in Nepal. The services include needle and syringe provision, opioid substitution therapy, HIV testing and counseling, anti-retroviral treatment, distribution of condoms, screening and treatment for tuberculosis and referral care for viral hepatitis. Sparsha Nepal associates with the Ministry of Home Affairs and the Ministry of Health of the Government of Nepal in order to support the National HIV Strategic Plan 2016-2021.
8. **Community Support Group Nepal or CSG** is an NGO established in 2002 for providing support to people who inject drugs in Nepal. Started as an informal group at the initiative of young people affected by drug use and HIV, CSG is currently implementing a range of harm reduction and HIV prevention, care, treatment programmes in Kaski, Tanahun, Baglung, Syangja, Myagdi and Parbat Districts in Nepal. CSG mobilises men, women and children living with HIV to speak up against stigma and discrimination and make positive contributions to society.
9. **International Drug Policy Consortium (IDPC)** is a global network of 198 non-government organizations that advocate for drug policies based on evidence, and on principles of public health, human rights, human security, development and civil society participation

Introduction

1. The Coalition of NGOs on Human Rights and Drug Policies for UPR welcomes the opportunity to report to the Working Group for the Universal Periodic Review on drug laws and policies in Nepal and their impact on the enjoyment of human rights. In particular, this report will examine how Nepal’s repressive and outmoded drug policies are implicated in the violation of several human rights including the right to health, the right not to be subjected to torture and other cruel, inhuman or degrading treatment, the right to equality and non-discrimination and the right to liberty and privacy of people who use drugs.

Promoting respect for the right to life regionally

2. The adoption of the Constitution of Nepal in September 2015, which guarantees thirty one fundamental rights and freedoms and articulates the State’s commitment to human rights and international law,¹ is a welcome step.
3. Nepal’s decision to abolish the death penalty for all crimes, through its ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights

aiming to the abolition of the death penalty and more recently, through Article 16(2) of the Constitution of Nepal is commendable.

4. As promised in its voluntary pledges and commitment to the UN General Assembly² as well as a recommendation that the State accepted in the Universal Periodic Review in 2011,³ Nepal must assume leadership in fostering respect for human rights in the South Asia region, where several countries retain the death penalty for drug offences,⁴ in contravention of Article 6 of the International Covenant on Civil and Political Rights, which restricts the application of death penalty to the most serious crimes, which, as established by the Human Rights Council, do not include drug offences.⁵

Despite progress, people who use drugs have been left behind by outdated legislation

5. The Constitution of Nepal protects the right to equality and forbids discrimination in the application of laws, amongst others, on the grounds of any ‘physical’ or ‘health condition’.⁶ It also secures the right to health of citizens and entitles them to receive free basic health services from the State as well as enjoy equal access to such services.⁷
6. A recent survey commissioned by the Ministry of Home Affairs, Government of Nepal estimates the number of persons who use drugs in the country to be 1,30,424, of which 76.2% are below the age of 30.⁸
7. As per the 2019 survey, 69.1% of the respondents, that is an estimated 90,000 persons inject drugs in Nepal,⁹ though the figure reported by the Ministry of Health is much lower.¹⁰ Persons who inject drugs are at risk of blood borne diseases like HIV, Hepatitis B and C as well as Tuberculosis. HIV prevalence among persons who inject drugs was 8.8% and is way higher than prevalence among the general population (0.2%).¹¹ The burden of HCV infection is also high; in one study, over 40% of people who inject drugs in three regions in Nepal were found to be infected with Hepatitis C.¹²
8. Over 63% of people who use drugs wanted to seek help but fewer had accessed any kind of treatment facility.¹³ Persons who use drugs are heavily stigmatized and criminalized in Nepal.¹⁴
9. The Narcotic Drugs (Control) Act, 2033 (1976) was enacted over four decades ago and was last amended in 1993. The law criminalises the use and possession of drugs¹⁵ while paying scant attention to the health needs of people who use drugs. The legislation has not kept pace with the rights and principles enunciated in Nepal’s Constitution of 2015.
10. The National Policy for Drug Control, 2063 (2006) underscores the need to revise existing drug policies in a manner that protects the human rights of people who use drugs. It also expresses the Government’s commitment to reform the existing drug law in light of Nepal’s commitment to the UN General Assembly.¹⁶ The same intent is reflected in the Drug Control Strategy, 2010.¹⁷
11. At the UN General Assembly Special Session on the world drug problem in April 2016 in New York, Member States agreed to:–“*ensure that national drug policies...fully*

*respect human rights and fundamental freedoms.*¹⁸ UN agencies including those mandated with the task of drug control have encouraged States to design and implement drug policies, in accordance with their human rights obligations including ensuring respect for the dignity and human rights of people who use drugs.¹⁹

12. In the Universal Periodic Review of 2011, Nepal agreed to recommendations to bring its laws in line with international human rights standards.²⁰ Further, in the last Universal Periodic Review of 2015, the Nepalese government accepted several recommendations to implement the new Constitution consistent with the protection of human rights²¹ and acknowledged this to be its foremost priority.²²
13. Despite international commitments and repeated calls from Nepalese civil society for rights-based drug policies, the Narcotic Drugs (Control) Act, 2033 (1976) has not been reformed or revised in line with the State's obligations under international human rights treaties and the national Constitution. As a result, people who use drugs have been left behind in the enjoyment of human rights and freedoms in Nepal.

