

# Civil Society Report on **BEIJING+25**



Submitted by

National Network for Beijing-review Nepal (NNBN)

Co-ordinated by



Working for non-discrimination and equality



  
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Working for non-discrimination and equality





# National Network for Beijing-review Nepal (NNBN)



Working for non-discrimination and equality

## NATIONAL NETWORK FOR BEIJING REVIEW NEPAL (NNBN)

1. 1325 Action Group Nepal
2. Aaprabasi Mahila Kamdar Samuha (AMKAS) Nepal
3. Aawaaj
4. Alliance for Social Dialogue (ASD)- Social Science Baha
5. Blind Women Association, Nepal (BWAN)
6. Blue Diamond Society
7. Burns Violence Survivors Nepal
8. Centre for Agro-Ecology and Development (CAED)
9. Centre for Awareness Promotion (CAP) Nepal
10. Centre for Women Awareness and Development
11. Civil Society Network on Citizenship Rights
12. Community Action Centre-Nepal (CAC-Nepal)
13. CREHPA
14. DIDIBAHINI
15. FEMINIST Dalit Organization (FEDO)
16. FPAN
17. Gender Studies
18. Gender Studies Department, Faculty of Humanities and Social sciences, Tribhuvan University, Nepal
19. Girls Kick
20. Gramin Mahila Jgaran Sanjal
21. Her Turn
22. Indigenous Women Legal Awareness Group (INWOLAG)
23. INHURED International
24. International Alert
25. Ipas Nepal
25. IWART Nepal
27. Jagriti Child and Youth Concern Nepal (JCYCN)
28. Jagriti Mahila Maha Sanga (JMMS)
29. Karnali Integrated Rural Development and Research Centre (KIRDARC NEPAL)
30. Legal Aid and Consultancy Centre (LACC)
31. Maiti Nepal
32. Manaswi Parijat Mahila Kendra
33. Media Advocacy Group (MAG)
34. Mitini Nepal
35. MMSD (Media Mobilization for Sustainable Development)
36. Nari Chetana Samaj Nepal (Society for Women Awareness Nepal (SWAN))
37. National Association of the Physical Disabled-Nepal (NAPD-Nepal)
38. National Deaf Women Committee Under National Federation of the Deaf Nepal (NDFN)
39. National Federation of the Disabled –Nepal

40. National Network Against Girl Trafficking (NNAGT)
41. Nepal Disabled Human Rights Center (DHRC-Nepal)
42. Nepal Disabled Women association (NDWA)
43. Nepal Mahila Ekata Samaj
44. Nepal Silk
45. "Nispakchya" Association of conflict affected Women
46. POURAKHI Nepal
47. Radha Paudel Foundation
48. Resilience for Sustainable Empowerment (RISE)
49. SAATHI
50. SABAH Nepal (SAARC BUSINESS ASSOCIATION OF HOME BASED WORKERS)
51. Sahara Foundation Nepal
52. Sakcham Rural Nepal
53. Samakon TV SWAM
54. Sancharika Samuha Nepal (SASN)
55. Sankalpa
56. Search-Nepal
57. Shanti Malika
58. SHTRII SHAKTI (S2)
59. Social Institution for Skill, Employment and Awareness
60. Social Work Allies for Sustainable Approaches (SWASA, Nepal)
61. Tewa
62. THOUGHTFUL STEPS ORGANIZATION
63. Visible Impact
64. Women Act
65. Women Development Foundation Of Nepal
66. Women for Human Rights, Single Women Group (WHR)
67. Women Lead Nepal
68. Women Security Pressure Group (WSPG)
69. Women's Rehabilitation Centre (WOREC)
70. Young Women for Change

# INTRODUCTION

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2020 will be a pivotal year for the accelerated realization of gender equality and the empowerment of all women and girls. As the global community marks the twenty-fifth anniversary of the Fourth World Conference on Women and adoption of the Beijing Declaration and Platform for Action (1995), and five years of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals, the moment is right to achieve irreversible and measurable progress towards this universal commitment to all women and girls, everywhere. The Beijing+25 Review will help shape and accelerate a transformative agenda where gender equality and women's empowerment are realized.

This Civil Society Report on Beijing +25 Review of Nepal is prepared in a participatory manner involving over 70 civil society member organizations of the National Network for Beijing Review Nepal (NNBN) with Forum for Women, Law and Development (FWLD) as the Secretariat of the Network. The lead authors, mentors, youth engagements and the report writing teams for each 12 critical areas of concern have been listed under Annex. Similarly, the editorial and technical team members and the report writing contributors have been listed under Annex. This report includes data and information on the present status and progress achieved in regard to the women's advancement in each 12 critical areas of concern flagged by the Beijing Declaration and Platform for Action since the Beijing +20 Review of Nepal. This report while acknowledging positive implementation and the progress achieved so far also points out the persistent and emerging challenges in relation to each critical areas of concern. It also makes recommendations that should be addressed during the review and appraisal of the implementation of the Beijing Declaration and Platform for Action of the States in the sixty-fourth session of the Commission on the Status of Women.

# REPORT WRITING PROCESS

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FWLD, which had coordinated the Shadow Report Writing Process of CEDAW since the Initial Report in 1999 to the Sixth Periodic Report in 2018, has also been coordinating the Civil Society Report on Beijing +25 Review as the Secretariat of the National Network for Beijing Review Nepal (NNBN). The NNBN is a civil society network that constitutes of over 70 leading non-

government organizations (NGOs) working to protect and promote women's human rights. The Network was born out of a passionate desire of key NGOs, which are involved in the Beijing initiative since the very beginning, to be the part of review process in 2009. NNBN was involved in the submission of parallel report in Beijing +5, +10, +15 and +20 reviews.

After taking over the role of the Secretariat of NNBN, FWLD conducted an initial meeting with the member organizations of NNBN on 17th April, 2019 in order to inform the members about the Beijing +25 report writing process and its modality. Then, in different times, the FWLD conducted several rounds of meetings with the NNBN member organizations and also with the senior women rights activist who have been involved in the Beijing review process from the initial stage as to the way forwards for the B+25 review process.. To make the process more inclusive and to ensure the generational and intersectional equality the NNBN had been opened for organizations, professionals, and people of all sections and levels including person with disability, LGBTI, Indigenous people and other. The private organizations or the independent consultants endorsing the principles of NNBN are also made involve in the network and contribute accordingly.

It conducted the Intergenerational Engagement Meeting for Beijing +25 Processes on 14th May, 2019 in order to make the report writing process more inclusive from the prospective of gender, generation, and section. The NNBN adopted inter-generation, inter-sectional approach and also adopted men's involvement approach while selecting report write-up team. The Network decided to engage at least one youth under the age of 29 for each 12 critical areas of concern in reporting writing team and other activities in order to promote the involvement of youths in the Beijing review process.

On July 6, 2019 a meeting with the NNBN Core Committee and the Advisory Committee was conducted to plan for provincial level consultation and identification and criteria of the writers including the way forwards of NNBN. On July 9, 2019 another round of meeting was concluded to finalize tentative work plan of report writing process and provincial level consultations. The meeting finalized lead authors, mentors and youths to be engaged in each of the 12 critical areas.

Owing to the necessity of engaging province level women, other concerned stakeholders and issues of local level in the Beijing +25 civil society report process, the NNBN 7 provincial level consultations were conducted in all 7 provinces in the month of August and September 2019. The provincial consultations highlighted on the Beijing Review Process, its importance and discussed on all 12 critical areas of concern to obtain feedback in the draft report prepared by the report writing team.

A meeting was conducted on August 23, 2019 with the lead authors, mentors, and the youth engagements to discuss on modalities to draft the Beijing +25 Civil Society Report. Similarly, a meeting was conducted by FWLD on August 27, 2019 which had formed different committees including report writing coordination committee, logistic committee, participants committee and nominee committee

and also discussed on the modalities, date and venue for the national level consultation. Another round of meeting with the Core Committee and Advisory Committee Members was held by FWLD on 6th September, 2019 which agreed upon the tentative dates for National Consultation and finalization of the report.

A Two-Days National Level Consultation was organized on 17th and 18th October, 2019 with over 500 participants from all over the country. Women, Children and Senior Citizens Minister, representatives of different government agencies, commissions and Nepal Bar Association, International non-governmental organizations, UN Agencies, multi-generational of all levels women and men, students, journalists, women activists, professionals and private sectors from across the country were participated in the Consultation. 12 parallel sessions were conducted for 12 critical areas of concern to discuss on the report and recommendations from the provinces along with formulating other necessary specific recommendations. The participants could gauge achievements, challenges, emerging trends thereby assessing the overall status of women in Nepal and able to raise their voices to keep the 'gender equality and empowerment of women' as the critical agenda at all levels. After extensive deliberations and discussions, the Beijing +25 Civil Society Report was endorsed along with the feedback in the consultation. The report was then finalized incorporating feedback from the national consultation.

# PREAMBLE

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Nepal is a state party to widely ratified international human rights instruments *inter-alia* those specifically related to gender equality. Up to the present time, Nepal has ratified/signed/acceded to 23 international human rights instruments including 13 core international human rights treaties. Furthermore, it can be observed that Nepal has adopted both the monistic and dualistic approaches of adoption of international law, nevertheless recently, Nepal is seen to be as predominantly a monistic country and as such it is bound to apply the provisions of international treaties that it is a party to.

To ensure the gender equality, Nepal has taken multiple approaches through domestic, regional and international normative frameworks. Nepal is state party to a large number of treaties and has subsequently introduced number of legislations to eliminate gender-based discrimination and ensure women's empowerment.

While looking at the constitutional provisions, the Constitution of Nepal-2015 contains provisions for institutional mechanisms relating to gender equality. Inclusion is also ensured through other provisions such as Article 283 which states that appointment to the constitutional bodies and agencies shall be made based on the principles of inclusion. Article 269 makes it mandatory for all the political parties to abide by the policy of inclusion. The Constitution promotes proportional representation for the appointment in Government of Nepal (GoN) services.

Nepal has ensured inclusivity as fundamental rights and directive principles constitutionally. Furthermore, the scrutiny of other Nepalese statutes reveals legal safeguards on special provisions for the rights of women in equality and inclusion agenda. With various provisions intact, Nepal still has a long way to go in bringing application of those provisions.

Apart from these legislations, the GoN has set up multiple structures that deliver Gender equality related services. The Department of Women Development under the Ministry of Women, Children and Senior Citizens looks after women's and children's programs and implements them through its Women Development Offices, which are the key gender focal points in the local level. Also, GESI units/ social divisions units or like functioned divisions have been found to exist within the Ministries of Health and Population, and Agriculture and Cooperatives, Education, Ministry of Federal Affairs and Local Development (MoFALD), National

Planning Commission (hereinafter NPC), Ministry of Finance, etc. The GoN has been implementing Gender Responsive Budgeting since F/Y 2007/2008.

With regards to the principle of non-discrimination, Nepal being a state party to major United Nations (UN) conventions has ensured that all instances of de jure discriminations have been eliminated in almost all of the areas; moreover, it has ensured that right against discrimination is ensured as a fundamental right of every citizen. However, the same cannot be said about elimination of de facto discrimination.

## GENERAL MEASURES OF IMPLEMENTATION AND MONITORING

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In order to transform accountability and obligation of international commitments made by the GoN in national context, specific monitoring mechanisms have been established by the GoN on Gender equality. The National Human Rights Commission (NHRC) was established in 2000 as an independent, autonomous statutory body under the Human Rights Commission Act 1997 (2053 BS). The Interim Constitution of Nepal 2007 (2063 B.S) alleviated the NHRC as a constitutional body with aggravated responsibilities. These responsibilities compliment the responsibilities of the normal machinery of the administration of justice, the Supreme Court, and the Office of the Attorney General, the Commission for the Investigation of Abuse of Authority, and other existing executive, quasi-judicial or judicial bodies of Nepal. The Constitution in Article 249 specifies that "(i) It shall be the duty of the National Human Rights Commission to ensure the respect, protection and promotion of human rights and their effective implementation."

Similarly, Article 253 of the Constitution designates the National Women Commission (NWC) as an important monitoring and evaluation mechanism relating to GESI with a mandate consisting of the specific duties.

Article 293 of the Constitution specifies in relation to the monitoring and evaluation of works of constitutional bodies that "The chief and officials of the constitutional bodies shall be accountable and answerable to federal legislature. The respective committee of the House of Representatives may monitor and evaluate the functioning of the constitutional bodies including reports, other than that of the National Human Rights Commission, and issue necessary directives and suggestions."

# WOMEN AND POVERTY

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## 1. Present Status

In Nepal, women comprise 51.5% percent of the total population.<sup>1</sup> As of 2015, 21.6% of people (more than 6 million) are still below the poverty line.<sup>2</sup> The National Planning Commission (NPC), in line with MDG, has set goal to reduce poverty in Nepal to 18% by 2019 and to 5% by 2030.<sup>3</sup>

The Government of Nepal, along with the Constitution and two Country Codes, has passed specific laws, policies and programs that consolidate and ensure the economic and social benefits of women from 2015 to 2019 along with various policies and funds for the enhancement of women.<sup>4</sup>

The Constitution of Nepal guarantees women's social and economic rights. It ensures equal lineage right,<sup>5</sup> special opportunity in employment, and social security on the basis of positive discrimination,<sup>6</sup> equal right to spousal property and family affairs among others.<sup>7</sup> It also ensures equal right to ancestral property without discrimination on ground of gender.<sup>8</sup> A woman's right to equal protection of law<sup>9</sup> and non-discrimination<sup>10</sup> irrespective of the marital status and economic condition. Instead, it allows government to adopt special provisions for the protection, empowerment and development of the socially and culturally backward women, sexual minorities and pregnant women among others.<sup>11</sup> Constitution has also ensured the right of helpless single women to social security.<sup>12</sup> Further, Constitution has adopted gender inclusive policies regarding social justice and inclusion where arrangements for the livelihoods of

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1. Central Bureau of Statistics, Nepal in Figures (2019).
  2. Government of Nepal, Ministry of Finance, Economic Survey 2017/18, (2018), [https://mof.gov.np/uploads/document/file/for%20web\\_Economic%20Survey%202017%20Full%20Final%20for%20WEB%20\\_20180914091500.pdf](https://mof.gov.np/uploads/document/file/for%20web_Economic%20Survey%202017%20Full%20Final%20for%20WEB%20_20180914091500.pdf).
  3. Nepal Planning Commission (NPC)
  4. Single Women Security Fund (Running) Guideline 2013, Labor Act 2017, Contribution based Social Security Act 2017, Social Security Act 2018.
  5. The Constitution of Nepal, Article 38(1).
  6. Ibid, Article 38(5).
  7. Ibid Article 38(6).
  8. Ibid Article 18(5).
  9. Ibid Article 18(2).
  10. Ibid Article 18(3).
  11. Ibid Article 18(3) – proviso.
  12. Ibid Article 43.

the helpless single women is made while also giving priority to employment of such women on the basis of skills, competency and qualification.<sup>13</sup> This policy focuses on self-development of vulnerable women, subjected to social and family exclusion and who are victims of violence.<sup>14</sup>

The Country Civil Code, 2017 considers wife, daughter and mother as an heir<sup>15</sup> and ensures an equal right of women to the parental and husband's property.<sup>16</sup> It further ensures equal right of son and daughter in ancestral property irrespective of the marital status.<sup>17</sup>

Based on the national policy and provisions of Poverty Alleviation Fund Act (PAF) enacted to reduce extreme poverty in Nepal, the Government has been implementing various programs and adopting new policies related to poverty alleviation by encouraging active participation of women in the community.<sup>18</sup> For instance, in 2015, PAF had established its contact offices in every program districts and Portfolio Managers were assigned at district.<sup>20</sup> The Act also allows government to provide grant and necessary assistance to the institutions involved in poverty alleviation programs and activities. For this, women facing extreme economic challenges, among other vulnerable groups of the community, especially fall within the targeted beneficiaries of PAF.<sup>21</sup>

The Government has also formulated a National Employment Policy 2015 which targets women (among others) in addressing the existing inequalities and discrimination<sup>22</sup> by encouraging productive employment to alleviate poverty and achieve sustainable economic growth.<sup>23</sup>

The new Labor Act has ensured the equal rights of women in terms of wages and social security provided by the institutions.<sup>24</sup>

Specific legal provisions such as, rebate in registration fee if the land is registered jointly in the name of husband and wife and rebate in registration of industry in the name of woman can be taken as progressive step towards addressing the issue of 'women and poverty'.<sup>25</sup>

13. Ibid Article 51 (j) (1).

14. Ibid Article 51(j) (2).

15. The Country Civil Code, 2017, Section 205

16. The Country Civil Code, 2017, Section 206

17. The Country Civil Code, 2017, Section 205 and 206.

18. Annual Report 2015, Poverty Alleviation Fund, Nepal, [http://www.pafnepal.org.np/uploads/document/file/Last%20PDF%20Annual%20Report%202015%20PAF\\_20160516012026.pdf](http://www.pafnepal.org.np/uploads/document/file/Last%20PDF%20Annual%20Report%202015%20PAF_20160516012026.pdf).

19. Annual Report 2015, Poverty Alleviation Fund, Nepal, P. III.

20. Preamble, Poverty Alleviation Fund Act, 2063.

21. Annual Report 2015, Poverty Alleviation Fund, Nepal.

22. National Employment Policy, 2015, Government of Nepal, Ministry of Labor and Employment, p. 10.

23. Ibid p. 3.

24. Labor Act 2017.

25. The Industry Policy 2010 provides a rebate of 35 per cent of the registration fee for industries registered in a name of a woman and a 20 per cent rebate for registration of an industrial property patent, design and trade mark in a name of a woman. Financial Act 2019 provides a rebate of 20 per cent in income tax.

Further, through the Prime Minister Self Employment Program, Government has adopted tax exemption policies to support women who have started small scale enterprises and institutions. Similarly, land wholly owned by a female is given 25% tax exemption by the government.

