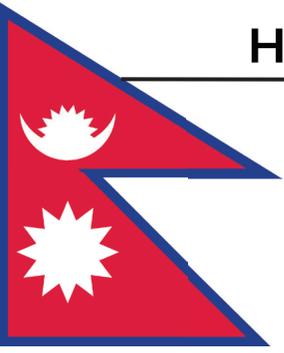


# HUMAN RIGHTS COUNCIL ELECTIONS

## 2021 CANDIDATE



## NEPAL

**Status** - Seeking Re-Election

**Previous Terms** - 2018-2020

### **Key measures Nepal should commit to implement as a Council member**

The following measures were developed jointly by International Service for Human Rights, Advocacy Forum-Nepal, Collective Campaign for Peace (COCAP) and Blue diamond Society.

#### **Human rights defenders and civic space:**

While the situation for human rights defenders (HRDs) has improved since the Peace Agreement was signed in November 2006, HRDs continue to face threats, harassment, and violent disbursement of peaceful protests by police and security forces. Despite having the constitutional protection to carry out work independently, journalists face various threats. The Federation of Nepali Journalists has reported 36 cases of journalists being killed, four cases of enforced-disappearances and 73 violations of press freedoms. Women human rights defenders (WHRDs) also face threats at multiple levels; they are defamed- often in social media- but also in their communities and families. WHRDs advocating for sexual and reproductive rights and against sexual and domestic violence are routinely threatened for their work.

We call on Nepal to:

- Ensure national laws are in line with the Constitution and international human rights law, including by amending or repealing existing legislation and regulations, and abstaining from adopting new legislation and regulations that restrict fundamental rights of human rights defenders, specifically regarding the right to freedom of association allowing government interference in the functioning of NGOs, CSOs and human right defenders.
- Protect the constitutional right of freedom of expression, and allow journalists to carry out their work freely and independently.
- Protect WHRDs from targeting and attacks, in particular, WHRDs advocating for sexual and reproductive rights and against sexual and domestic violence.

#### **Human rights violations, torture and impunity:**

Despite the fact that the right to be protected from torture is incorporated as a fundamental right in the Constitution and that the new Criminal Code criminalizes torture and enforced disappearance, human rights violations, including torture, extrajudicial killings and illegal detention continue to be suffered in Nepal. In addition the Bill to Control Torture, Inhuman, Brutal and Disrespectful Acts was provided to a parliamentary committee for finalization in 2016 and is still yet to be passed.

We call on Nepal to:

- Ratify the optional protocol to the Convention against Torture or Other Inhuman, Degrading Treatment or

Punishment.

- Pass the Bill to Control Torture, Inhuman, Brutal and Disrespectful Acts.
- Consistent with the protection of human rights, ensure comprehensive implementation of the Constitution, the orders of the Supreme Court, and recommendations from the National Human Rights Institution, the UN Human Rights Committee and the Universal Periodic Review process.
- Ensure human rights violations are investigated, including ensuring police register First Information Reports on cases of violations, victims are provided with remedies and perpetrators are held accountable.

### **Equality and Non-discrimination:**

Article 18 of the Constitution guarantees that no citizen shall be discriminated on the ground of race, sex, economic condition or similar other grounds. Similarly, Article 38 safeguards a wide range of rights of women. However, gender inequality prevails, and women are excluded and restricted from employment and public and political forums. Discrimination and violence in families and communities continues, and women from minority groups, including Dalit, indigenous peoples' and Muslim groups, as well as women with disabilities continue to face gender and identity based discrimination. The patriarchal social structure complicates issues of domestic violence, as victims generally do not file complaints; instead they seek social settlement. The interim protection measures envisioned by the Domestic Violence (Offence and Punishment) Act have not been effective. INSEC recorded 2824 cases of domestic violence against women in 2018. Media reported 103 cases of domestic violence against women during March 24-May 1, 2020 in COVID-19 related lockdown. From June 1 - 15 2020, there have been 44 cases of gender based violence recorded of which 30 victims were below the age of 26.

We call on Nepal to:

- End gender based violence and caste based discrimination, and ensure effective implementation of the rights of women, indigenous peoples, Dalits, Muslims, Madheshi and sexual minorities as guaranteed in the Constitution.
- Amend the Citizenship Bill that currently requires medical proof of transgender persons to access citizenship.
- Ensure effective implementation of non-discriminatory laws and policies on gender equality backed with sufficient resources.
- Develop and implement laws protecting against sexual violence, including rape, and ensure it does not include any time limitation in regards to cases, including for cases of child sexual abuse.

### **Human rights violations during COVID**

The COVID-19 crisis has exacerbated a number of long-standing weaknesses in Nepal, including restrictions in the right to expression, assembly, association, as well as corruption, poor service delivery, and a failure to provide employment opportunities for millions of citizens who migrate elsewhere for labor jobs. Police have dispersed protesters with tear gas and water cannons, they have refused to register complaints and have kept suspects in prisons arbitrarily and without trial. The government has shown a reluctance to bear criticism, where prominent critics within the bureaucracy have been silenced and alongside an ongoing effort to pass new laws that could undermine freedom of expression and the free press. The pandemic has highlighted long-standing problems in government healthcare service delivery, including under resourcing in remote areas. The rollout of quarantine centers and isolation centers has been chaotic, and due to a lack of primary care facilities, thousands of infected migrant returnees were put in ad hoc isolation centers lacking essential services.

We call on Nepal to:

- Comply with international law and standards in the provision of services and facilities to tackle COVID crisis, including ensuring access to health services and basic food for daily-wage earners.
- End discrimination faced by sexual and gender minorities during the COVID crisis, including during the distribution of services and supplies.

- End disproportionate restrictions on the rights to freedom of assembly, association and expression in actions taken to address the COVID pandemic, including journalists being threatened, barred from reporting and reprimanded.
- End digital threats targeting human rights defenders and the exercise of their rights to freedom of expression online, in particular during the COVID crisis.
- End excessive use of force by the police to impose the lockdown, physically assaulting people coming out of their home for an essential purpose such as health workers;
- Do not sideline the criminal justice system during COVID, ensure the police register complaints related to serious crimes, end arbitrary and unlawful detention of suspects without trial and release prisoners serving imprisonment of less than a year as ordered by the Supreme Court.

## **Transitional Justice**

After 14 years of the Comprehensive Peace Accord between the government and the then rebel, CPN-Maoist, victims of conflict have received only interim relief and no reparation. Survivors of conflict-related sexual violence have not been acknowledged as conflict victims. In addition, even though the Truth and Reconciliation Commission and the Commission on the Investigation of Enforced Disappeared Persons were formed in 2015, the modes and methods of operation remain to be finalized and the Commissions have not produced tangible results and investigations on complaints received have not been completed. Politically influenced appointments also threaten to undermine the purposes of the Commissions.

We call on Nepal to:

- Do not sideline the transitional justice process under the guise of COVID-19 and amend the Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act, as required by the 2015 ruling of the Supreme Court and in line with international legal standards.
- Ensure transparency and inclusive consultation with victims and civil society in respect of all steps taken to deliver Transitional Justice as committed to in the Comprehensive Peace Accord, in particular conduct inclusive consultations to feed into the amendments of the Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act;
- Ensure that all new members of the Truth and Reconciliation Commission and the Commission on the Investigation of Enforced Disappeared Persons are appointed following amendments to the Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act and have required qualifications, are fully independent and impartial.