Criminalising drug use and addiction violates human rights

14. The World Health Organisation considers drug dependence as: *“a multi-factorial health disorder that often follows the course of a relapsing and remitting chronic disease.”*²³
15. Article 12 of the International Covenant on Economic, Social and Cultural Rights which guarantees the right to the highest attainable standard of health, requires the State to provide treatment for a medical condition or disease. It cannot possibly be the basis for criminalization.
16. Yet, the Narcotic Drugs (Control) Act, 2033 (1976) criminalises anyone who is ‘addicted’ to any narcotic drug or psychotropic substance²⁴, thereby treating illness as a crime and patients as criminals. One of the basic principles of criminal jurisprudence is that no one can be penalised for a medical condition. International drug conventions do not mandate this either - on the contrary they require States to provide measures of education, treatment, after-care and support to persons who are dependent on drugs.
17. Criminalization of drug use and drug dependence violates the right to health under international human rights law²⁵ as also the Nepalese Constitution. Criminalization of drug dependence, which is a medical condition, also infringes Article 2 of the International Covenant on Economic, Social and Cultural Rights, as persons with substance use disorders are subjected to discrimination, i.e. treated as criminals on the grounds of their health status. Treating drug dependent patients as criminals violates Article 26 of the International Covenant on Civil and Political Rights, which requires all persons to enjoy equal protection of the law, without discrimination on the basis of any of the enumerated grounds which includes health status.
18. The Narcotic Drugs (Control) Act, 2033 (1976) proscribes ‘consumption’ of drugs, contrary to the mandate of international drug conventions,²⁶ to which Nepal is a signatory. As per the Nepal Drug Users’ Survey, 2076 (2019) commissioned by the Ministry of Home Affairs, (hereinafter “Nepal Drug Users’ Survey, 2076 (2019)), nearly

half the respondents had faced arrest for drug use or related crimes.²⁷ Other surveys among people who inject drugs show even higher rates of incarceration for drug offences (nearly 63% of all Respondents).²⁸

19. Punitive drug policies in Nepal have engendered a culture of violence and brutality by the police, which has in turn increased risk and compromised the health and safety of people who use drugs.²⁹
20. Criminalization of drug use has exacerbated stigma and negative attitudes towards people who use drugs in healthcare. Despite having significant health-related problems, people who inject drugs in Nepal are afraid to visit medical facilities as they are either neglected or shunned or subjected to callous behavior by staff.³⁰
21. The Special Rapporteur on the right to health has considered the pernicious effects of criminalization of drugs on the right to health of people who use drugs and recommended the decriminalization of use and possession of drugs for personal use.³¹ Similar recommendations have been made by the UN High Commissioner on Human Rights³² and other UN entities.³³
22. The International Guidelines on Human Rights and Drug Policy encourage countries to:-
“Utilise the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption” in order to protect the right to health, respect the right to privacy as well as ensure the freedom of thought, conscience and religion guaranteed under international law.³⁴
23. However, the Government of Nepal continues to criminalise drug use and dependence, which impairs the dignity and rights of persons who use drugs.

III-treatment, arbitrary arrests and detention

24. Though the Narcotic Drugs (Control) Act, 2033 (1976) allows first-time users or persons arrested for purchase or possession of small amounts of drugs for personal use to be released on signing a bond,³⁵ in practice, Police in Nepal arrest and detain people who use drugs - for use as well as supply offences.³⁶
25. Under the Narcotic Drugs (Control) Act, 2033 (1976), the power to search and arrest without warrant can be exercised in exigent situations, after recording reasons in writing.³⁷ However, people who use drugs report being subjected to such measures routinely without warrant.³⁸ Women who use drugs in Nepal have complained of being stopped and searched by male police officers as well as being verbally and physically abused in detention.³⁹
26. Over 83% respondents in a study conducted among people who use drugs enrolled in opioid substitution treatment (OST) in Nepal reported that the attitude of the Police was either ‘bad’ or ‘very bad’ and that violence in custody was commonplace.⁴⁰

27. Police abuses against people who use drugs in Nepal take other egregious forms. Young users are searched with no probable cause and if the Police don't find drugs, they forcibly take their personal money and if the person protests, then they are slapped. Drug users are routinely beaten while in custody and coerced into 'confessing' their 'guilt' and disclosing names and contacts of peers.⁴¹ Juveniles and young drug users (below the age of 15 years) are charged with drug-related offences and not offered diversion measures under the law.⁴²
28. Police in uniform or plainclothes congregate around needle-syringe programmes (NSP) and stop and search clients visiting the facility. Though possession of syringes or injecting equipment is not a crime and NSPs operate under the aegis of the National Centre for AIDS and STD Control, Ministry of Health, Government of Nepal,⁴³ Police apprehend persons accessing NSPs on suspicion of drug use.⁴⁴ Outreach workers delivering needle and syringes to women who inject drugs in Nepal have also reported being stopped, searched and arrested.⁴⁵ Criminalisation of drug use and possession has fuelled such arbitrary and unlawful practices among law enforcement officers in Nepal.
29. Police visit NGO sites providing OST and arbitrarily stop and question clients about their drug use. Identity cards issued by the programme are seized and torn. Police extort money from users by instilling fear of arrest. New or first time clients are particularly vulnerable and stop using OST services on account of the harassment by the Police.⁴⁶ This, apart from violating the right to liberty and privacy, directly infringes the right to health as is evident from data below.
30. Police apprehending clients from NSP and OST sites is contrary to the National Policy for Drug Control, 2063 (2006) and the Drugs Control Strategy, 2010, which endorse these programmes.⁴⁷ Arrests and intimidation of drug users by the Police has resulted in poor uptake of harm reduction services in Nepal. The number of needles and syringes provided per person per year is only 25 and falls far below the recommendation of 200 needles and syringes per person per year. Access to OST is a mere 2% in Nepal as against the WHO recommended target of 40% of the population of injecting drug users.⁴⁸ The Special Rapporteur on Health has noted the negative impact of arrests and repression by law enforcement on the realization of the right to health of people who use drugs.⁴⁹
31. Police in Nepal act in complicity with private rehabilitation centres and forcibly bring persons who use drugs to such centres to suffer inhuman treatment, torture and abuse.⁵⁰
32. The prohibition against torture during arrest and detention is incorporated in Nepal's Constitution⁵¹ but there is no law defining and criminalizing torture. In its Concluding Observations to the State in 2014, the Human Rights Committee had expressed concerns over the widespread use of torture and ill-treatment in places of police custody as well as the practice of arbitrary detention in Nepal and desired that this be addressed through appropriate legislation.⁵²
33. Nepal's Drug Control Strategy, 2010 talks about the Government's plans to change negative attitudes among law enforcement agencies towards harm reduction programmes through training and sensitization.⁵³ No such pedagogical exercises have