## 2. Progress Achieved

As a result of efforts from various governmental and non-governmental organizations the poverty level has been reduced from 25.8% in 2014 to 21.6% as of 2018.<sup>26</sup>

The female-headed household as of 2018 is 23.8% which shows the increment in ratio in comparison to that of 2003-4 which was 19.6%.<sup>27</sup>

As of 2018, Poverty Alleviation Fund (PAF) is present in 66 districts covering 2208 VDCs (under old administrative division). About 32186 Community Organizations (COs) have been formed against its target of forming 32000 CO's by the end of 2018.<sup>28</sup> Its coverage includes 16% of the total population of the country who are poor, vulnerable and marginalized among which 79% women are identified to have benefited from the PAF programs.<sup>29</sup> Further, larger portion of the PAF's CO members are women.<sup>30</sup>

## 3. Persistent and Emerging Challenges

Women in rural areas are more severely affected by poverty in comparison to urban areas.<sup>31</sup>

Although there has been gradual reduction in the level of poverty (from 25.2% in 2011 and 31% in 2004 to 21.6% in 2018) and vertical discrimination, horizontal discrimination still persists. Inequality and discrimination among women persists in poverty and human development indexes along with a huge disparity between the genders.<sup>32</sup>

Among 76% of agricultural households in Nepal, about three-fourth of the households are male-headed and the female-headed households<sup>33</sup> is only 26.6 percent. Furthermore, the government has also adopted a wide range of

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26. Comprehensive Impact Evaluation of Poverty Alleviation Fund Nepal, May 2018, [https://www.npc.gov.np/images/category/CIE\\_PAF-FINAL\\_REPORT\\_07\\_MAY.pdf](https://www.npc.gov.np/images/category/CIE_PAF-FINAL_REPORT_07_MAY.pdf).
  27. Comprehensive Impact Evaluation of Poverty Alleviation Fund Nepal, May 2018.
  28. Comprehensive Impact Evaluation of Poverty Alleviation Fund Nepal, May 2018, p. xiii.
  29. Ibid.
  30. Ibid.
  31. Central Bureau of Statistics, Nepal in Figures (2019).
  32. National Employment Policy, 2015, p. 4.
  33. Head of household is defined by the NLSS as the person who i) manages the income earned and expenses incurred, ii) is the most knowledgeable about other members of the household, and iii) was present in the household for at least 6 of the 12 months preceding the interview.

policies and put in place mechanisms to address women's right for access to resources.<sup>34</sup>

There are also complexities seen in the implementation of the concurrent policies.<sup>35</sup> For instance, if a female demands equal payment and treatment as her male counterpart she will have to face the dilemma of losing her job.

The majority of women migrant workers go as domestic workers due to lack of professional or technical skills.<sup>36</sup> However, the Government of Nepal has banned work permits to women who seek to work as domestic workers as foreign employment.<sup>37</sup> This restrictive/protective government labor policy is not free from negative consequence for those women who aspire to work as domestic workers abroad. Even within the country, women work for lower income jobs and mostly in the informal sector.

Many programs implemented for financial empowerment of women have failed to meet the intended goals; this has created acute challenges for women with regards to access and usage of resources such as provided by the Youth Self-Employment Program launched by the government.

Even though the law guarantees daughter's equal right to ancestral property, there is gross insufficiency in enforcement of the provisions of these laws, as in practice, women are still not considered as an independent coparcener to the ancestral property.<sup>38</sup>

## 4. Conclusion and Recommendations

The Government of Nepal, in line with its commitment to reduce poverty in the country, has carried out multiple efforts. These efforts are seen to have certain impact on lives of poor women falling under various categories, such as women with disability, helpless single women, women deprived from basic opportunities and women victims of social and economic exclusion. As such, the poverty level of the country has decreased from 25.8% to 21.6% in 4 years' time. However, there continues to be a larger disparity not only between gender but among women themselves. Horizontal discrimination continues to be the cause of poverty among women. For instance, the women of LGBTI

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34. Government of Nepal, Sixth Periodic Report to the CEDAW Committee [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fNPL%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fNPL%2f6&Lang=en) accessed on 21 September 2019.

35. Ministry of Labor and Employment, Labor Migration for Employment: A Status Report for Nepal: 2016/17, [https://nepal.iom.int/sites/default/files/publication/LabourMigration\\_for\\_Employment-A\\_%20StatusReport\\_for\\_Nepal\\_201516201617\\_Eng.PDF](https://nepal.iom.int/sites/default/files/publication/LabourMigration_for_Employment-A_%20StatusReport_for_Nepal_201516201617_Eng.PDF)

36. Ibid.

37. Ibid, p. 9.

38. FWLD and UNDP, Study on Women's Property Ownership and Its Impact (2018) (It is mandatory to take consent from all coparceners while performing the partition of the ancestral property however, in practice the Land Revenue Offices do not seek consent of daughters or consider them the number of daughter in a family unlike son while registering the partition document to the office - Frequently mentioned by the participants in FGDs)

community are not effectively represented under the gender inclusion strategy of government programs. Further, it is seen that there is differences in the rights that are guaranteed by laws and its practical implementation.

- There should be proper implementation of the existing policies and programs so that it will show targeted results in the coming days. Women in the community should be made aware of the policies and programs on poverty alleviation and social security schemes must be formulated and implemented for them along with their active participation.
- The financial literacy programs for women which have been initiated by Nepal Rastra Bank under its Strategic plan of 2012-16 should be given continuation and similar programs should be implemented to enhance and empower women to alleviate them from the poverty trap.
- Female oriented/practical/self-employment and useful trainings should be initiated with the objective of achieving productivity in the economy.
- Simple and easy environment should be created for the professional investment done by the females.

# EDUCATION AND TRAINING OF WOMEN

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## 1. Present Status

Acknowledging the right to education as a fundamental right of every human being; Nepal's Constitution 2015 has declared the '*right to access to basic education for every citizen*'.<sup>39</sup> The Constitution has adopted provisions for the right to 'compulsory and free basic education' and 'free education up to the secondary level' for all. In addition to that the Constitution also has the provision stating that, "Women shall have right to obtain special opportunity in education."<sup>40</sup>

The new constitution promotes education through more accustomed provisions with emphasis on social development and human resource development giving emphasis on serving vulnerable groups and disadvantage groups of the population. Education is considered by the Government to be center for human resource development and a priority sector for the Federal Government of Nepal.

The Government of Nepal has developed the School Sector Development Plan (SSDP) for the July 2016 to July 2023 period to continue its efforts to ensure equitable access to quality education for all. The program has been developed for the first five years (2016-2021) of this seven-year plan. The SSDP was developed through a participatory process led by the Ministry of Education, and is in line with the country's vision of graduating from the status of a Least Developed Country by 2022.<sup>41</sup>

The state has been providing different types of scholarships to increase, students' enrollment, retention and drop-out rates of girls, Dalits and marginalized students. The specific examples are Dalit scholarship (Grade 1-8), Quota-based girls' scholarship, girls scholarship in Karnali zone and scholarships for Martyr's children, ex-kamalari, conflict affected and students with disabilities.<sup>42</sup> However, the amount of scholarship is considerably low to meet the individual educational expenses and to sustain their academic pursuits.

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39. The Constitution of Nepal, 2015, Article 31 (1).

40. The Constitution of Nepal, 2015, Article 38 (5).

41. DOE, (2017). Flash Report I (2017-2018). Bhaktapur: Department of Education, Sanothimi, Bhaktapur, Nepal.

## 2. Progressed Achieved

Despite the decade-long conflict and other political challenges, Nepal has made remarkable progress expanding learning opportunities for children and adults. Net Enrollment Rates (NER) in elementary education, for instance, increased from 66.3 percent in 1999 to 97 percent in 2016. The most dramatic improvements, however, have been made in increasing female participation in education. Between 1973 and 2016, the gender parity index for school enrollments in elementary and secondary education jumped from 0.17 to 1.08, meaning that female entry rates in education improved from being marginal at best to females now enrolling at slightly higher rates than males. The gender gap in school enrolment has narrowed over the years.<sup>43</sup>

The gender parity in Net Enrollment Rates (NER) has been achieved at this level of education. Gross Enrolment Rate at Early Childhood Education and Development (ECED) has reached 84.1%, and the percentage of grade one new entrants with ECED experience has increased to 66.3%. The enrolment of children from disadvantaged groups, including children with disability has also increased. Interventions such as free textbooks, scholarships and the provision of mid-day meals in targeted districts have contributed to enhancing equitable access to education. Further strengthening of targeted interventions is needed to bring the remaining out of school children into school education as per the country's constitutional commitment to free and compulsory basic education. In this regard, the Government's initiation for the development of a strategy to strengthen access, participation and learning of children with disabilities was appreciated.

In Fiscal Year 2017/18, 4,500 teachers received Teacher Professional Development and Management (TPD) out of 258,011 total teachers. The percentage of female teachers at Basic and Secondary Levels has increased to 41.2% and 18.7%, respectively, from the baseline of 38.8 % and 15 %.<sup>44</sup>

Similarly, Nepal achieved an overall adult literacy rate of 65.9 % (75.1% Male and 57.4% Female) through varied literacy campaigns, by implementing adult and functional literacy ,along with income generating activities.<sup>45</sup>

The Government of Nepal has recently passed an Inclusive Education Policy with a commitment to ensure universal quality education and adopt the principles of inclusion in education to promote overall education system. The progress reflects strong and continued government commitment to reforms and

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42. DOE, (2017). Flash Report I (2017-2018). Bhaktapur: Department of Education, Sanothimi, Bhaktapur, Nepal.
43. GoN/MOE, (2016). Education in Figures 2016. Kathmandu: Ministry of Education, Singhdurbar, Kathmandu, Nepal
44. DOE, (2017). Flash Report I (2017-2018). Bhaktapur: Department of Education, Sanothimi, Bhaktapur, Nepal.
45. Government of Nepal, National planning Commission, Nepal in figures, CENTRAL BUREAU OF STATISTICS, (2018), <https://cbs.gov.np/wp-content/uploads/2019/02/Nepal-in-Figures-2018.pdf>

inclusion. Two reforms in particular have been instrumental in transforming the landscape of education in Nepal: (i) decentralization of education service delivery; and (ii) introduction of targeted demand-side programs.

### 3. Persistent and Emerging Challenges

In the fiscal year 2018/19, the allocated budget for the education sector is only 9.91% in comparison to 17% in 2010-11 of the government budget. This decreasing budget is a challenge to ensure free and compulsory education for girls especially those who are most vulnerable and economically weak. It has shown concern on low enrollment and high drop-out rates among girls of poor and remote area/households and of the so called lower castes', indigenous, religious, linguistic minority groups and girls with disabilities. Inadequate educational infrastructures, lack of access to safe drinking water and sanitation facilities, sexual harassment at schools, and the low representation of female teachers in community schools.

The scholarship programs for girls initiated by the State are not effective due to lack of monitoring, follow up, learning and programs development mechanism. One of the main persistent challenges is related to existing infrastructure; a majority of the school buildings are not gender and disabled-friendly, environments in terms of infrastructure such as access to classroom, library and toilets.

The school environment in most of the schools, especially in rural areas, still have higher level of discrimination towards Dalits and other sexual minorities. Those students who do not fit with stereotypical gender images are bullied which , leads to school dropout. Schools lack mechanisms to deal with bullying and harassment against girls and sexual minorities. Local governments are not able to bring relevant mechanisms to encourage drug-addicted children and children with HIV and AIDs.

An increasing number of child marriages leads to a negative impact on girl's education. A study by UNICEF shows that thirty-seven percent of girls in Nepal marry before the age of 18 and ten percent are married by age 15, even though the minimum age of marriage is 20 in Nepali law. UNICEF data indicates that Nepal has the third-highest rate of child marriage in Asia, after Bangladesh and India.<sup>46</sup>

Though the Constitution of the country accepted federalism and divided the country into seven Provinces, it does not have separate Province wise education policies. As Nepal is a country of diverse socio-cultural practices with regional disparities in socio-economic development; one central policy is not adequate to address specific issues of each Province. There are no secondary schools in most of the remote areas even today and children have to walk a minimum of three to four hours to reach school which affects girl's education negatively.

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46. UNICEF ( Sep 8, 2016) Status of Women and Children

## 4. Conclusion and Recommendation

Achieving universal access to education, with gender parity at all levels of education, is a challenging task. Universal enrolment will be possible if adequate resources are ensured and innovative interventions are put into practice. Target 4.5 of the Sustainable Development Goals, aims to eliminate gender disparities in education. To achieve this, the State has to reinforce action to promote equality and inclusion in education. This entails enhancing support systems, scholarships, and incentives for girls from poor households, girls living in remote areas, girls belonging to dalit communities, indigenous groups and religious and linguistic minority groups and girls with disabilities. Furthermore, the State has to train adequate teachers on inclusive schools including monitoring the implementation of those measures effectively, in the framework of the State's commitment towards the school sector reform plan.

To design context-specific intervention strategies, relevant researches that explore the root causes of the gender gap in education analyzing linkages of education with the socio-cultural practices will be appropriate. Some of the recommendations that the State and its concerned institution especially the Ministry of Education are:

- Work towards gender and disable friendly school infrastructure within a reasonable distance of communities.
- Address safety issues for girls in and out of school; introduce self-defense courses in schools that have provisions for effective investigation and provision to prosecute the guilty for acts of corporal punishment, harassment, abuse or gender-based violence perpetrated against girls. At the same time endorse school as a safe zone; ensure safe drinking water and separate hygienic toilets with sanitary pads for girls.
- Provide adequate scholarship amount which addresses the market needs of public school's required expenses at least.
- Develop vocational training courses and informal skills related to education for school dropout girl students.
- Develop a strong monitoring mechanism to implement the policies that are enshrined in the Constitution, including policies that are made in various other institutions concerning girl's education.
- Ensure adequate and skilled psychological councilors are available in schools and colleges. Each province should have separate Province specific policies to address relevant issues and problems of each province. An education-related issue-based "pure, empirical or action research" is desirable to strengthen quality education for each of the specific groups of students. An integrated approach is necessary from the government to address issues of child marriage, poverty, untouchability, unpaid care work for girls, and trafficking in person.

# WOMEN AND HEALTH

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## 1. Present Status

Nepal for nearly 25 years, just as the global community has maintained consensus on the importance of sexual and reproductive health and rights (SRHR) of women and girls as key driver of development and thus has played a significant role in advancing both the program of action adopted during the ICPD in 1994 and reaffirmed a year later in Beijing 1995. Furthermore, Nepal has reiterated its commitment to achieve Universal Access to SRHR as outlined in the targets 3.7 and 5.6 of Sustainable Development Goals.<sup>47</sup>

The Constitution of Nepal has asserted that “Every woman shall have right to Safe Motherhood and Reproductive Health”<sup>48</sup> and further ensures basic health rights under the right relating to health.<sup>49</sup> It created a ‘space’ for women to demand and assert their health rights and control over their own body and reproductive lives. A full range of reproductive rights include but is not limited to access to health services, access to information/ education, freedom from abuse and other coercive actions, it includes everything women need concerning control over their body to live a life of dignity free from violence including State violence.

## 2. Progress Achieved

Historically, Nepal has had one of the highest rates of maternal morbidity and mortality in South Asia. The maternal mortality ratio (MMR) in Nepal decreased from 539 maternal deaths per 100,000 live births to 239 maternal deaths

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47. Sustainable Development Goals 2030;  
3.7 : By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programs  
5.6: Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programs of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
48. Constitution of Nepal, Article 38 (2)
49. Constitution of Nepal, Article 35 (1), Right relating to health: Every citizen shall have the right to free basic health services from the State, and no one shall be deprived of emergency health services.

per 100,000 live births between 1996 and 2016.<sup>50</sup> The significant decline in maternal mortality can be attributed to various legal, policy and programmatic milestones achieved in Reproductive health in Nepal since Beijing 1995.

During 2000, 20 % of all pregnancy deaths were due to unsafe abortion. Prior to 2002, abortion was criminalizing in all circumstances.<sup>51</sup> One of the major achievements has been legalization of Abortion in 2002<sup>52</sup> and significantly improves in maternal health by significant reduction of maternal mortality and morbidity in Nepal.

The Federal Parliament has passed the Safe Motherhood and Reproductive Health Right Act recently which came into force on September 18, 2018. Procedure Guidelines on Safe Abortion Services Program was revised to implement free abortion services in 2016. Now Safe abortion services are available free of cost as basic reproductive health care package services in Nepal.<sup>53</sup>

The maternal and reproductive health of women and girls has also been improved by implementing the National Safe Motherhood Program through preventive and promotive activities. Birth Preparedness Package and Maternal Neonatal Health Activities at Community Level, Rural Ultrasound Program, Aama and the Newborn Program launched in 2011 has been providing incentives in subsequently increasing amount to mothers who complete four antenatal care visits in health facilities, free institutional delivery, incentives for health care workers, free sick newborn care. Also includes under safe motherhood programs are Reproductive Health Morbidity Prevention and management Program, Management of Pelvic Organ Prolapse, Cervical cancer screening and prevention training, Obstetric Fistula management, Emergency Referral Fund and the Nyano Jhola Program.<sup>54</sup>

The prioritization of universal health coverage (UHC) is one of the remarkable outcomes of the 2018/19 health budget of Nepal. The budget increased healthcare expenditure by NPR 24.64 billion (US\$ 228 million). The Government of Nepal plans to work towards achieving UHC by making healthcare services affordable, reliable, and of a higher standard.

For increasing women's lifelong access to appropriate, affordable and quality health care, Nepal Health Sector Plan has focused on improving the health service delivery.<sup>55</sup> The Plan prioritizes reaching the unreached with a strong focus on gender and social inclusion. The Government of Nepal also implemented '*Multi-sector Nutritional Plan 2013- 2017*' (MSNP) which targets teen aged girls, pregnant women and breast-feeding mothers of low-income groups.

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50. <https://www.mhtf.org/2017/12/29/the-current-state-of-maternal-health-in-nepal/>

51. Abortion in Nepal : Women Imprisoned, study conducted by Forum for Women, Law and Development (FWLD) and Center for Reproductive Law and Policy (CRLP), 2001; the study show that 65 women were in prison on charges of abortion and abortion-related offences.

52. 11th Amendment of Country Code Act 1963.

53. Procedure Guideline of Safe Abortion Service Program 2017.

54. National Safe Motherhood Plan (2002-2017); <http://www.fhd.gov.np/index.php/en/policy-and-regulations>

55. Nepal Health Sector Plan – Implementation Plan – III (2017-2020)'

The Ministry of Health (MoH) introduced 'Operational Guidelines for Gender Equality and Social Inclusion Mainstreaming in the Health Sector' in 2013 and institutionalized the GESI unit for mainstreaming gender issues in the health sector, along with efforts to harmonize gender into policy, law, strategies and programs'

The MoH has been implementing 'National Female Community Health Volunteer (FCHV) Program' with support from international partners to improve access to quality health services. The program implementation is based on mobilization of a network of local women volunteers.<sup>56</sup>

The Country Criminal Code 2017 which was passed by the Parliament on 17<sup>th</sup> August 2018, criminalizes *Chaupadi* and discrimination and exclusion based on menstruation period.<sup>57</sup> There has been huge civil society support and engagement in this process and in awareness raising activities. Furthermore, unhygienic conditions during menstruation of adolescent girls are addressed through enforcing Guidelines on *Chhaupadi* and launching awareness raising activities. Training and awareness on Menstrual Health Management (MHM) are provided in some district. Components on population and reproductive health have been incorporated in school curriculum to raise awareness about the need of care and hygiene during menstruation.

The Public Health Service Act, 2018 ensures that every citizen shall have the right to obtain quality health service in an easy and convenient manner.<sup>58</sup> The Section 3(3) guarantees that no citizen shall be deprived of health services and the section 3(4) ensures that every citizen shall have the right to obtain free basic health services.

### 3. Persistent and Emerging Challenges

Despite the tremendous achievement and progress, the significant gaps still persist in order to achieve universal access to Sexual and Reproductive health and rights and leave no one behind.

- Although state has reaffirmed the provision of highest attainable standard of Reproductive health and rights through safe motherhood and reproductive rights act 2018, state's inability and gaps to formulate regulation and necessary procedural guidelines has hindered its full and effective implementation.
- Despite considerable efforts over the past many years, maternal mortality ration (MMR) is still very high i.e. 239 deaths per 100,000 live births for the seven-year period in Nepal.<sup>59</sup> Unequal power relation between men

56. <https://www.mohp.gov.np/en/program/reproductive-maternal-health/female-community-health-programme>

57. The Country Criminal Code 2017, Section no. 168 (3)

58. Section 3(1), the Public Health Service Act, 2018

59. Nepal Demographic Health Survey (NDHS) 2016, Key findings page 8. Ministry of Health

and women makes it difficult for women and girls to decide over their own bodies and negotiate safer sex.<sup>60</sup>

- Around 47% of married women aged 15-19 years of age have an unmet need for family planning, only 15% married adolescent aged 15-19 use modern contraceptives, unmet need among adolescent is very high, unwanted pregnancy rate is 19%. In this data show that there is still lack availability of full range of contraceptive devices in the health facilities. Men's ownership in the contraceptive still very low in comparison to the women.<sup>61</sup>
- Although the concern and awareness on the gynecological disorders like uterine prolapse, obstetric fistula, cervical cancer, reproductive tract infection has increased due to civil society engagement and participation but it is still doesn't suffice the government accountability and commitment to handle the growing incidence and prevalence of morbidities and mortality that are largely due to such preventable reproductive health disorders in Nepal.
- Due to stigma and lack of knowledge on safe abortion many women still turn to clandestine services, impacting their reproductive health. Still, 58% women go for clandestine abortion. Only 41% women (reproductive age) know about legalization of and only 48% women know safe abortion site.<sup>62</sup>
- Due to the conditional criminalization of abortion, women are still often prosecuted and imprisoned in abortion related offences.<sup>63</sup>
- Still, 37 % of girls marry before age 18 in Nepal and 10 % before they turn 15, keeping them out of Comprehensive Sexuality Education lessons taught at school, and making them vulnerable to multiple sexual and reproductive health problems, ranging from early and unwanted pregnancies, adolescent childbearing, sexually transmitted infections, maternal mortality. The government program implementation lack such out of school young women and girls.
- National health plans and programs still lack gender sensitive and responsive delivery mechanisms of services at the local level. Very less health facilities run health services addressing the health needs of the most marginalized women and girls taking life cycle and an intersectional approach (including age, caste, ethnicity, and class, migrant status, HIV status, disability, LGBTI and any other marginalized identity according to social context particularly sex workers). Due to stigma, they have to hide their identity and not get proper services to them.

60. <http://www.manskligarattigheter.se/en/human-rights/what-rights-are-there/sexual-and-reproductive-health-and-rights-srhr>

61. Nation Demographic and Health Survey 2016, Chapter 7, Page no. 115 to 121

62. Ibid, Chapter 9.6, page no. 161 to 162

63. Factsheet on Reformation of Abortion Laws and Its Implementation, study conducted by Forum for Women, Law and Development (FWLD) and Center for Reproductive Rights (CRR), 2018; The Fact-sheet has been jointly study by FWLD and CRR based on 53 cases relating to abortion filed in 16 districts of the Country between 2011 and 2016.

- Although women account to more than 50% of the health work force in Nepal, there is still huge occupational segregation and gender gaps in leadership and pay. In addition to this, the unpaid health and social care work done by women into the formal labor market as unpaid and underpaid female community health workers is still prevalent. Lack of safe environment and support from the community for these workers in communities as well as female health care workers in the health institutions hinders the provision of quality SRH services in Nepal. (Data or Footnote)
- There is huge policy implementation gap regarding harmful traditional practices such as Chaupadi as well as child marriages and its linkages in Women's health. Lack of public awareness regarding the available facilities as well as lack of proper referral as well as monitoring mechanisms for the proper implementation of one stop crisis center at the health facilities for gender-based violence.
- There is huge gap and unavailability of disaggregated data (gender, age) on women's health in Nepal particularly on gynecological disorders and health of elderly women, other noncommunicable (Heart disease, endocrine disorders such as hypothyroidism, auto immune disease in women) and communicable as well as endemic disease (HIV, dengue, malaria etc.) and its impact on women and girls. Migrant women, disable women, sex workers, victims of violence, trafficking etc. and also the various multiple intersection of women's health such as impact of climate change and disaster, economic opportunities and availability of institutional mechanisms.
- There also lacks enough targeted program for women's health for elderly women and other communicable and non-communicable disease other than maternal health in Nepal. The notion that women are just mothers and reproductive vessels still exist in the programs and policies of Nepal.
- The emerging issues such as nutritional status, interlinkages of mental health and SRHR, interlinkages of SRHR and climate change has gain huge attention in the past couple of years, however gaps still remain on huge gap regarding proper implementation available policies and targeted programs.

#### 4. Conclusions and Recommendations

It can be concluded that SRHR should be strengthened to promote equality to women and the other marginalized population in Nepal in order to leave no one behind. Without SRHR all other human rights (civil and political, economic and social) have limited power to advance the well-being of women and vice-versa and thus achieving agenda 2030 becomes far-fetched reality. Although many transformative RH policies are in place in Nepal, the implementation level is weak and there remains multiple level of barriers to access full range of available SRH services. Sustained advocacy from the civil societies and increasing awareness regarding available services to.

Following are the key recommendations in order to protect, promote and advance SRHR of women and girls in Nepal.

- Reaffirm the right of every women and girls, without distinction of any kind, to the enjoyment of the highest attainable standard of reproductive health as outlined in the constitution of Nepal and other human rights documents that Nepal is signatory to.
- Prioritize and adopt the life- cycle approach to health design and delivery while addressing the health needs of the most marginalized women and girls taking an intersectional approach to leaving no one behind (including youth, race, ethnicity, caste and class, disability, LGBTI, older women and any other marginalized identity according to social context)
- Ensure accessibility, availability, safe and quality reproductive health services addressing the lifecycle needs of Women and girls and access of every young women and girls to comprehensive sexuality education based on their evolving capacity as their human rights, through its inclusion and proper implementation in school curriculum; community-based awareness program; youth led mass media.
- Decriminalize safe abortion and increase awareness program on safe abortion. In addition, all type of safe abortion services up to second trimester services should be included in Basic Health Care package
- Recognize health as holistic concept and not mere as physical health in health program planning and implementation. Ensure availability of gender sensitive trained health care force that can address the interlinkages of different dimensions of health, also are well trained to recognize the interlinkages of women's health with emerging issues such as climate change.
- Recognize and address the negative health consequences of harmful traditional practices including child marriages. Ensure proper referral mechanism and promote empowerment programs that address gender inequality.
- Generate evidence-based policy for health on the premise of gender-disaggregated data finding inter-linkages between Reproductive Health.
- Adopt a gender transformative approach to national health workforce planning, making gender analysis integral to labor market analysis as agreed in the UN international agreements (ILO/WHO) in order to include women in equal numbers to men in health decision making at all levels from provincial to National Level.

# VIOLENCE AGAINST WOMEN VAW

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## 1. Present Status

Violence against women is ubiquitously present in Nepal, hindering women's enjoyment of human rights and curtailing their substantive participation in private, public and institutional space and environment. According to National Demographic Health Survey (NDHS) 2016; 22% women in 15-49 age group have experienced physical violence since age 15. Most "ever-married women" reported current husbands (84%) or ex-husbands (11%) as perpetrators. Mother in-laws and other in-laws accounted for 7% and 5% of VAWG respectively. Experience of physical or sexual violence increased with age, from 12% among women age 15-19 to 29% among women age 30 and older. The most common type of spousal violence experienced by women is physical violence (22%), followed by emotional violence (12%) and sexual violence (7%). 66% of women who have experienced any type of physical or sexual violence have not sought any help or talked with anyone about resisting or stopping the violence they experience.<sup>64</sup>

Patriarchy is embedded in systems, structures and institutions that legitimize practices of violence and oppression. Mind sets continue to prevail that perpetuates stereotypes on harmful practices such as menstrual restrictions, witchcraft, bonded labor and Triple Talak. Although the Constitution provides equal rights to women, the negative stereotype exists due to lack of understanding and awareness on Sexual Orientation, Gender Identity and Expression (SOGIE) and on women with disabilities at all levels, including the grassroots level.<sup>65</sup> While sexual violence of women with disabilities is high in Nepal, there is a lack of official evidence on this. The primary reason for the violence is the dependency women with disability have on the perpetrators of the violence, since most of them are husbands, careers or teachers.<sup>66</sup>

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64. National Demographic Health Survey (NDHS), Ministry of Health, Kathmandu, p. 337

65. Shadow Report on Sixth Periodic Report of Nepal, Shadow Report Preparation Committee (SRPC), 2018, p. 13

66. Shadow Report submitted to the Committee on the Rights of Persons with Disabilities in its 19th session for the Country Review of Nepal, 2018, p. 2

### Box 1. Violence against LGBTI women

Shila (name changed) was in relationship with a girl. But when they came out as lesbian couple in front of their families, Shila's family could not accept it and took her to different places to separate her from her partner. Her family even took her to traditional healers named as Dhama, Jhankri. She was also taken to rehabilitation centre as her parents thought that she was in influence of drugs. They also tried to establish that she has a psychiatric disorder. This kind of activities had a serious impact upon her and she was mentally stressed due to it. She has now been forced to live under her parents' terms and conditions.

### Box 2. Violence against LGBTI women

A girl who identified as Lesbian was raped by her own father when she shared her sexual orientation and told her family members about her partner. Her father time and again raped her saying that she needed to be attracted to male person. She shared about the violence with her mother. But her mother ignored her plea and asked her to keep silence as this will affect marriage of her younger siblings. She was also physically assaulted by her father due to which she has now hearing impairment. The incidence took place 7-8 years earlier and now she wants to file rape case against her father but do not have any physical evidence or witnesses.

Source: Mitini Nepal

VAW cross-cuts all caste, ethnic, and socioeconomic groups and is experienced most severely by those women who are from marginalized group such as Dalit, Madhesi, and indigenous communities, religious minorities, gender and sexual minorities (LGBTI), women from geographically disadvantaged locations, women with disabilities, displaced women and women in entertainment sector. Besides, patriarchal value system, traditional harmful practices such as dowry, *jhuma*, *deuki*, *chhaupadi*, witch-hunting and child marriage are important causes of VAWG.<sup>67</sup> Domestic violence is the most common form of GBV in Nepal.

Owing to laws relating to VAW, Domestic Violence (Offence and Punishment Act) and Human Trafficking and Transportation (Control) Act was enacted by the Government in 2009 and 2007 respectively to deal with the most serious forms of violence against women. Despite of laws and policies, access to justice for victims of violence against women is very often problematic and fraught with risks. This is substantiated by Nation-wide empirical research carried out by Shrii Shakti (S2).<sup>68</sup> The decade long record of Nepal police in the box below (Box 1) illustrate all forms of VAW that are increasing rapidly in the country.

67. Please note that the Acronyms GBV and VAWG are used here interchangeably. And *jhuma* (young unmarried girls sent by parents to monasteries), *deuki* (act of offering young girls to temples which degenerates into temple prostitutions, ), *chhaupadi*, denotes n young girls offered to temples which often end in prostitution and abuse as well as segregation of women during menstrual cycle in a shed outside home.

68. Violence Against Women and Girls: Review of Interventions 2019"; Shrii Shakti (S2), November, 2019. Kathmandu

### Box 3. List of VAW cases registered nationwide with Nepal Police

Year	Rape	Attempted Rape	TIP	Abortion	Polygamy	Child Marriage	Domestic Violence	Witch-Craft
2008	309	73	123	13	122	4	881	-
2009	391	75	139	12	170	2	968	-
2010	376	101	161	8	146	7	983	4
2011	481	151	183	12	197	2	1355	39
2012	555	156	118	13	249	12	2250	35
2013	677	245	144	28	350	19	1800	28
2014	912	414	185	18	421	15	6835	39
2015	981	562	181	17	518	23	8268	43
2016	1089	452	212	22	463	20	9398	28
2017	1131	536	227	22	464	26	11629	24
2018	1480	727	305	18	602	59	12225	48

Source: Nepal Police Headquarters, Kathmandu

TIP=Trafficking in Persons

## 2. Progress Achieved

Since the mid-1990s a strong women's movement was instrumental in placing VAW on national policy agenda. Government of Nepal's (GoN) policy documents began to incorporate measures against violence, exploitation, injustice and atrocities faced by women.

Constitution of Nepal (2015) protects women from physical, mental, sexual, psychological or other forms of violence or exploitation based on religion, social, cultural tradition, or on any other grounds<sup>69</sup>; makes all acts of VAWG punishable by law; and empowers the victim with the right to obtain compensation. Similarly, GoN enacted Sexual Harassment at Work Place (Prevention) Act in 2014 and Witchcraft-related Accusation (Crime and Punishment) Act, in 2015. The Country Criminal Code 2017, has elaborate legal framework to deal with the issue of VAWG. The Act criminalizes all forms of discrimination based on caste, gender, religion, disability and ideology *inter alia*.<sup>70</sup> Such discrimination is punishable by imprisonment and fines.<sup>71</sup> It also criminalizes the practice of forced labor<sup>72</sup>, bonded labor<sup>73</sup> and enslavement<sup>74</sup> and makes such practices punishable. Witch-hunting, socially exclusionary and degrading practices are also criminalized along with child marriage,<sup>75</sup> forced marriage and polygamy.<sup>76</sup>

69. Constitution of Nepal, Article 38 (3) - No woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law.

70. Country Criminal Code 2017, Chapter 10, No. 166(1)

71. Ibid, No. 166(2)

72. Ibid, no. 162

73. Ibid, no. 164

74. Ibid, no. 163

75. Ibid, no. 173

76. Ibid, no. 175

The Act has a separate section on rape<sup>77</sup> crime with elaborate provisions for punishment and fines. It also criminalized and sentenced Chhaupadi and discrimination and exclusion during menstruation.<sup>78</sup> Similarly, The Crime Victim Protection Act, 2018 ensures the right to justice of crime victims in criminal investigation, adjudication of cases, compensation and social rehabilitation. Legal reforms have been initiated to make legal framework consistent with international human rights instruments backed by a series of policy and institutional reforms intended to create strong, inclusive, empowering and accountable institutions from central to local levels.

Government currently has only 10 shelter homes which are targeted towards the survivor of human trafficking. However, is also made available to other survivors of violence against women but the government is trying to expand the number of shelter homes. A separate fund has been established to be used for immediate rescue, medical aid, legal aid, psycho-social support/counseling, seed money for micro-enterprise, rehabilitation/reintegration of VAW victims. One Stop Crisis Management Centers (OSCMC) have been established in different regions under major government hospitals which provide psycho-social and legal counselling, medical treatment and other services in coordination with police, attorney's office, department of women and children and community based organizations. The GoN, CSOs and NGOs are working on domestic violence, trafficking of women and girls, women's rights, and capacity building. The NWC has established a 24-hour and 7 days a week toll free helpline (1145) to provide support to survivors. The NWC mechanism assesses callers' needs and refers them to appropriate service lines, i.e. legal aid, psycho-social support, child support and shelter. Both Nepal police and NWC have established gender-based violence information management system to collect nationwide data though no efforts have been made to integrate the information management systems.

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**Box 4. Justice for victimized Girl  
raped by her own Father**  
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Manju (name changed) was repeatedly raped by her own alcoholic father. One day she managed to escape from home and was rescued by a police party. The police referred her case to the National Women Commission's (NWC) Helpline. The NWC took up her case together with a local legal support NGO LACC. The father was eventually arrested and put in jail. Her case was fast tracked as she was found to be pregnant. Her pregnancy was terminated and after medical help and counselling to a local support NGO SAATHI in order for rehabilitation in their long term shelter.