however, been undertaken.

34. In its last Universal Periodic Review in 2015, the Government of Nepal accepted a number of recommendations in relation to education and training of law enforcement on human rights including prevention of torture and ill-treatment as well as on addressing torture through appropriate legislation.⁵⁴
35. Notwithstanding its commitments, the Government of Nepal has failed to prevent police abuses and ill-treatment of people who use drugs and has thus, violated the right to liberty, privacy, freedom from torture and arbitrary detention under international human rights law.

Inflicting ‘torture’ as ‘treatment’

36. The Narcotic Drugs (Control) Act, 2033 (1976) allows people who use drugs, to be diverted from the criminal justice system to a treatment or rehabilitation centre ‘established’ or ‘recognized’ by the Government of Nepal, where they undergo treatment for three months.⁵⁵ Under the law, a treatment centre is one which is ‘approved’ by the Government for the treatment and rehabilitation of narcotic drug addicts.⁵⁶
37. The Drug Control Strategy of 2010 recognised that the success of rehabilitation programmes depends on whether people who use drugs receive humane and quality treatment with full respect for their rights and proposed to set up at least one model centre for the treatment and rehabilitation in every region.⁵⁷
38. The Government of Nepal has however, not established any centres for the care and reintegration of people who use drugs. Instead, it has outsourced this responsibility to private actors, who operate so-called drug treatment and rehabilitation facilities, without authorization or approval.
39. The Government has also failed to impart any training in the treatment, after-care, rehabilitation and social reintegration of persons with drug use disorders to personnel employed at such centres,⁵⁸ contrary to the requirements under the UN Drug Conventions.⁵⁹
40. Nearly 11% of the respondents surveyed in the Nepal Drug Users’ Survey, 2076 (2019) reported experiencing violence during treatment⁶⁰ – the extent and severity of which has been documented in independent reports.
41. With little or no oversight, supervision and training, some private rehabilitation centres blatantly violate the rights of people who use drugs by inflicting ‘torture’ as ‘treatment’ and ‘violence’ as ‘therapy’.⁶¹ Practices documented at such centres include forcible detention and involuntary admission, denial of medical care and management of withdrawal, solitary confinement, forced labour, flogging, beating and other inhuman and degrading ‘punishments’ to ‘discipline’ and ‘cure’ drug users.⁶² Several cases of attempted suicide and even deaths of inmates have been reported from such centres.⁶³ Complaints of torture and brutality are rarely investigated by the authorities, on the

contrary, it is the victims i.e. persons who use drugs, who are deemed to be morally debased and blameworthy.⁶⁴

42. In 2018, the Ministry of Home Affairs announced Operational Guidelines for Drug Treatment Rehabilitation Centre - 2075 to regulate and monitor private rehabilitation centres.⁶⁵ While the Ministry of Home Affairs has started maintaining a portal of rehabilitation centres in the country,⁶⁶ surveillance or inspection have not been carried out, consequently, torture and ill-treatment continue unabated.⁶⁷
43. The Nepal Government's failure to monitor private drug rehabilitation centres and enforce human rights compliant norms for treatment of drug dependence has fuelled human rights violations against people who use drugs.⁶⁸ Subjecting persons who use drugs to non-consensual interventions and depriving them of medically proven therapies for substance use disorders violates their right to health.⁶⁹ The Human Rights Committee has noted that the denial of medical assistance during withdrawal and the suffering inflicted on drug-dependent persons as a result of such denial amounts to torture or ill-treatment.⁷⁰
44. In the absence of medically sound treatment protocols for private centres, drug users in Nepal are subjected to non-consensual medical or scientific experimentation, which amounts to a violation of Article 7 of the International Covenant on Civil and Political Rights. The Committee against Torture has expressed concern over poor conditions in private drug rehabilitation centres and ill-treatment inflicted upon persons admitted to them and called upon the concerned State party to conduct a survey of existing centres in the country and ensure that each is duly accredited by the competent authority and is subject to regular inspection.⁷¹
45. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has called upon States to:- "*Undertake investigations to ensure that abuses, including torture or cruel, inhuman and degrading treatment, are not taking place in privately-run centres for the treatment of drug dependence;*"⁷² The UN Human Rights Commissioner has also urged States to undertake rigorous and independent monitoring of treatment centres to ensure treatment takes place on a voluntary basis with informed consent and individuals are not confined there against their will.⁷³ The UN Working Group on Arbitrary Detention has urged countries to investigate and remedy human rights abuses in so-called drug treatment and rehabilitation centers established and run by private individuals or organizations.⁷⁴
46. The Government of Nepal has an obligation to prevent, investigate, prosecute and punish acts of torture committed by private actors.⁷⁵ When public officials fail to do so, they are considered to be authors, complicit or otherwise responsible for these acts.⁷⁶ As a consequence, the Government of Nepal has an obligation to ensure that persons who use drugs, who receive treatment at private centres, have their human rights protected including the right to health and the right not to be subjected to torture through appropriate legislative and administrative measures.
47. The Government of Nepal has thus, systematically failed to protect the rights of people who use drugs from being infringed by third-parties.