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77. Ibid, Chapter on Rape, no. 219

78. Ibid, Chapter 10, no. 168(3)(4)

### 3. Persistent Challenges and Emerging Issues

- Low level of implementation of laws relating to violence against women especially on issues such as 'chhaupadi system', child marriages, gender based violence, fetal abortion after sex determination, sexual violence and exploitation of women and girls and trafficking of women and girls. These legal and policy provisions are not backed by effective enforcement and compliance.
- Lack of accountability of law enforcement agencies which can be illustrated by the rape cum murder case of a young student Ms. Nirmala Pant from Kanchanpur in the middle of 2018 which remains unresolved.
- Most Nepali women and girls cannot even confide in their spouses or close relatives due to various stigma attached with VAW. Hence, the incidences of VAW remain grossly underreported.
- Low conviction rate remains as one of the main challenges in combating violence against women,
- Lack of implementation of court decision.
- Strong patriarchy based norms dictated by structural cum ideological underpinnings; patriarchal mind-set and behaviors;
- Dysfunctionality of GBV funds have halted the relief fund package to the victims and survivors
- The complaint process is complex, which makes it difficult for the victims to receive compensations in practice even though there is a provision of compensation written in law.<sup>79</sup> The current legal regime does not ensure compensation even if technical faults are occurred such as if the defendant is not arrested, or his or her address is erroneous, or he or she is acquitted. It is against the spirit of the right to compensation to deprive victims from compensation in such technicalities.<sup>80</sup>
- Lack of adequate shelter and rehabilitation homes for the victims of violence against women.
- Lack of free legal aid and to the survivors of VAW
- The Supreme Court of Nepal has issued the Guideline for Prevention of Abuse and Harassment in the Entertainment sector and also ordered to enact law to regulate the sector however no separate law brought by the State till date.<sup>81</sup>

79. Court Watch Monitoring on Sexual and Gender based Violence cases in Trial in District Courts, Forum for Women, Law and Development and International Women Rights Action Watch Asia Pacific, December 2018, p. 30

80. Cases of Human Trafficking and Transportation: Provision of Compensation and Access of Victims to Compensation, USAID/The Asia Foundation/FWLD, Kathmandu, 2017, p. 15

81. National Human Rights Commission, Trafficking in Person Report (2015/16), para 2 p.31 (Entertainment sectors generally include dance bars, Dohori restaurants (restaurants in which Nepali folk music are played), cabin restaurants, massage parlor and Spa, Khaja Ghar (small restaurants that service alcohol) and guest houses) available at [http://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/TIP\\_National\\_Report\\_2015\\_2016.pdf](http://www.nhrcnepal.org/nhrc_new/doc/newsletter/TIP_National_Report_2015_2016.pdf)

## 4. Conclusion and Recommendations

Violence against Women in Nepal is increasing day by day despite of combined efforts of government and non- government sectors. Although Nepal has made considerable progress in establishing laws, policies and strategies and putting different mechanisms in place against VAW – however, the implementation is very weak. In view of this persistent weakness some of the specific recommendations are given below.

- The policies, laws, projects, institutions and preventive/remedial social-welfare programme activities implemented by the State have to be implemented effectively/sustainably in targeted manner especially for the most vulnerable women and gender-groups based on the principle of intersectionality that considers Dalit, adivasi janajati women, women with disabilities (WDD), LGBTI women marginalized and disadvantaged women.
- Effective community awareness programs related to VAW must be run robustly by the state, local governments, private sector and the civic society actors.
- Increase accountability of law enforcement agencies by capacitating them on the sensitivity of the issue and providing them with training and workshops.
- The State must provide a strong and robust response for relief and rehabilitation to women in facilities and services run by the State to prevent, mitigate and rehabilitate cases related to VAW
- Formulate a separate law to control sexual exploitation of women working in the entertainment and hospitality service sector
- Functionalize the GBV fund and create mechanisms to expedite the distribution of fund to the victims.
- Interim relief must be provided immediately after commission of the crime, no matter defendants are arrested or not, and compensation must be provided once the trial court decides the matter
- The State, local governments and civic society organisations (CSOs) must engage men to mitigate VAW through awareness and mind-set changing sensitization programs towards women's equality in a creative manner such as in the family, schools, peer-groups, media and workplace to make it effective.

# WOMEN AND ARMED CONFLICT

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## 1. Present Status

Internal armed conflict in Nepal from 1996 to 2006 destroyed families and societies and has left women and girls particularly vulnerable. As in many conflict situations sexual violence during conflict was widespread in Nepal too. During the time of armed conflict and the collapse of communities, the role of women was crucial. They often worked to preserve social order in the midst of armed conflict and post conflict situation. Women made an important but often unrecognized contribution as peace educators both in families, societies and political sphere.

Similarly, during the insurgency, women often became caregivers for the injured combatants and found themselves, as a result of conflict, unexpectedly cast as sole manager of household, sole parent, and caretaker of elderly relatives

Following the historical Comprehensive Peace Accord (CPA) that was signed on 21st November 2006<sup>82</sup> and succeeded by the promulgation of Constitution 2015, the situation of women and girls who endured great sufferings in their lives resulting from the armed conflict was/ is expected to change. CPA ensured the provision of Transitional Justice mechanisms and effective remedy and reparation of victims of armed conflict.

## 2. Progress Achieved

There has been measurable advancement in Nepal in the sector of women, peace and security along with the gradual development of policies, commitment and understanding of gender issues that aims to serve for the best interest of the women.

- The two commissions, the Truth and Reconciliation Commission (TRC) and Commission of Inquiry on Enforced Disappearance (CIEDP) on Transitional

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82. Between 1996 and 2006, an internal conflict between the Government of Nepal and the Communist Party of Nepal (Maoist) (CPN (Maoist)) leftover 13,000 people dead and 1,300 missing. Among the verified 23,610 Maoist combatants, 4,008 were discharged in 2010, being identified as Verified Minors and Late Recruits (VMLR Verified minors were defined as those born after 25 May 1988. Among them, 3,846 were women, that is, approximately 20% of the total combatants (Nepali Times, 2012).

Justice were established on 10th February 2015 originally mandated to investigate the facts about those involved in gross violations of human rights and crimes against humanity during the course of the armed conflict, and to create an environment of reconciliation in the society. The commissions collected 63,391<sup>83</sup> cases of gross violation of human rights so far.

- The Truth and Reconciliation Commission Complaint Investigation Procedure, 2016 demands to maintain confidentiality of the victims while investigating the cases of rape and sexual violence and treat the victims in a dignified manner. It further, requires a woman officer to deal with the cases of women victims.<sup>84</sup>
- Nepal developed its National Action Plan (NAP) for the implementation of UNSCR 1325 and 1820 in 2011 for the period of 2011 to 2016. Led by the Ministry of Peace and Reconstruction (MoPR), other government agencies, development partners, and civil society were involved in the development of the NAP. It was contextualized within a broader set of government policies and initiatives that seek to mainstream gender in its implementation. After the implementation of the NAP, there has been an increase in orientation and training on human rights to officials of the security sector, awareness on women and girls rights, peace and security has been included in the school level curriculum and informal education, series of programs were conducted locally for conflict affected women, girls and families of former women combatants, works have been done for rehabilitation of them in the society and various networks have been established at the district level.<sup>85</sup>

### Box 5. Waiting for Justice

Laxmi, a mother of 3 sons and 2 daughters, is a resident of Bardiya district. Her husband was taken away by armed group while watching television on 31 March 2004. They warned Laxmi not to share the incident with anyone because of which she kept it confidential. After few days, she heard a similar incident that had happened to another person who was also taken away on the same day along with her husband. Television News reported that he was killed being accused of rape. Laxmi was told that her husband was buried alive but was not informed of the place. Till now, she does not know the whereabouts of her husband and the truth behind it. Laxmi has reported the case to police specifying the perpetrator. However, the case has not progressed and the perpetrator is walking freely in the society even after committing such a heinous crime. Laxmi is waiting for justice and wants to know as to why her innocent husband was killed with fake accusation.

Being a mother, she has faced many challenges while looking after her children. In enforced disappearance case, there is no provisions for property transformation from enforced disappeared person, the challenges for the family is much higher than other cases. Also the dilemma continuously exists regarding the status of enforced disappeared person.

*Source: Story telling workshop conducted by FWLD and International Alert, September 2-10, 2018*

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- 83. 60298 complaints have been filed to the Truth and Reconciliation Commission and 3093 complaints have been filed to the Commission of Investigation on Enforced Disappeared Persons
  - 84. Number 4, Special Provisions relating to rape and sexual violence cases, the Truth and Reconciliation Commission Complaint Investigation Procedure, 2016
  - 85. The Mid- term Monitoring Report, Nepal on the National Action Plan on Implementation of United Nations Security Council Resolutions 1325 & 1820 , 2014

- The victims' networks, the Conflict Victim Common Platform (CVCP) and the Conflict Victim National Alliance (CVNA) as well as number of networks of the civil society organizations like Nispakchya, Shanti Malika and 1325 Action Group are working for the gender sensitive conflict resolution and advocating for victims' rights with specific focus to women and children. These networks are also working closely with victims along with local government stakeholders to address specific issues of women and girls.
- The engagement of conflict affected victims in different local and national level networks is increasing. Community reconciliation in the local and national level provided by civil society organizations<sup>86</sup> is actively working to solve the conflict at the nascent stage to prevent future conflicts.
- For ensuring fair distribution and transparency the Government has introduced special criteria and guidelines such as the Citizen's Relief, Compensation and Gender Support Regulation (2009), Guideline to Provide Relief to Kin of victims.
- Similarly, Conflict, Peace and Development Studies program at Tribhuvan University, the premier higher education institution in Nepal, has included Gender and Conflict in the course curriculum of Gender Studies in Master level program.
- The second phase of NAP, which is focus on the Sexual and Gender Based Violence is underway with many expectations in adoption and amendments to the first NAP. Initially, second NAP was led by the Ministry of Peace and Reconstruction. Nonetheless, after the Ministry was reshuffled, the Ministry of Home Affairs is taking lead in consultations on the draft of NAP II. Resulting from the State re-structuring, the implementing bodies of the government is being aligned in the draft NAP with the newly formed bodies within state structure from provincial level to local government. In addition to this, the drafting committee has accommodated the representatives from civil society organizations along with victims and survivors of gross violation of human rights. Currently the provincial and local consultation on draft NAP is taking place.

### 3. Persistent and emerging challenges

Despite of significant progress in addressing women, peace and security issues, political instability, lack of consensus between political parties, ineffective implementation of plans and policies remain major challenges for attaining justice and peace.

- Currently, the Commission on Investigation of Enforced Disappeared Persons and the Truth and Reconciliation Commission are in critical

86. "Leaving no-one behind: Building Community Capacity in Nepal for Inclusive Transitional Justice, Reconciliation and Conflict Resolution" has been implementing jointly by FWLD and International Alert

juncture *inter-alia* ongoing amendment of the Act concerning the enforced disappearances inquiry, truth and reconciliation;

- The draft bill to amend the Truth and Reconciliation Commission Act obstructs legal action for entitlements relating to sexual and gender-based violence, including as a war crime and a crime against humanity, unsettled to the omission of the applicability of criminal law legislation with regard to offences committed during the armed conflict that occurred between 1996 and 2006; the lack of definitions of those crimes; the imposition of additional requirements for their prosecution; the substantial reduction in the length of sentences, leaving them disproportionate to the gravity of the crime; the suspension of ongoing criminal investigations; and provisions allowing for amnesty and reconciliation;
- Possibility of the lack of independence of the Commissioners and insufficient resource allocation to the Commissions, which preclude the advancement of the peace process;
- The fact that women and girls who are victims of the armed conflict, including widows, family members of disappeared persons and victims of rape and other forms of sexual violence, do not benefit from interim relief resulting from the narrow definition of the eligibility criteria set forth on the Interim Relief Program (IRP);
- Significant delay in the adoption of the second national action plan on the implementation of the UNSCR 1325& 1820 has delayed the victim's right to an effective remedy and reparation.
- Interim Relief Program (IRP) couldn't uphold women's right to an effective remedy to the victim of sexual and gender based violence.<sup>87</sup> Only ex-gratia<sup>88</sup> payment was provided institutionalizing the impunity.
- In four years, the TJ bodies failed to give justice to even one of the 63,391 complaints they have received and shied away to investigate alleged perpetrators due to the prevailing loopholes in the TJ act. Further, the bodies have failed to adopt credible and transparent processes for their work the lack of political will to address past human rights violations and abuses, resulting in lowered expectations by victims from these mechanisms. Likewise, the mechanisms have fallen short of international standards despite the repeated reinforcement of such standard by the Supreme Court of Nepal.

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87. According to the CPA, the government was required to provide relief packages- including financial assistance - to the kind of conflict victims, defined as those maimed, widows, the abducted, the internally displaced and those who lost property during the conflict. However, survivors of Rape and Sexual Victim RSV have not been considered "conflict affected" and therefore been excluded from the state relief program. Absence of official data on rape and sexual violence cases. RSV are also not mentioned in the MoPR guidelines for psycho-social counseling (2013).

88. Without any accountability, only pecuniary compensation.

- Authenticated data on conflict-affected women (CAW) remain unavailable on a national level. There are differences in the data held by government and national and international nongovernmental organizations, civil society organizations, human rights organizations and the media. Only one level of categorization of victims exists and disaggregated data are not in place yet. Even the definitions of different categories of conflict victims required to disaggregate the data have not been clarified.

#### 4. Conclusions and Recommendations

- Remove the statute of limitations for filing cases relating to sexual violence committed during the conflict;
- Bring the Truth and Reconciliation Commission Act to its treaty obligations under international law and in favor of conflict victim in consultation with civil society and victims, taking into account the ruling of the Supreme Court of 26 February 2015 ordering the amendment of the amnesty provisions of the Act, and guarantee the integration of a gender perspective into the Act;
- Take appropriate measures to ensure the independence and impartiality of the Commissioners and allocate adequate human, technical and financial resources for the operation of the two Commissions;
- Guarantee access for women and girls who are victims of the armed conflict to interim relief and full and effective remedy and reparations, ensuring restitution, compensation, rehabilitation and guarantees of non-recurrence guaranteeing that it's prompt, adequate, and effective.
- Expedite the adoption of the second national action plan for the implementation of UNSCR 1325 and 1820 on women, peace and security, to ensure durable peace in the country.

# WOMEN AND ECONOMY

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## 1. Present Status

Women's economic empowerment is a fundamental prerequisite for every aspect of development. The Constitution of Nepal, 2015 expresses its determination to create an egalitarian society based on the principles of proportional inclusion and participation, to ensure equitable economy, prosperity and social justice.<sup>89</sup> It also recognizes all citizens' right to equality and includes a provision in relation to equality. The Constitution states that 'There shall not be any gender discrimination regarding remuneration for the same work and social security'.<sup>90</sup>

With the promulgation of the new Constitution and the adoption of the federal governance structure, the Government of Nepal has adopted economic prosperity as the key development agenda. Through its 15<sup>th</sup> Periodic Plan approach paper, Nepal has shared its vision of "Prosperous Nepal, Happy Nepali." Nepal has set the goal of graduating from Least Developed Country (LDC) status and wishes to grow as an inclusive, equitable, and prosperous middle-income country by 2030.<sup>91</sup>

Taking its marginalized citizens out of the clutches of poverty is the real challenge for a nation. Often forgotten in the national economy is none other than women who bear the double brunt.<sup>92</sup> The global gender gap report 2018 ranked Nepal at 110<sup>th</sup> position among 149 countries in the area of women's economic participation and opportunity. Only 21% of the female work-force are leading the private firm at the top management level. On the wage equality for similar work, it stands in the 96<sup>th</sup> position while in the area of professional and technical workers; it is ranked at 129<sup>th</sup> position.<sup>93</sup>

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89. The Constitution of Nepal, 2015, Article 18(4)

90. Constituent Assembly Secretariat (2015) Constitution of Nepal 2015, unofficial translation by Nepal Law Society, International IDEA and UNDP

91. National Planning Commission/Periodic Plan/15th periodic plan approach paper

92. Women in Nepal, Human Development in South Asia 2016: Empowering Women in South Asia, Mahbub ul Haq Research Centre 2016

93. World Economic Forum, The Global Gender Gap Report 2018, Nepal country profile available at [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf)

Tourism, agriculture, and remittance are the key sources of revenue for Nepal. The agriculture sector, however, remains the main employer wherein 80% of women are engaged actively as majority of the male family members migrate mostly to the Middle East for work.<sup>94</sup>

The Constitution of Nepal, 2015 has provisioned progressive measures to address the key bottlenecks of women's economic empowerment such as right to participation, access to decision making and resources, right to ancestral property, right to decent work and employment . These measures have set the enabling ground to push forward the agenda of women and economy in the country.

To implement constitutional provision, the Government of Nepal has adopted Labor Act (2017) with a number of progressive provisions to ensure and promote decent work and employment both in the formal and informal sector.<sup>95</sup> It is expected to benefit those women who are mostly working in the unskilled sector, as the provision of equal pay for equal work is a progressive measure to address the wage gap inequalities. The government has set a minimum wage of USD 88 covering informal workers and in addition to that the act has given them the legal grounds to demand it.<sup>96</sup> The Government also adopted Contributions Based Social Security Act 2017 and has launched a scheme under the same name in 2018 which covers workers from both formal and informal sectors, including self-employed workers.<sup>97</sup> The Government also adopted Contributions Based Social Security Act 2017 and has launched a scheme under the same name in 2018 which covers workers from both formal and informal sectors, including self-employed workers.<sup>98</sup>

## 2. Progress Achieved

The Government has developed “The Agriculture Development Strategy 2015” with the vision of “A self-reliant, sustainable, competitive, and inclusive agricultural sector that drives economic growth and contributes to improved livelihoods and food and nutrition security leading to food sovereignty.” One of its indicators under inclusive component is “**Percentage of farmland owned by women or joint ownership**”. The strategy has integrated innovation and agro-

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94. FAO/Country gender assessment of agriculture and the rural sectors in Nepal 2019

95. Nepal Labour Act 2017

96. Nepal Labour Act 2017

97. Contribution based social security scheme is funded through the contributions made by the workers and the employers. While the workers contribute 11 per cent of their basic salary, the employers top up 20 percent of the workers' basic salary. The scheme is set to initially include medical, health and maternity benefit; accidental and disability benefit; benefits for dependent family members and old-age benefit.

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entrepreneurship programs with a special focus on women and disadvantaged groups.

Nepal has witnessed in the past a ground-breaking, extensive and successful pioneering programs for women's economic empowerment named Production Credit for Rural Women (PCRW), launched in the early 80's by the Government of Nepal. It eventually reached out to 1.5 million women in all districts of Nepal.<sup>99</sup> Likewise, at present, numerous new initiatives have been launched by the Government of Nepal such as the Prime Minister's Employment Programs and the President's Women Empowerment Program which demonstrate government's commitment to invest in the economic development of women. The continued practice of gender-responsive budgeting in its financial planning and programming has contributed positively to increase resource allocation to women.

The National Economic Survey of Nepal 2018 has reported that there exists 923,356 establishments in which women's participation is 37.7%; among which, 29.7% are managed by women. This demonstrates an increasing trend of women's participation and leadership in the economic sector of the country.<sup>100</sup>

Another promising sector is the Co-operatives which has approximately 6.3 million members, 52% of whom are women across 34,500 cooperatives in the country.<sup>101</sup> Besides, the Government has launched a 5% interest subsidy on bank loans to women entrepreneurs from fiscal year 2019/2020 to promote women entrepreneurs across the country and help them to become economically independent.

### 3. Persistent and Emerging Challenges

Despite constitutional provisions and national policy arrangements towards women's access to participation, resources, and socio-economic transformation, it has been challenging to realize those provisions in practice due to inadequate access to information, lack of proper institutional mechanism, patriarchal mindset, discriminatory gender norms, and practices. Though there is a gradual increase in the ownership of property by women, the proportion of ownership is still comparatively low. Moreover, the irony is that the male members are the de facto decision-makers, despite women being the owner; who dictate the use of these properties curtailing women's rights to take full control over the assets.

Although the government of Nepal has launched contribution-based social security schemes for both formal and informal sectors, implementation

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99. Department of Women and Children, Ministry of Women, Children and Senior Citizen, "Production Credit for Rural Women Programme" (accessed October 2019) <http://dwd.gov.np/en/page/18/19>
  100. Central Bureau of Statistics, National Economic Census-2018, National report available at <https://cbs.gov.np/national-report-1-2/>
  101. OECD Development Centre, report available at <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/NP.pdf>

modalities of the scheme to the informal sector are still unclear, especially among those where employee-employer relations are hard to establish. Moreover, Post Disaster Needs Assessment (PDNA) has clearly stated that most women working in the informal sector do not only lose their livelihood after any disaster but also their workplace.

Labor Force Survey 2017/18 reported a higher unemployment rate of 13.1% among the female work-force, which is 2.8% higher compared to males. Similarly, the female Labor Force Participation Rate (LFPR) is less than half (26.3%) compared to the male (53.8%).<sup>102</sup>

Lack of access to capital, finance and limited exposure to the market has hindered the potential of women to move up the value chain and become economically independent. The right to mobility is questionable due to unsafe public transport to commute from home to market and vice versa.

It is often reported that the targeted budget and resources on women have been reallocated and used for other interventions. With the decentralization of financial planning to local level government, the proper implementation of targeted women responsive budget has been challenged by lack of understanding, institutional mechanism and local legislation to bind that provision.<sup>103</sup>

Although the provision made by the Labor Act to formalize informal work, the prevalence of decent work deficit and unequal pay is more in the informal sector, the majority of which is comprised of women. This demands the regulation of the informal sector so that women are not exploited as reiterated in the CEDAW Concluding Remarks.

Unpaid care work remains a challenge for women as they receive inadequate support from their male counterparts. It limits their opportunities to economic participation, education and skill training for employment. On average, women spend 11.87 hours in unpaid domestic work in Nepal.<sup>104</sup> Despite focused initiatives on mainstreaming women in the economy, it has been a challenge for women to manage the dual role of care economy and productive activities.

In spite of repeated national dialogues on the inclusion of the care economy in the national GDP, it has not been implemented till date devaluing the contribution made by women. Lack of sex-disaggregated data is a huge impediment to the formulation and implementation of policies, plans, and gender-responsive programs.

## 4. Conclusion and Recommendations

The agenda for women's empowerment is not a stand-alone one; it cuts across all Sustainable Development Goals (SDGs) and to achieve them by 2030,

102. Nepal Labor Force Survey 2017/18

103. Feedback from grassroots women during provincial consultation facilitated by NNBN

104. National Planning Commission/Sustainable Development Goals/Data available at <http://sdg.npc.gov.np/data/>

Women and Economy need to be highlighted especially in Goals 1, 2, 3, 5 and 8.

In the last five years, Nepal has adopted an inclusive constitution and federal system of government, with enabling constitutional and policy frameworks to advance the agendas of women and the economy. It is high time for Nepal to capitalize on the proactive policies initiated to date, by implementing them in practice and localizing it. The prevailing scenario of gender injustice can be minimized only if and only when the economic status of Nepalese women is strengthened. The dream of prosperity can then be equally achieved.

The economic empowerment of women is critical to realize gender equality and gender justice in all aspects of their lives. In Nepal, women from different sections of society are making huge contributions to the national economy either through formal or informal sectors be it agro sector; paid or unpaid domestic work; home-based work; care economy and reproductive role; or remittance from labor migration. However, fundamental issues about gender inequalities, in terms of economic participation, decision making, access to and control over resources remain largely unaddressed in society. Gender biased social norms and practices, in addition to the major burden of the care economy, are limiting the advancement of women in economic activities and integration in the local and national supply chains.

In totality, when we look at this sector, it is crucial to realize that women's economic empowerment is the key driver to catalyze the dream of gender just and inclusive society heading towards a prosperous middle-income country where female and male members can exercise their rights to voice, choice, and opportunity.

For feminized poverty to address all its economic woes, a multi-pronged approach is highly essential.<sup>105</sup> Key recommendations are as follows:

- Expedite implementation of existing laws, guidelines, policies and programs to achieve gender equality and promote women's economic empowerment at all levels of government.
- Improvise training packages for women as per their needs to capacitate their skills according to the demand of the market along with training on financial literacy, small, medium and large enterprise development, product design and management.
- Adopt policies and programs to increase women's access to finance and substantial investment to create a women-centric entrepreneurial and market ecosystem so that more women will be self-sustained to move up the value chain, including Prime Minister's Employment Programs and President's Women Empowerment Program.

105. Women in Nepal, Human Development in South Asia 2016: Empowering Women in South Asia, Mahbub ul Haq Research Centre 2016

- Acknowledge and assess the contribution of women in informal sectors (home based workers, domestic workers, brick kiln and construction workers, workers at restaurant and dance bars, trafficking and domestic violence survivors, returnee migrant workers, internally displaced people, sexual minorities and other marginalized and socially excluded groups) to the national economy including the GDP, with firm sex-disaggregated data. The special needs of this excluded group should also be appropriately and adequately addressed in any post-disaster context.
- Undertake special measures to increase investment to improvise public services that reduce the care work and time burden for women enabling them to increase their productivity.
- Implement and amend the sexual harassment at workplace law in line with the CEDAW Committee's general recommendation.
- Prioritize Public-Private Partnerships (PPP) to create synergy in allocating large and long-term investment to women's economic empowerment programs.

# WOMEN IN POWER AND DECISION MAKING

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## 1. Present Status

The inclusion of women in Army, Nepal Police shall be made on the basis of equality.<sup>106</sup> The appointment of ambassadors shall be made on the basis of principle of inclusion.<sup>107</sup> The appointment of the officers in the offices of constitutional bodies shall be made on the inclusive principle.<sup>108</sup> These provisions in the Constitution offers legal basis as opportunity to work towards assisting the government in formulating local Acts, developing rules, policies and procedures as well as advocating to ensure these rights are exercised by the targeted group, especially the women within each of these targeted groups. The electoral quota of Nepal has ensured 33% women's representation in the federal and provincial parliaments and 40% in local governments.<sup>109</sup> The Constitution of Nepal has provisioned appointment of President and Vice President representing different sex/community, and one woman as chair/vice-chair both in upper and lower house of the federal parliament.<sup>110</sup> Local Body Election (First Amendment) Act, 2017 has provisioned 50% women candidacy for position of Chair, Vice- Chair; Mayor, Deputy Mayor; Chief and Deputy Chief of District Coordination Committee from political parties and has also ensured at least two women candidacy (including one Dalit women) at Ward level.<sup>111</sup> As per the reservation policy introduced in the Civil Service Act 2049, 45 % of the total vacancies in government service were allocated to various marginalized and backward communities among which denotes for women, Dalit, Janajati, Adhivasi/ Madhesi, Disabled and Backward Area. Without having allocation for women in specific, only 14% of them have been obtained the facilities.<sup>112</sup>

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106. Constitution of Nepal 2015, Article 267 (3)

107. Constitution of Nepal 2015, Article 282

108. Constitution of Nepal 2015, Article 283

109. Constitution of Nepal 2015, Article 84(8), 86, 91(2), 216(4)

110. Constitution of Nepal 2072, Article 70, 91 (2)

111. Local Body Election (First Amendment) Act 2017, [Chapter 4, Section 17 (4); Chapter 2, Section 6 (2) and Chapter 4, Section 21].

112. Civil Service Act 2049, Section 6(a)

## 2. Progress Achieved

- The Local Governance Operation Act 2017 have provisioned for the representation of women in the self-governing local units either as Mayors or Deputy Mayors which as a result has reflected on the local elections held where the representation of women has been ensured in 700 local units out of 753 as a deputy mayors.
- After the promulgation of the new Constitution of 2015, first women President, Bidhya Devi Bhandari was elected, Onshari Gharti became Speaker of the Legislature-Parliament and Sushila Karki became the women Chief Justice of the Supreme Court for the first.<sup>113</sup>
- Of the 10 parliamentary committees under the HoR, women lawmakers lead six.<sup>114</sup>
- Around 6567 Dalit female members were able to win in local level election.<sup>115</sup>
- The Foreign Service of Nepal has a total of 312 posts. Out of this 61 posts are filled by women employees, which is about 20 percent of total posts.<sup>116</sup>
- Women can be found involved in international committees as well. Ms. Sapana Pradhan Malla was elected in UN CAT Committee in 2015, Ms. Bandana Rana was elected in UN CEDAW Committee member in 2016 and Ms. Melisa Uprety was elected in UN Working Group on Discrimination against Women in Law and in Practice in 2017.
- After the elections, women occupied about 41 percent of posts at the federal, provincial and national levels of government in Nepal. A total of seven women were elected mayors of municipalities, 11 chairpersons of rural municipalities, 276 deputy mayors and 424 vice chairs of rural municipalities.<sup>117</sup>
- Out of 753 local bodies, only 18 (<3%) are headed by women (Chairperson/Mayor and only 23.54% are in civil service sector.<sup>118</sup>

## 3. Persistent and Emerging Challenges

The appointment of women ministers in the cabinet is less in executive system. The ministerial cabinet after the federal election in 2017 listed 1 prime minister, 19 ministers and 3 state ministers. However, out of 19 ministers of the central government only 2 of them are female and out of 3 state ministers, none of them is female.<sup>119</sup>

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113. SDG report

114. Bhattarai .2019. "The woeful presence of Nepali women in politics and government". The Annapurna Express. February 26, 2019

115. Paswan, Bhola. 2017. "Data Reveals Local Elections a Disaster for Gender Equality." The Record. October 24, 2017

116. Government's reply on LOI., CEDAW Committee

117. SDG report.

118. Department of Civil Personnel Records, 2018

119. Office of the Chief Minister and Council of Minister. 2019, via <https://www.opmcm.gov.np/cabinet/>

Out of 21 judges in the Supreme Court only 3 (14.28%) are female, out of 148 judges in High Courts only 14 (9.45%) are women and out of 230 judges in District Courts only 5 (2.17%) are women.<sup>120</sup> Government has started nominating women as ambassador to other countries giving them opportunity as delegates and in the foreign diplomacy. Out of 30 embassies in 30 countries only 3 female ambassadors are appointed in Oman, Japan and Israel as in 2019.<sup>121</sup> However, in the academic sector there has been no appointment of female vice chancellor in universities.

There is a provision to appoint commissioners on inclusion basis at constitutional bodies. However, less involvement of women can be observed. CIAA has one female commissioner.<sup>122</sup> Public Service Commission has one female commissioner as well.<sup>123</sup> Despite the promise of state restructuring, women continue to be denied political power at the local level.<sup>124</sup>

Even though a large number of Donors, INGOs and UN agencies are contributing towards women's decision making and participation, women are still less fortunate in respect to income, opportunity, access to the services and also positions in the public decision-making. Most political parties have less involvement of women.

Despite a number of initiatives and provisions made by the government through process and plans in different ministries and departments, the budget allocation for the purpose is either very poor or not used properly. The number of women especially from marginalized communities coming into power currently augurs well for gender equality and social inclusion (GESI) but, the road to women's substantive participation in leadership and decision-making roles is littered with manifold challenges.<sup>125</sup>

In the name of 'women's participation and empowerment' more emphasis is being placed in quantitative indicators than qualitative performance. Therefore, the number count is overriding the quality of representation and participation.

## 4. Conclusion and Recommendations

The persistent gender discrimination and social exclusion in Nepal which includes gender stereotypes, stigmatizing values and attitudes at socio cultural and structural level has brought different challenges against women in acknowledging their critical roles in development process.

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120. Data collected from Judicial Council, 2019 December

121. Ministry of Foreign Affairs Nepal. 2019. Via <https://mofa.gov.np/>

122. CIAA, 2019. via <http://www.ciaa.gov.np/page/4>

123. Public Service Commission, 2019 via <http://www.psc.gov.np/>

124. Paswan, Bhola. 2017. "Data Reveals Local Elections a Disaster for Gender Equality." The Record. October 24, 2017

125. TAF, DFAT and Samjhauta Nepal .2017. "Nepal's Locally Elected Women Representatives Exploratory Study of Needs and Capacity. Nepal

The main cause behind gender inequality has been traditional patriarchal, religious and social practices of Nepal which can be reflected from low participation of women in formal institutions like academic, economic, politics and profession. The historic movement of women, and the valued contribution for the democracy, right to education, participation in the armed combatants, militia, national army, public transport sector, foreign labor challenging gender stereotype norms and values is noteworthy. Different international and national provisions along with continuous advocacy and persistence have enhanced participation and decision making of women in Nepal. However, the level of recognition and the support women get in noticeably minimal.

- The decision making role of women in regards to her bodily autonomy, her family, community and in different state machineries should be considered for the meaningful decision making process.
- Ensure constitutional right to equality by ensuring women's quality participation, representation and leadership in all state machineries and emphasizing substantive equality where more women should be given the leading position not merely role of deputy.
- Women having high academic as well as professional expertise need to be given opportunity to represent and lead.
- Ensure mandatory proportional representation of women in all the constitutional bodies, federal and provincial commissions and cabinet ministries. The advocacy for the at least 50% participation of female political candidates in the election where the competition should be between female candidates in the first past the post system. The position of commissioners in the different Constitutional bodies needs to be fulfilled with priority to follow at least 33% representation of women. The measures guaranteeing
- Ensure the measures guaranteeing equal and inclusive participation of women in all levels of political, public and professional life, especially Dalit women, widow, women with disabilities, women from sexual and religious minorities, indigenous women, Madhesi women, impoverished women and rural women.
- Ensure equal and quality representation of women at local government by ensuring quality in education and capacity development of rural women and likely giving technical support to the women who are capable to hold the leadership position.
- The yearly-disaggregated database of women leadership in different sectors should be updated regularly through different academic, research, social and government institutions.
- National Women Commission uses the national and international legal mechanism to check and balance the system. Therefore, advocating, monitoring of the representation, active participation and following of the constitutional mandate regard to the decision-making and leadership is must.

# INSTITUTIONAL MECHANISM FOR THE ADVANCEMENT OF WOMEN

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## 1. Present Status

Nepal has made substantial progress in terms of establishing institutional mechanism and national machineries in place which supports for advancing the rights of women at state structure. But gender disparity is entrenched extensively despite of the improvements made. Constitution of Nepal (2015) is progressive and constitutes several encouraging basics for the upliftment of women in every sector of development. The National Women Commission was established as statutory body in 2002 to monitor Nepal's women's rights situation which is now a constitutional body with the provision of Constitution of Nepal 2015.<sup>126</sup> The National Women Commission (NWC) is governed by the National Women Commission Act 2017.

Nepal with having new federal system has brought up newly formed decentralized government structures which indeed consider women empowerment a priority in increasing Nepal's overall human development.<sup>127</sup> Ministry of Social Development and social development unit in local level

Over 25 years of Beijing Conference in 1995, the major outcomes that the Country has been able to pursue is the establishment of National institutions for Women in Particular but there still the prevailing gaps and challenges that needs to be addressed to advance the rights of women in national structure. The Ministry of Women, Children and Social Welfare (MoWCSW) (which is now Ministry of Women, Children and Senior Citizens) was established following the Beijing Conference in 1995 for advancement of women's rights.<sup>128</sup> The National Women Commission was established as statutory body in 2002 to monitor Nepal's women's rights situation. The Government of Nepal (GoN)

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126. Constitution of Nepal Part 27, other Commission, Article 252-254

127. <https://thehimalayantimes.com/opinion/editorial-gender-equality-new-opportunities/>

128. National Review on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the Twenty-Third Special Session of the General Assembly (2000)

had Women and Children Offices (WCOs) established in all districts to deliver women development services effectively. Government of Nepal had formulated National Plan of Action in 1997 and then in 2004 as a result of Beijing review on Gender Equality and Women Empowerment.

The Gender Coordination and Empowerment Unit established at the Office of the Prime Minister and Council of Ministers (OPMCM) in 2010 has been instrumental for necessary coordination and facilitation for enhancing access of victims to justice mechanism. It has been monitoring the implementation of National Plan of Action against GBV and gender empowerment along with information management for anti-GBV investigation, research and development initiatives.<sup>129</sup> There is also a National Committee for controlling Human Trafficking (NCCHT) is a focal unit in Ministry of Women, Children and Senior Citizen (MoWCSC) to combat trafficking which coordinates with non-governmental organizations and other stakeholders for rescue and rehabilitation of trafficking survivors and employ prevention efforts. There are service centers and OCMC (One-Stop Crisis Management Center), Rehabilitation Centre for the survivors of violence against women and to provide shelter and restoration to those women. Gender equality and social inclusion policy has been adopted. Similarly, there is Gender Based Violence Elimination (GBVE) Fund; and Gender responsive Budgeting system. Gender Responsive Budgeting (GRB) seeks to ensure that the needs and interest of women and men from different groups are addressed in governments' budget. Ministry of Finance has even formed a committee on Gender Responsive Budget to address the issues regarding GRB. Government of Nepal had formulated National Plan of Action in 1997 and then in 2004 as a result of Beijing review on Gender Equality and Women Empowerment.