Discrimination in access to health services

48. Despite the constitutional guarantee of equality and the right to health, people with drug use disorders face systemic barriers in accessing treatment and harm reduction services in Nepal.
49. Treatment for drug dependence is available in private facilities and at a cost, which is beyond reach for most drug users. As per the Nepal Drug Users' Survey, 2076 (2019), a mere 3.9% of people who use drugs received free treatment for drug dependence.⁷⁷ Legal provisions granting immunity from prosecution to those who enter drug treatment are denied to persons who cannot afford to pay for admission. This includes women who use drugs, who typically, are without means and end up in jail on account of their poverty and drug dependence.⁷⁸
50. There are currently 12 OST sites, of which 5 are situated in the Kathmandu valley region in Central Nepal.⁷⁹ Services in border areas are scarce, though drugs are widely available and consumed in places near the Nepal-India border.⁸⁰ The Ministry of Health has mapped injecting drug use and HIV-related risks in border districts,⁸¹ yet people who use drugs living in these areas lack access to harm reduction services.⁸²
51. The Constitution of Nepal prohibits discrimination, *inter alia*, on the grounds of citizens' 'economic condition' and the 'region' where they reside/belong.⁸³ The Constitution also guarantees that every citizen shall have the right to equal access to health services.⁸⁴
52. Nepal's National Health Policy - 2071 (2014) seeks to provide quality health services for all including marginalized and at risk communities, free of cost towards the realization of the fundamental right to health.⁸⁵
53. Economic and geographical barriers however, continue to impede the realization of the right to health of people who use drugs in Nepal. At international human rights law, physical and economic accessibility is an integral part of the right to health, as is the right to non-discrimination.⁸⁶ Despite its obligations in domestic and international law, the Government of Nepal has failed to protect the right to health of people who use drugs.

Women who use drugs – severe and multiple rights violations

54. According to the Nepal Drug Users' Survey, 2076 (2019), there are an estimated 8,732 women who use drugs in Nepal, a figure that the Government itself acknowledges as underreported on account of the stigma associated with drug use among women.⁸⁷ The Ministry of Health estimates that there are around 4,000 women who inject drugs in Nepal.⁸⁸ HIV prevalence among women who inject drugs is higher than among men who inject drugs in Nepal,⁸⁹ revealing greater vulnerability and poorer access to health services. According to a study conducted by UNODC in 2010-11 at seven sites, only 14% of women drug users in Nepal had ever accessed treatment.⁹⁰

55. The stigma, discrimination and marginalization experienced by women who use drugs is amplified by patriarchal norms and gender stereotypes, which underpin laws and policies in Nepal.⁹¹
56. The Nepal Drug Users' Survey, 2076 (2019) discloses higher levels of unemployment among women who use drugs as compared to their male counterparts.⁹² Many women who use drugs engage in sex work and experience intersecting nature of discrimination on account of their gender, nature of work as well as drug-using status. Data collected by UNODC revealed that Nepalese women who use drugs and engage in sex work were more likely to have not completed primary school education and be living alone, without family.⁹³
57. In its concluding observations to the State in 2018, the Committee on the Elimination of Discrimination against Women (CEDAW), encouraged the Government of Nepal to recognize the specific needs of all women and girls facing intersectional and multiple forms of discrimination in the constitutional provisions granting "special opportunities" to 'socially and culturally backward women'.⁹⁴
58. The Committee on CEDAW expressed concern over the arrest and extortion faced by women in sex work under Nepal's Human Trafficking and Transportation (Control) Act, 2064 (2008) and advised the Government to ensure that women engaged in sex work are not harassed or prosecuted.⁹⁵
59. One-third of women who use drugs in the UNODC study had faced arrest on account of drug-related crimes.⁹⁶ Over 54.5% women who use drugs have faced arrest, as compared to 45.2% men who use drugs.⁹⁷ During a recent mission to Nepal, the Special Rapporteur on violence against women noted with concern that a number of women incarcerated in prison had been convicted on drug-related charges and that women get involved in such crimes owing to gender-related factors, such as pressure or coercion by an intimate partner, or because they are drug users, or they may have been victims of serious forms of gender-based violence and resorted to drugs as a way out.⁹⁸ Women who use drugs who have suffered imprisonment, report appalling conditions especially in relation to nutrition and sexual and reproductive healthcare.⁹⁹
60. Nepal's Drug Control Strategy, 2010 sought to introduce programmes related to drug use in prisons;¹⁰⁰ none, however, have taken off. The Special Rapporteur on violence urged Nepal to improve prison conditions for women and ensure adequate facilities for health-care including facilities for obstetric and gynaecological care, adequate bedding and access to nutritious food.¹⁰¹ In its last Universal Periodic Review in 2015, the Government of Nepal also accepted a recommendation in relation to safety of men and women in prisons.¹⁰²
61. The more marginalized and stigmatized a population is, the harder it is for them to seek health or social services. Most prevention and care programmes for people who use drugs are not reaching women because the services are designed for men.¹⁰³ Drug policies and programmes in Nepal are neither informed by gender-based considerations nor address the concerns of women who use drugs.¹⁰⁴ This denies them their right to health services.