## 2. Progress Achieved

- Law has provisioned several mechanisms including National Human Rights Commission, National Women Commission, National Dalit Commission, Tharu Commission and National Foundation for Development of Indigenous Nationalities were established to address all possible violations of rights.<sup>130</sup>
- Gender Unit have been established in each Government Ministry.<sup>131</sup>
- Women and Children Service Centre in all districts and directorate in headquarter has been established and expanded to deal with issues of women and children within the Nepal Police.
- Ministry of Social Development has been established in provinces which is focal ministry to deal with formulation of gender related policies in provincial level along with other social issues.

129. Sixth Periodic Report of Nepal on CEDAW submitted to CEDAW Committee, April 2017, p. 6

130. Ibid

131. Gender Assessment and Gender Budget Audit in Seven Ministries

- There has been increase in number of OCMCs. As of 2017, Ministry of Health has established 21 OCMCs with technical backstopping support from NHSSP among which, three OCMCs were established after the massive earthquake in three highly affected disaster districts (Sindhupalchok, Dolakha and Ramechhap).<sup>132</sup>
- Owing to GRB, the total budget for the current fiscal year (2019-2020) amounts to NPR 15.3 trillion (USD 137 billion), out of which NPR 585.2 billion (USD 5.24 billion), which is about 38.17% has been known as allocations made for programmes that are directly benefiting women. Similarly, the share of indirectly gender-responsive allocations amounts to NPR 545 billion (4.88 billion), i.e. 35.56% of the total budget. Finally, NPR 402.7 billion (USD 3.61 billion), i.e. the remaining 26.27% has been allocated for gender-neutral programmes.<sup>133</sup>
- Women and social committee formed as Parliamentary Committee.

### 3. Persistent Challenges/ Gaps

- Dissolution of Women and Children office at all the district levels which along has created the difficulties for women in assessing the facilities for advancing the socio-economic political rights of women
- GBV fund mechanism is dysfunctional due to which it has become difficult to distribute the fund to survivors.
- Failure in appointing commissioners of National Women Commission (NWC) which have led it being inactive.
- Lack of adequate financial and human resources for National Women Commission (NWC) to operate effectively.<sup>134</sup> The position of Joint Secretary of Government of Nepal has been mandated to be appointed as the secretary of NWC which has derogated the constitutional status of NWC and has made it difficult in making dealing at higher level meetings.
- No separate department or authority has been allotted in state's structure for women with disabilities, and LGBTI women.<sup>135</sup>
- Lack of disaggregated database at federal, provincial and local level of government and judiciary Non-integration of Gender Responsive Budgeting (GRB) at provincial and local levels.<sup>136</sup>

132. Health Sector Transition and Recovery Program: Case Study on Performance of Hospital Based One Stop Crisis Management Centers (OCMC), Ministry of Health, January – March 2017, p. 13

133. Ministry of Finance, 2019

134. Shadow Report on Sixth Periodic Report of Nepal on CEDAW cited from Budget for National Women Commission, available at [http://mof.gov.np/uploads/document/file/speech\\_english\\_20180715091522.pdf](http://mof.gov.np/uploads/document/file/speech_english_20180715091522.pdf), accessed on 20 September, 2018.

135. Consultation workshop held at province 3, 2019

136. Shadow Report on Sixth Periodic Report of Nepal on CEDAW submitted to CEDAW Committee, 2018, p. 7

- Lack of adequate number of well-equipped rehabilitation and shelter homes.

#### 4. Conclusion and Recommendations

Nepal has made considerable progress in relating to the establishment of various institutions for uplifting the status of women in Nepal. However, as Nepal is being federally restructured and there is need to establish these institutions at provincial and local level to expedite the implementation and formulation of laws and policies at these levels in order to ensure gender equality at all levels of the country. Owing to the above mentioned challenges and constraints following recommendations have been provided.

- Dedicated Women and Children Office need to be established at district level.
- Appoint commissioners of National Women Commission and also of other commissions; Ensure adequate Human and Financial resources to ensure the accountability in implementing obligations on gender equality and mainstreaming.
- Assessing the integration of gender perspective into the legislation, plans and policies through sensitization and strengthening of machineries and government officials as a significant concern that needs to be taken into account; Adoption of Collaborative approach among the government/ non-government organizations, Women based organizations, stakeholders to strengthen the action-oriented plans fostering gender equality.
- Adopt specific plans for implementing Concluding Observations and update Gender Equality and Women Empowerment Plan of Action
- The perception and attitude of government towards women needs to be changed and treat men and women equally, further the discriminatory laws need to be amended. At the other side, there is a need for adoption of preventive measures of all forms of exploitation against women along with the follow up mechanism to ensure the implementation of Gender equality plans and policies.
- Planning and execution of gender-responsive budgeting activities along with the monitoring mechanism of the government planned programs at the National, provincial and local level to identify the existing gaps, which provides the clear indication for coming up with the obligatory policies budget allocation ensuring the availability of resources for the implementation of plans to address the issue inequalities for gender mainstreaming;
- Development of a comprehensive gender indicator system, with a view to improving the collection of disaggregated data as a means of assessing the impact and effectiveness of policies and programs aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights.

- Strengthening the liaison between Women Ministry, Nepal Women Commission, Government Bodies, and Intergovernmental organizations to enhance and expand gender mainstreaming in policy level.
- Establish adequate number of Shelter and rehabilitation homes keeping in mind the federal structure with comprehensive services including legal, psychosocial, medical and livelihood support at all local levels with appropriate facilities for women with disabilities, LGBTI groups, women with mental health problems, and victims of all forms of violence including SGBV
- Ensure that diversity within women such as Dalit, Madhesi, indigenous communities, religious minorities, LGBTI, women from geographically disadvantaged locations, women with disabilities and displaced women are considered while establishing institutional mechanism for advancement of women.

# HUMAN RIGHTS OF WOMEN

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## 1. Present Status

As a state party to the CEDAW<sup>137</sup> and its Optional Protocol along with other major international human rights instruments like ICERD<sup>138</sup>, ICESCR<sup>139</sup>, ICCPR<sup>140</sup> and CRPD<sup>141</sup>, Nepal has its international commitments to guarantee and promote gender equality. Domesticating those international commitments into the national legislations the principles of non-discrimination and gender equality have been enshrined in the Constitution of Nepal.<sup>142</sup> The preamble of the Constitution aims to protect and promote proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discriminations based on class, caste, region, language, religion and gender and all forms of caste-based untouchability.<sup>142</sup>

The Constitution furthermore guarantees right to live with dignity,<sup>144</sup> right to equality,<sup>145</sup> right against untouchability and discrimination,<sup>146</sup> right to social

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137. Convention of the Elimination of All Forms of Discrimination Against Women, 1979 which Nepal ratified on 22 April 1991
  138. International Convention on the Elimination of All Forms of Racial Discrimination, 1965 which Nepal accessioned on 20 Jan 1971
  139. International Convention on Economic, Social and Cultural Rights, 1966 which Nepal accessioned on 14 May 1991
  140. International Convention on Civil and Political Rights, 1966 which Nepal accessioned on 14 May 1991
  141. Convention on the Rights of Persons with Disabilities, 2006 which Nepal ratified on 7 May 2010
  142. The Constitution of Nepal, 2015 which came into effect from September 20, 2015
  143. The Preamble of the Constitution of Nepal, 2015
  144. Ibid, Article 16: (1) Every person shall have the right to live with dignity (2) No law shall be made providing for the death penalty to anyone.
  145. Ibid, Article 18: (1) All citizens shall be equal before law. No person shall be denied the equal protection of law (2) No discrimination shall be made in the application of general laws on grounds 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 (3) The State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds (4) No discrimination shall be made on the ground of gender with regard to remuneration and social security for the same work (5) All offspring shall have the equal right to the ancestral property without discrimination on the ground of gender.
  146. Ibid, Article 24

justice<sup>147</sup> and right to social security<sup>148</sup>. Under the right to equality it guarantees non-discrimination on the grounds of origin, religion, race, caste, tribe, sex, economic condition, language, religion, ideology or on similar other grounds. It also ensures special provisions by law for the protection, empowerment or development of the citizens including the socially or culturally backward women, Dalit, indigenous people and minorities.

Despite of abundant guarantees, women in Nepal still face many fold challenges due to the deep rooted patriarchal mindset that often takes precedence over these laws and policies and lack of practical implementation of the Constitutional guarantees. Gender inequality in Nepal remains high, as indicated by the Gender Inequality Index of 0.48, ranking it 118 out of 160 countries in 2017.<sup>149</sup>

Furthermore, Gender Equality has only been considered equality among male and female and not for the LGBTI<sup>150</sup> group. LGBTI group is hardly considered while considering gender equality.

In addition, non-recognition of the independent identity of women in conferring the citizenship to the spouse and children<sup>151</sup> is a direct violation of the Article 9 of the CEDAW that obliges the state to grant women equal rights with men to acquire, change or retain their nationality and equal rights with respect to the nationality of their children. Nepali women are envisioned in three categories by the Constitution that are Nepali mother with Nepali father, Nepali mother with unidentified father and Nepali mother with foreign father, which derails the personality of women.<sup>152</sup> Further there is no provision for conferral of Nepali citizenship by Nepali woman to foreign spouse through marriage while the Nepalese men can convey their Nationality to foreign spouses and their children.<sup>153</sup>

## 2. Progress Achieved

- Promulgation of the new Constitution in 2015 has been the milestone for enabling environment for gender equality in the country as it ensures equal lineage right to every woman without gender based discrimination<sup>154</sup> and the right to obtain special opportunity in education, health, employment

147. Ibid, Article 42

148. Ibid, Article 43

149. Human Development Indices and Indicators: 2018 Statistical Update <[http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/NPL.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf)> accessed on 18 September 2019

150. Lesbian, Bisexual, Transgender and Intersex

151. Constitution of Nepal 2015, Article 11(5) and Article (7) has impaired the independent identity of women undermining them to confer the citizenship to their children when the father of the children remains unidentified.

152. Ibid, Article 11 (2), 11(5) and 11(7)

153. Article 11 (6), the Constitution of Nepal states that: "A foreign woman who has a matrimonial relationship with a citizen of Nepal may, if she so wishes, acquire the naturalized citizenship of Nepal as provided for in the Federal law"

154. Ibid, Article 38 (1) every woman shall have equal lineage right without gender based discrimination

and social security, on the basis of positive discrimination.<sup>155</sup> It further stipulates right to participation of women in all bodies of the State based on the principle of proportional inclusion<sup>156</sup> as well as the spousal rights to property and family affairs.<sup>157</sup>

- The Act to Amend Some Acts for Maintaining Gender Equality and Ending Gender-Based Violence 2015 amended few discriminatory provisions.
- In 2015, Nepal joined other members of the United Nations in adopting the global Sustainable Development Goals (SDGs) that follows the Millennium Development Goals (MDGs) as the international development targets. The Government of Nepal has already started to mainstream the SDGs into the national planning and budgeting systems.

### 3. Persistent Challenges

- There is an absence of definition of discrimination against women in existing laws and the legislations of the country have failed to address the indirect forms of discrimination and to address intersectional<sup>158</sup> and multiple forms of discrimination of women. Though the laws have ensured that instances of *de jure* discriminations have been eliminated in most of the areas still the same cannot be said about elimination of *de facto* discrimination. Further, deep rooted patriarchal mindset of people including those who are in the position of implementation of laws is one of the major causes for insufficient of implementation of laws.
- The discriminatory provisions in articles 11(3)<sup>159</sup>, 11(5)<sup>160</sup>, 11(6)<sup>161</sup> and 11(7)<sup>162</sup> of the Constitution limiting women's autonomy regarding nationality

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155. Ibid, Article 38 (5) Women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination.

156. Ibid, Article 38 (4)

157. Ibid, Article 38 (6)

158. Women with disabilities, Indigenous Women, Dalit Women, Displaced Women, Women affected by Disaster, LGBTI, Women of religious minorities, and women from geographically disadvantaged locations

159. Article 11(3), the Constitution of Nepal: a child of a citizen having obtained the citizenship of Nepal by birth prior to the commencement of Nepal shall, upon attaining majority, acquire the citizenship of Nepal by descent if the child's father and mother both are citizens of Nepal.

160. Ibid, Article 11(5): a person who is born in Nepal from a woman who is a citizen of Nepal and has resided in Nepal and whose father is not traced shall be provided with the citizenship of Nepal by descent. Provided that his or her father is held to be a foreign citizen, the citizenship of such person shall be converted into naturalized citizenship as provided for in the Federal law

161. Ibid, Article 11 (6): A foreign spouse who has a matrimonial relationship with a citizen of Nepal may, if she so wishes, acquire the naturalized citizenship of Nepal as provided for in the Federal law.

162. Ibid, Article 11(7): Notwithstanding anything contained elsewhere in this Article, in the case of a person born from a woman who is a citizen of Nepal and married to a foreign citizen, the person may acquire the naturalized citizenship of Nepal in accordance with the Federal law if he or she has permanently resided in Nepal and has not acquired the citizenship of a foreign country. Provided that if such person's mother and father both are citizens of Nepal at the time of acquisition of citizenship, such person born in Nepal may acquire the citizenship of Nepal by descent

and the ability to transmit citizenship through marriage and to their children. That women, in particular single mothers, are being denied citizenship certificates and registration of their children, which prevents those women and their children from opening bank accounts, obtaining driver's license, voting, managing their property, gaining access to education, acquiring travel documents, applying for employment in the public sector and benefitting from social services.

- Despite of the Constitutional guarantee of non-discrimination, the LGBTI women are not being able to enjoy equal rights in citizenship, marriage and social justice in practice. Same-sex relationship has been decriminalized a long back in the country however same-sex marriage is yet to be recognized legally and socially. LGBTI women are not permitted to amend the sex in the citizenship certificate in the cases where they have already acquired citizenship before identification of their sexuality. Because of this, many of them are compelled to be legally recognized with different sex then they are.
- The government has failed to enact law to implement the special opportunity provisions under fundamental rights of women as per the Article 47 of the Constitution. It also limits the special provision by adding the condition of 'lagging behind socially and culturally'<sup>163</sup> which indicates that the positive discrimination may not extend to all women but only those who are proven to fulfill the condition.
- The Country Civil Code 2018 prevents women from claiming their property rights upon divorce if they do not provide food for their spouses, terminate common living arrangements with their spouses, inflict physical or mental harm on their spouses or plan to do so, or in cases in which the woman has had extra conjugal relations<sup>164</sup> whereas same provision is inapplicable to the husband.<sup>165</sup>
- The Judiciary has been a crucial component in protecting and promoting gender equality in Nepal. The Supreme Court of Nepal has repealed various discriminatory laws through its decisions. The Court has made the notable decisions in regard to discrimination against women whether it is on property rights of women or equal right to citizenship from the mother's identity however, on implementation or delay in implementation of the judiciary orders to ensure equal status of women still stand as a major challenge in ensuring women's human rights. Most importantly Non implementation of the progressive court decisions and precedents is a major challenge.

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163. Article 18(3), the Constitution of Nepal – provided that nothing shall be deemed to bar the making of special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally.

164. Section 94(2), the Country Civil Code

165. Ibid, Section 99 (6)

## 4. Conclusion and Recommendation

Despite of significant improvement in legal guarantees for protection of women's rights and gender equality, women in Nepal still face multiple discriminations due to the continuous dominance of the patriarchal value system. Insufficient implementation of laws in reality remains a major challenge in Nepal with regard to fulfilling the international obligations under various human rights instrument. Nonetheless, it can be said that the Government of Nepal has succeeded to eliminate *de jure* discriminations against women in most of the areas but *de facto* discrimination is still remained. Therefore, some recommendations are presented herewith:

- Adopt a comprehensive definition of discrimination against women in the legislation to encompass both *de jure* and *de facto* discrimination, direct and indirect discrimination in line with Article 1 of the Convention along with the definition made by CRPD and CERD specially to address the issues of intersectional and multiple discriminations. Men's engagement shall also be ensured in achieving gender equality and women's empowerment.
- Acknowledge the diversity of women within the framework of special measures and introduce target-based and time-bound temporary special measures in general with preference to socially or culturally backward women, women with diversity especially Dalit women, women with disabilities, women from religious and sexual minorities, indigenous women, Madhesi women, poor women, and rural women on the basis of positive discrimination together with phase out policy where applicable discrimination. Also enact law to implement the special opportunity provision of the Constitution without any delay.
- Take immediate steps to amend/repeal discriminatory provisions that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men in the Constitution particularly Article 11(5), 11(6), 11(7) and Problematic Provision of Citizenship Act Amendment Bill that still does not recognize the independent personality of women.
- Ensure right to amend the sex of LGBTI women in the citizenship certificate and take appropriate steps in order to guarantee dignified social live of LGBTI women.
- Recognize women as an independent coparcener as men in all ancestral property documents and repeal the discriminatory provisions of the Country Civil Code that prevent women from claiming their property rights upon divorce.
- Ensure effective and full implementation of the decisions and directive orders of the Supreme Court regarding women's equal status, identity and rights of women.