62. Women who use drugs in Nepal are particularly disadvantaged in their claims to citizenship and suffer on account of discriminatory laws and practices. Women who use drugs are largely dependent on their partners for decision-making and do not possess vital certificates of registration of marriage and birth of their children. Some are in abusive marriages or relationships that are not recognized by law or single mothers – cases where the identity and whereabouts of the husband becomes suspect. Women who use drugs suffer abandonment and neglect at the hands of the family, thus weakening their claims to citizenship for themselves and their children under Nepali law.¹⁰⁵
63. Both the Committee on CEDAW and the Special Rapporteur on violence against women have called upon the Government of Nepal to amend discriminatory provisions in relationship to citizenship and ensure that women can exercise their right to nationality and citizenship on an equal basis with men.¹⁰⁶
64. Nepalese women who use drugs report severe forms of domestic and partner violence, but do not have access to legal remedies.¹⁰⁷ While there are a number of organisations working with victims of domestic violence in Nepal, few extend support to women who use drugs. Police too, display prejudice towards women who use drugs and do not take their complaints seriously.¹⁰⁸
65. Women who use drugs experience severe and intersecting forms of discrimination even as Nepal has made progress in introducing gender-just laws and policies, thereby infringing their right to equality.

Recommendations

66. In light of the above findings, Recovering Nepal, RN Women, Dristi Nepal, CDUN, Youth Rise, YKP Lead Nepal, Sparsha Nepal, CSG and IDPC call upon Member States to recommend that the Government of Nepal:-
 - a. Assume leadership internationally and regionally in efforts towards the abolition of the death penalty, particularly for drug offences.
 - b. Review and reform the Narcotic Drugs (Control) Act, 2033 (1976) in line with international human rights law and standards, the 2015 Constitution, the 2006 National Policy for Drug Control and the 2010 Drugs Control Strategy.
 - c. Repeal laws criminalizing drug use and drug addiction, remove penalties for the possession of drugs for personal use and ensure that drug dependence is treated as a health condition and not crime.
 - d. Ensure that private drug treatment centres provide evidence-based treatment on a voluntary basis, through the adoption and implementation of a regulatory framework that provides authorization, training, cost price setting and oversight over such centres.
 - e. Ensure that acts of torture committed by private actors such as drug rehabilitation centers are included in legislation to criminalize torture, in independent procedures to ensure that all allegations of torture are investigated promptly, thoroughly, impartially and independently, and in remedy and reparation

mechanisms for victims.

- f. Expand drug treatment and harm reduction programmes throughout the country so that services are accessible across all geographies, without any discrimination.
- g. Adopt a national strategy to ensure that marginalized women, such as women who use drugs and sex workers, have access to appropriate health care, and are not subject to stigma and discrimination by police and health workers.

¹ Article 51(b), The Constitution of Nepal.

² UN General Assembly, seventy second session, Note verbale dated 16 August 2017 from the Permanent Mission of Nepal to the United Nations addressed to the President of the General Assembly, Candidature of Nepal to the Human Rights Council, 2018-2020, A/72/347 at paras 9 and 11.

³ United Nations General Assembly, Human Rights Council, Seventeenth session, Report of the Working Group on the Universal Periodic Review, Nepal, A/HRC/17/5, Recommendation 106.15 (Lao People's Democratic Republic)

⁴ Girelli, G., *The Death Penalty for Drug Offences: Global Overview 2018*. London, Harm Reduction International, February 2019. https://www.hri.global/files/2019/02/22/HRI_DeathPenaltyReport_2019.pdf

⁵ UN General Assembly, Human Rights Council, Forty-second session, 9–27 September 2019, Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 42/... The question of the death penalty, 23 September 2019, A/HRC/42/L.37. Available at <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/281/45/PDF/G1928145.pdf?OpenElement>

⁶ Article 18, The Constitution of Nepal.

⁷ Article 35, The Constitution of Nepal.

⁸ Government of Nepal, Ministry of Home Affairs, Narcotic Drug Control Section, Nepal Drug Users' Survey, 2076, Singhadurbar, Kathmandu, pp. 21-22. (hereinafter "Nepal Drug Users' Survey, 2076 (2019)") Available at <http://www.drugportal.gov.np/assets/uploads/publications/5f060729b42711594145700.pdf>

⁹ Nepal Drug Users' Survey, 2076 (2019), p. 50.

¹⁰ See

<http://ncasc.gov.np/index1.php?option=zfc2BfCuXaeK6QJUyOEo60fVL5kyqSbZZk3IQtMb00&nid=7LfxiMzZaaK6lap4JQolpQ-sfLTvP0umLMA6wLaWzEQ>

¹¹ See UNAIDS Data 2019, pp. 186-187. Available at https://www.unaids.org/sites/default/files/media_asset/2019-UNAIDS-data_en.pdf

¹² Kinkel H-T, Karmacharya D, Shakya J, Manandhar S, Panthi S, Karmacharya P, et al. (2015) Prevalence of HIV, Hepatitis B and C Infections and an Assessment of HCV-Genotypes and Two IL28B SNPs among People Who Inject Drugs in Three Regions of Nepal. PLoS ONE 10(8): e0134455. doi:10.1371/journal.pone.0134455

¹³ Nepal Drug Users' Survey, 2076 (2019), pp. 62 and 64.

¹⁴ Focussed Group Discussion with women who use drugs, Kathmandu, Nepal, 17 March 2020.

¹⁵ Section 4 and 14, Narcotic Drugs (Control) Act, 2033 (1976)

¹⁶ National Policy for Drug Control, 2063 (2006), paras 2 and 7.

¹⁷ Drugs Control Strategy, 2010, para 7.3.

¹⁸ Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem, Paragraph 4(a). Available at www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf

¹⁹ CEB/2018/2, Annex 1, p. 12 and 13.

²⁰ United Nations General Assembly, Human Rights Council, Seventeenth session, Report of the Working Group on the Universal Periodic Review, Nepal, A/HRC/17/5, Recommendation 106.2 (France, Azerbaijan)

²¹ United Nations General Assembly, Human Rights Council, Thirty-first session, Report of the Working Group on the Universal Periodic Review, Nepal, A/HRC/31/9, Recommendation 121.1 (Pakistan), 121.2 (Colombia), 121.10 (Myanmar), 121.32 (Yemen)

²² A/HRC/31/9, Paras 125 and 126

²³ United Nations Office on Drugs and Crime and World Health Organisation, 'Principles of Drug Dependence Treatment', 2008.

²⁴ Section 14 (h), Narcotic Drugs (Control) Act, 2033 (1976)

²⁵ Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the

Philippines. Advance Edited Version, In: Forty-fourth session, Agenda item 2, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, 4 June 2020, A/HRC/44/22, paras 38 and 87.a.ii. Available at

<https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>

²⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24369&LangID=E>

²⁷ Nepal Drug Users' Survey, 2076 (2019) pp. 60-61.

²⁸ Integrated Biological and Behavioral Surveillance (IBBS) Survey among People Who Inject Drugs (PWID) in Kathmandu Valley, 2015, Round VI, FINAL REPORT, December 2015, Government of Nepal, Ministry of Health and Population, National Centre for AIDS and STD Control, pp.17-18.

²⁹ Gurung B, Xenos P. "In the name of creating drug free society": a qualitative investigation on implications of drug law enforcement on harm reduction programs and people who inject drugs in Kathmandu valley, Nepal." J Health Res. 2016; 30(Suppl.2): S129-38. DOI: 10.14456/jhr.2016.76

³⁰ National Consultation on UPR Submissions, organized by Recovering Nepal, 26 June 2020 (virtual).

³¹ Report to the General Assembly. UN Special Rapporteur on Health, Anand Grover. In: Sixty-fifth session, New York, 6 August 2010, A/65/255, paras 62, 63, 66 and 76. Available at <https://undocs.org/en/A/65/255>

³² Report of the United Nations High Commissioner for Human Rights. Study on the impact of the world drug problem on the enjoyment of human rights. In: Thirtieth session of the Human Rights Council, New York, 4 September 2015, A/HRC/30/65, para 61. Available at <https://undocs.org/en/A/HRC/30/65>

³³ In 2017, 12 UN entities issued a joint statement on stigma and discrimination in healthcare settings that called on countries to review and repeal punitive laws—including the criminalization of drug use and possession for personal use—that are proven to have negative health outcomes and that counter established public health evidence. See, UNAIDS, UNHCR, UNICEF, WFP, UNDP, UNFPA et al. Joint United Nations statement on ending discrimination in health care settings, 2017. Available at

http://www.unaids.org/sites/default/files/media_asset/ending-discriminationhealthcare-settings_en.pdf

³⁴ International Centre on Human Rights and Drug Policy, UNAIDS, WHO and UNDP, *International Guidelines on Human Rights and Drug Policy*, 2019, p.7 and 14. Available at

<https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/internationalguidelines-on-human-rights-and-drug-policy.html>

³⁵ Section 19, Narcotic Drugs (Control) Act, 2033 (1976)

³⁶ Youth Vision and Mainline, Impact of Buprenorphine Opioid Substitution Therapy Program in Nepal, December 2014, pp. 41-42. Available at <https://youthvision.org.np/research/3/impact-of-buprenorphine--opioid-substitution-therapy--program-in-nepal>

³⁷ Section 8, Narcotic Drugs (Control) Act, 2033 (1976)

³⁸ National Consultation on UPR Submissions, organized by Recovering Nepal, 26 June 2020 (virtual).

³⁹ Focused Group Discussion with Women who use drugs, organized by Recovering Nepal in coordination with Dristi Nepal, 17 March 2020; Focused Group Discussion with Women who use drugs, organized by RN Women, 19 March 2020.

⁴⁰ Youth Vision and Mainline, Impact of Buprenorphine Opioid Substitution Therapy Program in Nepal, December 2014, p. 42.

⁴¹ Focused Group Discussion with young key affected population, organized by YKP Lead Nepal, Lalitpur, 18 March 2020.

⁴² Nepal Drug Users' Survey, 2076 (2019), p 60.

⁴³ National HIV Strategic Plan 2016-2021, Nepal HIVision 2020, Ending the AIDS epidemic as a public health threat by 2030, Government of Nepal, Ministry of Health, National Centre for AIDS and STD Control.

⁴⁴ Focused Group Discussion with young key affected population, organized by YKP Lead Nepal, Lalitpur, 18 March 2020.