# WOMEN AND MEDIA

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## 1. Present Status

News media has power to take stories related to women and gender equality out of the private realm. But, when there are few female news sources, it forces audience to believe that women are unimportant or invisible.<sup>166</sup> The Nepal's achievement of having female leaders has brought effortless coverage of women in media. However, the general women's issues of the grassroots or micro level are the unwritten and unspoken stories and concerns.<sup>167</sup> As the information technology advanced, the participation of women in the media has increased considerably, but few have attained decision making positions and governs board and bodies that influence the media policy. Along with the mainstream media, the use of social media has also increased which has widened the parameters of media. As a result, women's participation has also increased. Currently, there are 51 television channels (153 registered) in operation. Similarly, 672 FM Radio (1089 registered), 953 newspapers and around 16 online media are in operation.<sup>168</sup>

In terms of representation, FNJ's working committee is not complete without three women journalists. Similarly, one among five general secretaries of FNJ has to be a woman. In the district branch of FNJ, at least one-woman journalist has to be its member.<sup>169</sup> In the core committee of Nepal Press Union, six seats have been reserved for women. There is reservation for women for the post of general secretary, vice president and secretary. Three seats for women have also been reserved for the post of executive member.<sup>170</sup> In Press Chautari

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166. Available at <https://thehimalayantimes.com/opinion/gender-news-media-where-are-the-women/> accessed on 2019/11/30
  167. Portrayal of women in print media: A Nepalese Context by Lina Gurung available at [https://www.researchgate.net/publication/325259566\\_Portrayal\\_of\\_women\\_in\\_print\\_media\\_A\\_Nepalese\\_Context](https://www.researchgate.net/publication/325259566_Portrayal_of_women_in_print_media_A_Nepalese_Context) accessed on 2019/12/01
  168. 43rd Annual report of Press Council retrieved on September 30, 2019 from <http://fnjnepal.org/en/page/membershttp://www.presscouncilnepal.org/np/wp-content/uploads/2019/02/Yearly-Report-2075.pdf> accessed on 2019/11/30
  169. Research on professional journalist in Nepal conducted by Sancharika Samuha available at [https://www.sancharika.org/portal/html/images/item\\_images/files/All\\_Sancharika\\_English\\_Survey\\_book\\_2016.pdf](https://www.sancharika.org/portal/html/images/item_images/files/All_Sancharika_English_Survey_book_2016.pdf)
  170. Ibid

Nepal out of 57 central working committee members, 12 (21%) are females which includes 1 vice-president, 1 secretary and 5 member.<sup>171</sup>

After the restoration of democracy in 1990, two policies regarding media came into force, National Broadcasting Policy 1992 and Long-term Broadcasting Policy 1990. At present, both of these policies are replaced by National Mass Communications Policy 2016. The policy addresses the issue of the mobilization of the media, promotes an active and visible policy of main-streaming a gender perspective in policies and program. It also ensures participation of women in different structures of media. Being based on National Mass Communications Policy 2016, The Advertisement Act, 2019 is enacted. The Act ensures sensitivity while dealing with women's issue. Similarly, it guarantees the participation of at least one women as a member in the advertisement board established according to the Act. Information and Technology Bill is tabled in the parliament. It focuses on demotivating cyber bullying, cyber crime and vulgar contents, and also states about cyber security. Media Council Bill, 2018 and Mass Communication Bill, 2018 which is under discussion in the parliament ensures women's participation in its proposed structures.

## 2. Progress Achieved

- The total number of journalists registered with the Federation of Nepali Journalists (FNJ) is 13,050 out of which only 18% are women.<sup>172</sup>
- There is increment of women's participation in the communication sector and structures of media. The research conducted by Sancharika Samuha in 2015, women journalists account for 25% in the media. However, the number of women in decision making positions is very nominal. Of the total 25 %, 41.5% are news presenters, 29.3 % are correspondents, and only 2.9 % are bureau chief.<sup>173</sup>
- Women have been taking the challenging news stories and investigative news coverage.<sup>174</sup>
- There is gradual improvement in the participation of female in news byline and as news sources in both print and online media. In the six months since January 2019, the print media recorded 12% female byline and 88% male byline; while in the same period, the online media recorded 18% female byline and 82% male byline.<sup>175</sup>

171. Ibid

172. Accessed on September 29, 2019 from <http://fnjnepal.org/en/page/members>

173. Research on professional journalist in Nepal conducted by Sancharika Samuha available at [https://www.sancharika.org/portal/html/images/item\\_images/files/All\\_Sancharika\\_English\\_Survey\\_book\\_2016.pdf](https://www.sancharika.org/portal/html/images/item_images/files/All_Sancharika_English_Survey_book_2016.pdf) accessed on 2019/12/01

174. Report on media monitoring content published from Freedom Forum available at <https://kathmandupost.com/author/bhrikuti-rai>

175. Available at <http://freedomforum.org.np/interface-meeting-on-womens-presence-in-nepali-media-2/> accessed on 2019/11/30

- Most of the media house has followed labor policy. Out of 31 television media houses, 71 % had labor policies and 19.4 % did not have any kind of labor policy while the remaining 9.7 % did not disclose about labor policy. Out of the 306 radio media houses, 72.5 % had adopted labor policy and practices while 12.7 % did not have labor policy and 14.7 % remain silent on the matter. Likewise, out of 39 online houses, 64.1 % had adopted an effective labor policy and 25.6 % did not have a labor policy remaining 10.3% remained silent on the matter.<sup>176</sup>

### 3. Persisting and emerging challenges

- Lack of in-house gender policy and gender equality and social inclusion (GESI) principle in the media house has created deficiency of gender friendly environment. Consequently, many women journalist could not continue their job.
- Since, Communication and Technology Bill which addresses the issue of cyber crime is tabled in the parliament and is under discussion, it is difficult to penalized cyber crime. As a result, the number of women being victim is rapidly increasing. In the Kathmandu District Court, 34 cases of cyber crime were filed in 2016/17 which increased to 81 in 2017/18. In the year 2018/19 the number of case reached 118. In these cases, 80% of the victims are women.<sup>177</sup>
- The subject matter published and broadcasted by media are not monitored being based on the gender lens.
- Internet, blog and website are developing rapidly. However, there is no mechanism to monitor it.
- There is not sufficient representation of women from different ethnicity and community (dalit, indigenous nationalities, people with disability, Madhesi, marginalized community and backward region, class and community in mass communication sector). Out of total women journalist, 58.6% are Brahmin/Chhetri, 29.3% are Indigenous nationalities, 5.7% are Dalit, 4.4% are Madhesi and 2% from other ethnicity).<sup>178</sup>
- Although news of violence has taken place, structural differences have not yet become the subject of news.
- The number of women using social media is increasing but they are not well informed about cyber security.

176. Research on professional journalist in Nepal conducted by Sancharika Samuha available at [https://www.sancharika.org/portal/html/images/item\\_images/files/All\\_Sancharika\\_English\\_Survey\\_book\\_2016.pdf](https://www.sancharika.org/portal/html/images/item_images/files/All_Sancharika_English_Survey_book_2016.pdf) accessed on 2019/12/02

177. [https://nagariknews.nagariknetwork.com/news/104571/?fbclid=IwAR2OLiGh-38k-u\\_k-wo6BMr9wVwFnkuCcwS5VCvutavYOc0o4j1QuwWdgAg](https://nagariknews.nagariknetwork.com/news/104571/?fbclid=IwAR2OLiGh-38k-u_k-wo6BMr9wVwFnkuCcwS5VCvutavYOc0o4j1QuwWdgAg) accessed on 2019/12/02

178. Research on professional journalist in Nepal conducted by Sancharika Samuha available at [https://www.sancharika.org/portal/html/images/item\\_images/files/All\\_Sancharika\\_English\\_Survey\\_book\\_2016.pdf](https://www.sancharika.org/portal/html/images/item_images/files/All_Sancharika_English_Survey_book_2016.pdf) accessed on 2019/12/01

- There is increasing number of click bait degrading the image of women. The credibility of online and YouTube streaming is being questioned. Some of the social media raise the risk of further exacerbating violence against women.
- There lack of internalization of gender inclusive newsrooms at editorial level.<sup>179</sup>
- There is problem of security of women working in night shift as most of the media house does not provide drop facility.<sup>180</sup>
- Women are not getting equal opportunity and there is a pay gap among women and men. Only, 2.4 % of the total 41 chief editors are female journalists. Similarly, 4.3 % of the total 47 executive chief editors and managing editors are female.<sup>181</sup>

#### 4. Conclusion and Recommendations

Some of the print, broadcasting and online media have started to create women friendly environment and have prioritized women 's issues. Women working in media sector have contributed to the changing scenario as they are engaged in reporting, editing and publishing. To transform the process and practices of positive portrayal of women in media, gender sensitization is vital. It should be done through advertisements, news, interviews and articles because it consequently enriches the knowledge of gender awareness among the mindset of people. In terms of laws and policies, The Government of Nepal has tabled different laws regulating media sector which ensures participation of women in different mechanisms and bodies in media sector.

- Women's participation and gender sensitivity should be incorporated as the subject matter in the different laws related to media.
- The Constitution of Nepal states that women shall have the right to participate in all bodies of the state on the basis of the principle of proportional inclusion.<sup>182</sup> So, it should be implemented in the media sector too. Women's participation from different ethnic community (dalit, indigenous nationalities, people with disability, Madhesi, marginalized community and backward region) in the mechanisms should be guaranteed.
- Training should be provided to the journalist about the gender sensitivity and GESI.
- Sexual violence in the workplace should be prohibited and women friendly environment should be created in the media sector.

179. Ibid

180. Ibid

181. Ibid

182. The Constitution of Nepal, 2015 Article 38(4)

- Special mechanism should be made to monitor the gender sensitivity issues published and broadcasted by the media.
- Legal Awareness and information dissemination regarding government initiations for promoting gender equality and women's empowerment shall be done in proper manner so that women of rural areas can access the facilities and programs of the government.
- An effective mechanism should be built to monitor whether the salary as fixed by the minimum wage fixation committee is being provided in time. It will help women journalists to continue with their profession.
- Women should be included in both management as well as newsrooms for their quantitative and qualitative participation
- Media houses should arrange breast feeding room and children room, so that women could be regular at work.
- Women should represent in diverse roles in media sector which are non-stereotypical.

# WOMEN AND THE ENVIRONMENT

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## 1. Present Status

Nepal is one of the most vulnerable countries in relations to natural disasters. Globally, it is ranked fourth, eleventh and thirtieth in terms of vulnerability to climate change, earthquake and flood risks respectively.<sup>183</sup> More than 80 percent of the total population of Nepal faces risk of flooding, drought, landslides, windstorm, hailstorm, fire, earthquake and Glacial Lake Outburst Flood among other severe climatic conditions.<sup>184</sup> Most significantly, Women and girls are disproportionately disadvantaged in humanitarian crises due to gender inequality, which shapes and deepens vulnerability to hazards and constrains their responses, even while their duties as workers, wives, and mothers remain and conditions worsen.<sup>185</sup> The Internal Cluster Gender Task Force (ICGTF) (2015,) estimates that the 14 districts most affected by the first earthquake were home to approximately 2,710,239 women (50.5 per cent of total population) and that an estimated 26.5 per cent of the households affected were female-headed households.<sup>186</sup> Furthermore the ICGTF in Nepal estimated that, in May 2015, approximately 40,000 women were thought to be at immediate risk of sexual and gender-based violence (SGBV) (ICGTF 2015, 1).<sup>187</sup> Similarly, Nepal recorded its first ever tornado in April 2019 that killed 29 people in Bara and Parsa district situated in southern plain of the country and left many wounded and displaced. Again, women and children were the worst sufferers.<sup>188</sup>

VAWG in the aftermath of conflict and natural disasters need to be seen and understood within the context of GBV in society in 'usual' times. For those

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183. <http://www.np.undp.org/content/nepal/en/home/energy-environment-climate-and-disaster-risk-management/in-depth.html>

184. Ministry of Home Affairs. (2018). Nepal Disaster Report, 2017: The Road to Sendai, Kathmandu: Government of Nepal.

185. Kay Standing, Sara Parker & Sapana Bista (2016) Grassroots responses to violence against women and girls in post-earthquake Nepal: lessons from the field, Gender & Development, 24:2, 187-204, DOI: 10.1080/13552074.2016.1194562, cited from : (Chew and Ramdas 2005 ) (accessible on: <https://reliefweb.int/sites/reliefweb.int/files/resources/Grassroots%20responses%20to%20violence%20against%20women%20and%20girls%20in%20post%20earthquake%20Nepal%20lessons%20from%20the%20field.pdf>)

186. Ibid p. 188

187. Ibid p. 188

188. <https://myrepublica.nagariknetwork.com/news/bara-parsa-was-hit-by-nepal-s-first-recorded-tornado/>

women and girls who survive natural disasters, gender inequality shapes and amplifies their vulnerability to VAWG.<sup>189</sup> The problems facing women and girls in the aftermath of the earthquake were complex and their scale was immense. Many survivors of the earthquake were displaced and police estimated around 100,000 people had to move into temporary camps which could be located far from their homes, depending on the location of the earthquake (BBC News 2015).<sup>190</sup> Life in temporary camps can be hazardous, as women and girls face risks in everyday survival, using unsegregated or otherwise unsuitable toilet and washing facilities, or undertaking certain roles, such as gathering firewood. They are at greater risk of forms of VAWG already present in their communities, and of additional forms which arise as a result of the crisis. These include sexual violence, trafficking, child marriage, exploitation, and abuse.<sup>191</sup>

Women's access to the natural resources and their role in the decision making in the same is a priority when the issue of women and the environment is discussed. Under this context, Women play a critical role in managing natural resources on family and community levels and are most affected by environmental degradation.

Women constitute just over half the world's population, but women are responsible for feeding much of it — especially in rural regions of developing countries. Women produce between 60 and 80 percent of food in developing countries — and yet they officially own only 2 percent of land worldwide, according to the Food and Agriculture Organization. Historical inheritance laws and customs often prohibit or limit women's direct control over land; even when women are able to own and lease land, they may not be able to secure loans or insurance to keep their resources safe. The lack of equitable land rights remains a major obstacle to women's empowerment and poverty alleviation.<sup>192</sup>

International agreements have made crucial links between women and the environment; the challenge is to take action. It foreshadowed the different impacts global warming would have on women and men, which are now evident across the globe.<sup>193</sup>

Moreover, Women are the least capacitated in responding to disasters, and its aftermath. Women are not recognized as an active change agent, and therefore, their role in disaster management and reconstruction is found to be very limited.<sup>194</sup>

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189. Kay Standing, Sara Parker & Sapana Bista (2016) Grassroots responses to violence against women and girls in post-earthquake Nepal: lessons from the field, *Gender & Development*, 24:2, 187-204, DOI: 10.1080/13552074.2016.1194562, (accessible on: <https://reliefweb.int/sites/reliefweb.int/files/resources/Grassroots%20responses%20to%20violence%20against%20women%20and%20girls%20in%20post%20earthquake%20Nepal%20lessons%20from%20the%20field.pdf>)

190. Ibid p. 192

191. Ibid p. 192

192. <https://opentextbc.ca/womenintheworld/chapter/chapter-11-women-and-the-environment/>, accessed on November 30, 2019

193. Ibid

194. Shadow Report on Sixth Periodic Report of nepal on CEDAW, 2018 October, CEDAW Shadow Report Preparation Committee (SRPC), p.30

Similarly, there is a lack of disaggregated database at federal, provincial and local level of government and judiciary including SGBV and impact of disaster and earthquake<sup>195</sup> which could be considered as a significant issue when it comes to women and the environment.

## 2. Progress Achieved

Nepal has attempted addressing gender and social inclusion (GESI) principle in the management of biodiversity and natural resources, with emphasis in forestry and agriculture policies for women's participation in decision making and benefit sharing mechanisms. In order to strengthen this, gender equality units in the National Planning Commission, ministries and departments of the government have been established. The UN Declaration on the Rights of Indigenous People and ILO Convention 169 has been ratified. Several agencies, including the Ministry of Forest and Soil Conservation, have adopted separate strategies to address gender and social inclusion (GESI) principles.<sup>196</sup>

Climate Change Policy-2019 aims to mainstream (GESI) concept across climate change mitigation and adaptation programs. National Wetlands Policy (2012) recognizes the promotion of traditional knowledge, skills, and wetlands practices inclusive to the wetlands dependent communities. It promotes gender equity in planning and management of wetlands to improve their wellbeing from the enterprises and businesses. While National Ramsar Strategy and Action Plan (2018- 2024) further reinforces (GESI)<sup>197</sup> in the conservation efforts of the wetlands in Nepal. Furthermore, National Forest Policy 2019, has provisions to enhance the access and participation of women and grassroots communities in forest resources and its management. The policy has provisioned 50% of women representation in executive committees and key positions in all the institutions related to forest institutions.

Gender and social inclusion perspectives have also been included in Disaster Risk and Management Act, 2017. Moreover, National Policy for Disaster Risk Reduction-2018 has enhanced access, representation and meaningful participation of women and other vulnerable members of society in the process of implementing disaster risk reduction initiatives based on inclusive disaster management concept.

Women's contribution in the environment conservation, especially in the area of community forest management has been lauded globally. To date, 19,361 Community Forestry User Groups (CFUGs) have been formed of which there are 1,072 women only committee members.<sup>198</sup>

195. Ibid p. 5

196. GoN/MoFSC, 2014. Nepal Biodiversity Strategy and Action Plan 2014-2020. Government of Nepal, Ministry of Forests and Soil Conservation, Kathmandu, Nepal.

197. National Ramsar Strategy and Action Plan (2018-2024), accessible at [http://d2ouvy59p0dg6k.cloudfront.net/downloads/national\\_ramsar\\_strategy\\_and\\_action\\_plan\\_nepal\\_\\_2018\\_2024\\_.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/national_ramsar_strategy_and_action_plan_nepal__2018_2024_.pdf), accessed on November 30, 2019

198. [http://dof.gov.np/dof\\_community\\_forest\\_division/community\\_forestry\\_dof](http://dof.gov.np/dof_community_forest_division/community_forestry_dof)

### 3. Persistent and Emerging Challenges

- Nepal is 7th most affected country in terms of climate related natural hazards and women are the ones who are affected most by such extreme weather events. Women's high dependency on natural resources due to socially assigned gendered roles such as cooking, fetching water, washing clothes, fodder and fuel collection puts them at further challenges and risks due to climate change
- Socio-economic discrimination based on gender limits women's capacity to exercise their rights and abilities to utilize the resources on their own.<sup>199</sup>
- Limited participation of women and other disadvantaged social groups in environmental conservation area and Women participation in disaster response risk reduction and planning is low.
- Gender based violence against women (GBV& VAW) and harassment in community forest by strangers, rangers and foresters are challenge to women forest users.
- Lack of proper data (gender disaggregated) on the differentiated impact of climate change as per the diversity and intersectionality of women further disempowers women.
- Lack of proper and long-term government policies on disaster preparedness and post disaster reconstruction and result based policy plus program implementation.
- Despite provision of (GESI) in legislative and constitutional frameworks and examples of women's involvement including the area of environment and development, the substantive gender equality is still a work in progress.
- The plan and policies do not always spur positive changes in reality.<sup>200</sup> Moreover, there is a paucity of documentation on the specific risks and vulnerabilities from a gendered perspective.