⁴⁵ Consultation on women who use drugs, organized by Recovering Nepal and Dristi Nepal, 18 March 2020.

⁴⁶ Focused Group Discussion with young key affected population, organized by YKP Lead Nepal, Lalitpur, 18 March 2020.

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- ⁴⁷ National Policy for Drug Control, 2063 (2006), para 5.3 and Drug Control Strategy, 2010, paras 4.1 and 4.2.
- ⁴⁸ National HIV Strategic Plan 2016-2021, Nepal HIVision 2020, Ending the AIDS epidemic as a public health threat by 2030, Government of Nepal, Ministry of Health, National Centre for AIDS and STD Control, pp. 10 and 14.
- ⁴⁹ Report to the General Assembly. UN Special Rapporteur on Health, Anand Grover. In: Sixty-fifth session, New York, 6 August 2010, A/65/255, paras 19-21. Available at <https://undocs.org/en/A/65/255>
- ⁵⁰ Focused Group Discussion with young key affected population, organized by YKP Lead Nepal, Lalitpur, 18 March 2020. See also, Thomas Robert Zeller, 'When Treatment Is Violence: Making, Treating, And Regulating Addiction In Nepali Private Rehabilitation Centers', A Thesis submitted to The Graduate Division Of The University Of Hawai'i At Mānoa in partial fulfillment of the requirements for the Degree of Master of the Arts in Anthropology, May 2019. Available at https://scholarspace.manoa.hawaii.edu/bitstream/10125/63136/Zeller_hawii_00850_10234.pdf
- ⁵¹ Article 22, Constitution of Nepal
- ⁵² Human Rights Committee, Concluding observations on the second periodic report of Nepal, 15 April 2014, CCPR/C/NPL/CO/2, paras 10-11.
- ⁵³ Drug Control Strategy, 2010, para 5.1.1.
- ⁵⁴ United Nations General Assembly, Human Rights Council, Thirty -first session, Report of the Working Group on the Universal Periodic Review, Nepal, A/HRC/31/9, Recommendation 122.24 (Paraguay), 122.25 (Djibouti) 121.3 (Germany) and 121.4 (Norway).
- ⁵⁵ Sections 14 and 19A, Narcotic Drugs (Control) Act, 2033 (1976)
- ⁵⁶ Section 3(j3), Narcotic Drugs (Control) Act, 2033 (1976)
- ⁵⁷ Drug Control Strategy, 2010, paras 2 and 3.2.1.
- ⁵⁸ National Consultation on UPR Submissions, organized by Recovering Nepal), 26 June 2020 (virtual).
- ⁵⁹ See Single Convention on Narcotic Drugs, 1961, As amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961, Article 38, para 2; Convention on Psychotropic Substances, 1971, Article 20, para 2.
- ⁶⁰ Nepal Drug Users' Survey, 2076 (2019), p. 69.
- ⁶¹ Kamal Pariyar, 'Rehabilitation centres remain rampant in lack of effective monitoring', Kathmandu, July 23, 2016, My Republica. <https://myrepublica.nagariknetwork.com/news/rehabilitation-centers-remain-rampant-in-lack-of-effective-monitoring/>
- ⁶² NAP+N, DUNA, GNP+, 'Speaking Out: Personal testimonies of rights violations experienced by people who use drugs in Nepal', 2016, p.9. Available at https://www.gnpplus.net/assets/wbb_file_updown/5666/Human%20Rights%20Count_KPLHIV_Nepal.pdf
- ⁶³ 13 patients escape, 21 rescued from rehab centre, Kathmandu, December 08, 2018, The Himalayan Times. <https://thehimalayantimes.com/kathmandu/13-patients-escape-21-rescued-from-rehab-centre/>
- ⁶⁴ For more information, please see, Thomas Robert Zeller, 'When Treatment Is Violence: Making, Treating, And Regulating Addiction In Nepali Private Rehabilitation Centers', A Thesis submitted to The Graduate Division Of The University Of Hawai'i At Mānoa in partial fulfillment of the requirements for the Degree of Master of the Arts in Anthropology, May 2019. Available at https://scholarspace.manoa.hawaii.edu/bitstream/10125/63136/Zeller_hawii_00850_10234.pdf
- ⁶⁵ Operational Guidelines for Drug Treatment Rehabilitation Centre – 2075 (unofficial translation of title). <http://www.drugportal.gov.np/report/organizations>
- ⁶⁷ See ANPUD, Human Rights Day 2018 – “They Made Me Lick My Urine”: Private Drug Rehab Center Raided & Rescued Everyone, 10 December 2018. <http://www.anpud.org/human-rights-day-2018-they-forced-me-to-lick-my-urine-private-rehab-center-raided-and-everyone-rescued/>
- ⁶⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Méndez. In: Sixty-eighth session, New York, 9 August 2013, A/68/295, para 42. Available at <https://undocs.org/A/68/295>
- ⁶⁹ Report to the General Assembly. UN Special Rapporteur on Health, Anand Grover. In: Sixty-fifth session, New York, 6 August 2010, A/65/255, paras 30-34. Available at <https://undocs.org/en/A/65/255>
- ⁷⁰ Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, 28 April 2015, CCPR/C/RUS/CO/7 at para 16.
- ⁷¹ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Guatemala, adopted by the Committee at its fiftieth session (6–31 May 2013), CAT/C/GTM/CO/5-6 at para 20.

- ⁷² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan Méndez. In: Sixty-eighth session, New York, 9 August 2013, A/68/295, para 87. Available at <https://undocs.org/A/68/295>
- ⁷³ In: Thirty-ninth session of the Human Rights Council, New York, 14 September 2018 (A/HRC/39/39); <https://undocs.org/A/HRC/39/39>, at para 90
- ⁷⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24369&LangID=E>
- ⁷⁵ UN Committee Against Torture (2008), *General Comment number 2*, para. 15. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en
- ⁷⁶ UN Committee Against Torture (2008), *General Comment number 2*, para. 18.
- ⁷⁷ Nepal Drug Users' Survey, 2076 (2019), p. 67.
- ⁷⁸ National Consultation on UPR Submissions, organized by Recovering Nepal), 26 June 2020 (virtual).
- ⁷⁹ <http://www.ncasc.gov.np/map/>
- ⁸⁰ Central Bureau of Statistics, Government of Nepal, 'Survey Report on Current Hard Drug Users in Nepal -2069' (2013), published by the Drug Control Programme, Ministry of Home Affairs, Government of Nepal, pp.20 and 26.
- ⁸¹ Mapping and size estimation of FSW, MSM, MSW, TG and PWID in Nepal, March 2017, Government of Nepal, Ministry of Health, National Centre for AIDS and STD Control, p.14.
- ⁸² National Consultation 26 June 2020
- ⁸³ Article 18(2), Constitution of Nepal.
- ⁸⁴ Article 35(3), Constitution of Nepal.
- ⁸⁵ National Health Policy - 2071. Unofficial translation(Darft ver.I as of 08 Aug 2014). Available at <https://www.publichealthupdate.com/national-health-policy-2071-nepali-and-english-version/>
- ⁸⁶ Committee on Economic Social and Cultural Rights, General Comment No. 14 (2000,)The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights) Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4).
- ⁸⁷ Nepal Drug Users' Survey, 2076 (2019), pp. 3 and 21.
- ⁸⁸ Mapping and size estimation of FSW, MSM, MSW, TG and PWID in Nepal, March 2017, Government of Nepal, Ministry of Health, National Centre for AIDS and STD Control, p. 26.
- ⁸⁹ Mapping and size estimation of FSW, MSM, MSW, TG and PWID in Nepal, March 2017, Government of Nepal, Ministry of Health, National Centre for AIDS and STD Control, p.2.
- ⁹⁰ Ministry of Home Affairs and UNODC, Profile, Drug Use Pattern, Risk Behaviour and Selected Bio-Markers of Women Drug Users from Seven Sites in Nepal, Government of Nepal, (2011), p. 60.
- ⁹¹ Women drug users in eastern Nepal: A silent story, 13 January 2018, The Kathmandu Post. <https://kathmandupost.com/miscellaneous/2018/01/13/women-drug-users-in-eastern-nepal-a-silent-story>
- ⁹² the Nepal Drug Users' Survey, 2076 (2019), p.26.
- ⁹³ Ministry of Home Affairs and UNODC, Profile, Drug Use Pattern, Risk Behaviour and Selected Bio-Markers of Women Drug Users from Seven Sites in Nepal, Government of Nepal, (2011), pp. 25 and 55.
- ⁹⁴ See Article 18(3) Constitution of Nepal and Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Nepal, 14 November 2018, CEDAW/C/NPL/CO/6, paras 16-17.
- ⁹⁵ Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Nepal, 14 November 2018, CEDAW/C/NPL/CO/6, paras 26-27.
- ⁹⁶ Ministry of Home Affairs and UNODC, Profile, Drug Use Pattern, Risk Behaviour and Selected Bio-Markers of Women Drug Users from Seven Sites in Nepal, Government of Nepal, (2011), p. 40
- ⁹⁷ Nepal Drug Users' Survey, 2076 (2019), p. 60.
- ⁹⁸ Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, Visit to Nepal, 19 June 2019, A/HRC/41/42/Add.2, para 54.
- ⁹⁹ Focussed Group Discussion with women who use drugs, organized by RN Women, 19 March 2020.
- ¹⁰⁰ Drug Control Strategy, 2010, para 2.5.

¹⁰¹ Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and

consequences, Dubravka Šimonović, Visit to Nepal, 19 June 2019, A/HRC/41/42/Add.2, para 82.

¹⁰² United Nations General Assembly, Human Rights Council, Thirty -first session, Report of the Working Group on the Universal Periodic Review, Nepal, A/HRC/31/9, Recommendation 121.23 (Sweden).

¹⁰³ UNODC, Regional Office for South Asia, Good practices in HIV Prevention, Care and Treatment for Female Drug Users, Female Prisoners and Women living with HIV and AIDS in Nepal, 2013.

¹⁰⁴ Focused Group Discussion with women who use drugs, organized by Recovering Nepal in coordination with Dristi Nepal, 17 March 2020

¹⁰⁵ Consultation with women who use drugs, organized by Dristi Nepal, 16 March 2020; Focused Group Discussion with women who use drugs, organized by Recovering Nepal in coordination with Dristi Nepal, 17 March 2020

¹⁰⁶ Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Nepal, 14 November 2018, CEDAW/C/NPL/CO/6, paras 30-31; Report of the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, Visit to Nepal, 19 June 2019, A/HRC/41/42/Add.2, para 78(a)

¹⁰⁷ Consultation with women who use drugs, organized by Dristi Nepal, 16 March 2020.

¹⁰⁸ Focused Group Discussion with women who use drugs, organized by Recovering Nepal in coordination with Dristi Nepal, 17 March 2020