### 4. Conclusion and Recommendations

Women in Nepal have benefited from the fruits of environmental endowment such as natural resources, water, forest, land, agriculture and livestock. Women are also the key players and contributors in the household economy where natural resources play pivotal role in the coping strategy of the family. Government has been a partner and signatory in many of the international development, protocols, conventions and agreements on environment including climate change. It has also obtained and channeled financial resources in the environment sector including women and GESI friendly, policies, plans and programmes. Despite these laudable efforts, gender parity, equality and equity have not matched in proportion with the efforts, contributions and population that women provide to the environment and socio-economic development of the country. Therefore, greater efforts need to be applied in the future in the

199. Prakriti Resources Centre (PRC), 2018: A resource book on Gender and Climate Change

200. <https://blogs.worldbank.org/endpovertyinsouthasia/long-road-gender-equality-nepal>

area of women's empowerment and substantive participation in environment. Under this context, the following recommendations are relevant:

- Build climate resilience community with enhanced capacity of women with due consideration of intersectionality and diversity among them.
- Ensure dedicated financial resources for effective implementation of gender mainstreaming activities in the environment protection and climate change impact adaptation and mitigation.
- Ensure gender balance of staff composition within the Ministry of Forest and Environment among other related institutions.<sup>201</sup>
- Increase women's meaningful participation and engagement in national and international forum on climate negotiation.<sup>202</sup>
- Ensure inclusive participation of women in all disaster cycle, process, and committees at all levels.<sup>203</sup>
- Promote women's leadership role projecting them as changemakers in adaptation and mitigation strategies to strengthen climate resiliency.

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201. Recommendation from Provincial consultation ( Province 4)

202. Recommendation from Provincial consultation ( Province 4)

203. Shadow Report on Sixth Periodic Report of Nepal on CEDAW, 2018 October, CEDAW Shadow Report Preparation Committee (SRPC), p.31

# THE GIRL CHILD

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## 1. Present Status

Harmful traditional practices, gender biased social and cultural mores and gender based violence and discrimination have greater toll on the lives of girls in Nepal. The population of young children under the age of 18 is 41.82 % of total population. The population of girl child is 49% of total population of young children.<sup>204</sup>

The tradition of child marriage pervasive in the Nepali society have been trapping girls in the vicious cycle of violence and thereby denying their hope of a bright future.<sup>205</sup> Nepal has lifted the legal age bar for the marriage to 20 years in 2017 but still around 29 percent of the marriages take place under the age of 18. More specifically, 41% of girls are married before the age of 18.<sup>206</sup>

Cases of sexual violence against minor girls are reportedly increasing in the country. A total of 2233 rape cases were reported in the fiscal year 2018/019. Out of these, 40 percent victims are girls aged between 11-16 years while 13 percent victims are children below the age of 10.<sup>207</sup>

Dowry system is yet another social-ill impacting the lives of girl child. Even though criminalized, the system still thrives and is one of the major reasons behind child marriage, sex selective abortion, son preference and reinforcement of gender based violence. Some of the districts in Nepal have witnessed the birth of as many as 119 male children for every 100 newborn female children recently indicating the widespread sex-selective abortion and strong son preference among the populace.<sup>208</sup>

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204. Central Bureau of Statistics (2011), National Population and Housing Censu (2011), retrived from <https://cbs.gov.np/national-population-and-housing-census-2011national-report/>

205. The Himalayan times (21 October 2016) <https://thehimalayantimes.com/kathmandu/international-day-girl-child-marked/>

206. UNFPA, 2017 <https://nepal.unfpa.org/en/events/international-day-girl-child-19>

207. CID Magazine , 2076 retrieved from [https://cid.nepalpolice.gov.np/images/Publication/CID\\_Magazine\\_2076.pdf](https://cid.nepalpolice.gov.np/images/Publication/CID_Magazine_2076.pdf)

208. The Himalayan Times, 2019. <https://thehimalayantimes.com/nepal/nepalis-showing-strong-desire-for-male-child/>

Chhaupadi, a social practice of banishing menstruating women and girls to narrow and secluded hut often far from home, presupposes period as bane and women and girls as debased and untouchable during the time. In 2017, government criminalized Chaupadi system but this harmful traditional practice continue to exert detrimental effects in the life of girl children exposing them to insecure situation, impending violence, debarring them attending school and normalizing the menstrual stigma.<sup>209</sup>

Due to porous border with India, poverty and lack of awareness and illiteracy, large numbers of Nepali girls fall prey to labor, sexual exploitation in India and the Gulf countries.<sup>210</sup>

GoN has rolled out various legislative and constitutional frameworks and policy measures for the safety, security and empowerment of girl child at national, sub-national and local levels.

Nepal's Constitution has ensured the rights to name and identity, birth registration, health and education and proper care and elementary development and participation for all the children in the country. It has also protected them from child labor, trafficking and kidnapping, physical, mental or any other form of torture in home, school or other place or their induction in army, police or any armed group in pretext of religion, culture or tradition for sexual or other forms of exploitation and improper use.<sup>211</sup>

As Nepal embarks on new federal forms of governance, it is expected to bring positive changes in the lives of women and girls with new policies and program and prompt and efficient service delivery.

## 2. Progress Achieved

The partnership between the Government and civil society for the protection of the girl child from discrimination and exploitation as well as for their overall development in the country has considerably increased.

GoN's "President Women Upliftment Programme"<sup>212</sup> aims at reducing gender-based violence and discrimination and decrease maternal and child mortality rate. In the fiscal year 2018/19 alone, the program provided helicopter service to 18 pregnant women, new mother and children from far-flung area faced with birth related complication airlifting them to Kathmandu for better health treatment. Various sensitization programs aimed at mitigating violence against children, child marriage and gender based violence were also conducted across the country under this initiative.

209. Karki, K. B., Poudel, P. C., Rothchild, J., Pope, N., Bobin, N. C., Gurung, Y., Basnet, M., Poudel, M., Sherpa, L. Y. SCOPING REVIEW AND PRELIMINARY MAPPING Menstrual Health and Hygiene Management in Nepal (pp. 1-96).

210. USAID, 2018 <https://www.usaid.gov/nepal/fact-sheets/stop-girl-trafficking-project>

211. Constitution of Nepal 2015, Article 39

212. MoWCSC, President Women Upliftment Proram Bulletin <https://mowcsc.gov.np/uploads/uploads/17swYZ9qvxVF6YOfQZGoKNdAdQCXP4rQr2QDLXR5.pdf>

Nepal has adopted National Strategy on Ending Child Marriage-2016. The strategy aims to end child marriage by 2030 through the empowerment of girls and ensuring their access to education.<sup>213</sup> Act Relating to Children-2018 has been enacted with the objective of respecting, safeguarding, promoting and fulfilling children's rights in Nepal. In 2017, GoN adopted Inclusive Education Policy for children living with disability with the aim to reduce educational exclusion of physically, visually and mentally challenged children as well as code of conduct against sexual exploitation on women and girls.<sup>214</sup>

Nepal has adopted the 'Safe Motherhood and Reproductive Health Rights Act' in 2018 that protects women's, girls' and newborns' health rights. Gender equality was achieved at primary and secondary education levels with gender parity index (GPI) scores of 1.09 in primary and 1.0 in secondary education in 2015.<sup>215</sup>

Toll Free Child Helplines 104 and 1098 have come into operation for Rescue and Rehabilitation of Lost and Found Children and Rescue and Rehabilitation of Children Who Are at-Risk.<sup>215</sup>

GoN has provisioned free access to sanitary pads as and when needed for all the female students enrolled in public schools.<sup>217</sup>

Nepal's current fourteenth periodic plan (2016/017-2019/020) is focused to create a conducive environment to ensure the rights of children. The plan aims to protect children from all types of physical and mental violence including all sorts of degrading behavior.

Educate Daughter: Save Daughter campaign, cycle distribution to school girls in province no 2 and girl child insurance schemes among other programs by sub-national governments have positive impact in safety, security and empowerment of the girl child.<sup>218</sup> Nepal's new and civil and criminal codes prohibit dowry and criminalize Chhaupadi.<sup>219</sup>

Additionally, federal<sup>220</sup> and provincial level girl child summits were held to promote gender equality and garner commitments of the stakeholders to address the gender biased social practices like Chhaupadi, Dowry system, child marriage among other discriminations faced by the girls in Nepal.

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213. National Strategy on Ending Child Marriage( 2016) retrieved <https://nepal.unfpa.org/sites/default/files/pub-.pdf>

214. NPC (2018). 15th\_Plan\_Approach\_Paper . Retrieved from [https://www.npc.gov.np/images/category/15th\\_Plan\\_Approach\\_Paper1.pdf](https://www.npc.gov.np/images/category/15th_Plan_Approach_Paper1.pdf)

215. Nepal's Sustainable Development Goals-Baseline Report 2017.

216. State of Children in Nepal 2017. Ministry of Women, Children and Social Welfare Central Child Welfare Board, Pulchowk.

217. <https://thehimalayantimes.com/kathmandu/free-sanitary-pads-for-public-schools/>

218. <https://thehimalayantimes.com/nepal/educate-daughter-save-daughter-plan-gains-popularity-in-province-2/>

219. <https://myrepublica.nagariknetwork.com/news/new-muluki-codes-take-effect-from-today/>

220. <https://thehimalayantimes.com/kathmandu/nepal-hosts-first-girl-summit-kathmandu/>

### 3. Persistent and emerging challenges

- Nepal has achieved gender equality at primary and secondary education levels however; the percentage of the girl student in grade 9 to 12 is just 43.7%. Girls outnumber boys as SEE examination candidate. However, result shows poor performance of girls in the exams.
- Child Marriage - 18% of women aged 20-49 years married before the age of 15 and 48.5% of them married before 18 years of age. Despite being outlawed in Nepal, Child Marriage is socially accepted and pervasive (Gurung, 2017).<sup>221</sup> Over 26 % of children aged between 10 to 18 years are already married. 17 % girls aged between 15 to 19 become mother or get pregnant.
- The percentage of girls (aged between 5 to 17 years) involved in child labor is 38 compared to 30% boys. Among the total child labor exposed to hazardous workplace 60 % of them are girls.
- Girl children are yet to get required nutrition as stunting and wasting in girls less than 5 years of age is still 39.50%.
- Despite the criminalization of the practice, 89 % of adolescent girls still face discrimination during their menstruation including Chaupadi
- Harmful practices like Jhuma and Deuki system are still affecting girl child.<sup>222</sup>
- Separate bathrooms for boys and girls are still not available in 28 % of schools while very little schools provide sanitary pad for menstruating girls. Lack of access to safe drinking water and adequate sanitation facilities in schools are among the main reasons for the menstruating girls' increased absenteeism
- Around 8,000 to 10,000 women and girls were trafficked to India every year and 40 per cent of the trafficked girls were under the age of 18 years.<sup>223</sup>
- Girls are discriminated in accessing quality education as parents choose to send their daughters to community schools, faced with mismanagement, low standards of teaching and poor result, while sons are sent to private English medium boarding schools with better education environment. Secondary School Examination (SEE) in 2019 shows that of the 304,196 students appearing the SEE<sup>224</sup> from community schools, 118,807 are girls while the number of girls attending same SEE from private schools is only 56,751. The number of boys attending the SEE from private schools is 78,056,

221. <https://thehimalayantimes.com/opinion/girls-education-failed-programme/>

222. Feedback from participant at national level consultation Beijing+25 on

223. <https://thehimalayantimes.com/kathmandu/human-trafficking-continues-unabated/>

224. <https://english.aarthiknews.com/see-examinee-girls-higher-in-community-schools>

- Dowry system, one of the harmful traditional practices, has been promoting gender based violence and is one of the main reasons for child marriage.
- Advent of smart phones and social media, increasing penetration of internet and easy access to social networking site such as Facebook has led to an increase in child and early marriages.<sup>225</sup> Cyber crime is yet another emerging challenges faced by the girls.
- Women and girls have insufficient access to high-quality sexual and reproductive health-care services and information due to stigma attached to sexual issues.
- There is a lack of a clear mandate, expertise and resources in local and provincial government to adequately address discrimination against young girls.
- Family members opt to remove uterus of their intellectually disable girls fearing the rape and resulting pregnancy which they are prone to. This is the violence of rights of such girls.
- Children whose parents and family is unidentified are faced with statelessness as they cannot acquire citizenship without family identity.
- Sex is still a binary (boy and girls) consideration in Nepal. Children born with ambiguous sexual organ faces discrimination and identity crisis, genital mutilation without their consent before the age of 18 due to the fear of discrimination and social stigma.

#### 4. Conclusion and Recommendations

Nepal has comparatively progressive constitutional provisions toward child rights and has endorsed related international treaties and conventions. Moreover, Nepal's agenda for sustainable development 2030 has a number of targets for safety, security and overall development of children and children needing special care. Additionally, Nepal has been implementing numerous programs and adopted policies for child friendly environment.

- Ensure adolescent girl's ( in and out of school) access to comprehensive sexuality education and high-quality sexual and reproductive health care regardless of geography, education background , language, age , sexual orientation and gender identity, physical ability , and ethnicity including the safety and security safety and security issue needs to be adopted to address Girl child during humanitarian crisis.
- Take strict measures against corporal punishment, sexual violence, harassment, abuse or gender-based violence perpetrated against girls at school also including safety issues for girls out of school.

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225. Pudasaini, 2018, <https://kathmandupost.com/opinion/2018/02/09/you-should-wait-baby>

- Establish strict monitoring and punishment measures to stop sex-selective abortion
- Launch a campaign to raise awareness aimed at increasing social acceptance for the girl child to be heir of their parents, socially, economically and religiously. The incidents of daughters performing mourning rituals and ancestral worship of their parents challenging the social norms that entrust this responsibility only to son need to be promoted.
- Provide a clear mandate, due expertise and ensure sustainable resources for local and provincial government for the safety , security and empowerment programs of girl child
- Establish Youth promotion centers in each province as committed in the 15<sup>th</sup> Development Plan provisioned for girls at greater risk of being trafficked and falling prey to violence.
- Ensure education, safety, employment opportunity for girls who have no parents, guardians; including citizenship card to such children.
- All forms of discrimination and violence towards intersex child (girl) including genital mutilation of the intersex girls before the age of 18 needs to be addressed.

# ANNEX: REPORT WRITING TEAM

## Editorial Team

Ms Bandana Rana

Mr Deepak Dorje Tamang

Advocate Sabin Shrestha

## Report Writing Contributors

Sabin Shrestha

Binu Lama

Roshana Pradhan

Dechen Lama

Nabin Kumar Shrestha

Sushant Bashyal

Sagar Pathak

Deepesh Shrestha

Neha Gurung

## Article Contributors

S. NO	Critical Area	Lead Author	Mentor	Member	Youth Engagement
1	<b>Women and Poverty</b>	Manju Gurung (Pourakhi)	Puspa Ghimire, (Gender studies )		Susan Gautam (Pourakhi)
2	<b>Education and Training of Women</b>	Nira Shrestha (Gender Studies)	Dr Bindu Pokharel, (Gender Studies)		Amrita Bhattarai Sabin Malla
3	<b>Women and Health</b>	Smriti Thapa, (Young Women for Change)	Tulasa Lata Amatya (CAC Nepal)	Madhabi Bajracharya (IPAS), Anupa Regmi, (Radha Paudel Foundation)	Aayusha Karki, YWC Swikriti Thapa, YWC Nista Basnet, YWC Deepesh Shresha, FWLD

S. NO	Critical Area	Lead Author	Mentor	Member	Youth Engagement
4	<b>Violence against Women</b>	Kusum Sakhaa, (Strishakti)	Indira Shrestha, Strishakti	Uma Shah (Saathi) Laxmi Neupane (Blind Women Association)	Una Maya Tamang, SEARCH Neha Gurung, FWLD
5	<b>Women and armed conflict</b>	Srijana Pokhrel, (INHURED)	Lily Thapa, WHR	Kamala Panthi (SAS) Gita Rasaili, (CVNA) Rajin Raymajhi (WHR), Upasana Rana (WHR)	Smriti Kafle, INHURED Sabina Dhakal, INHURED
6	<b>Women and Economy</b>	Sristi Joshi Malla (Sabah Nepal,)	Chandni Joshi, (WFDM)	Aruna Thapa, Nita Dhungana (RISE), Mohinee Maharjan (Nepal Silk) Omita Joshi, (CAC Nepal)	Veera Lamichhane (SABAH)
7	<b>Women and Power and decision making</b>	Sumeera Shrestha (WHR)	Saloni Singh (Didibahini)		Shital Sijapati (FWLD)
8	<b>Institutional Mechanisms</b>	Anita Thapaliya (LACC)	Bharati Silwal Giri, (NNACT)	Urmila Shrestha, (TEWA)	Rakshya Risal, LACC
9	<b>Human Rights of Women</b>	Binu Lama, (FWLD)	Sabin Shrestha FWLD	Renu Sijapati (FEDO) Sarita KC (Mitini Nepal)	Sagar Pathak (FWLD)
10	<b>Women and the media</b>	Nitu Pandit (SAS)	Babita Basnet (MAG)	Kamala Panthi (SAS)	Rima Joshi
11	<b>Women and the environment</b>	Mr. Santosh Pokharel (Saathi)	Mr. Deepak Dorje Tamang, Search Nepal		Upasana Shrestha, TEWA
12	<b>The Girl Child</b>	Suvekchya Rana (Saathi)	Pinky Singh Rana (RUWDUC)	Uma Tamang (Maiti Nepal) Trillotam Paudel JCYCN Medha Sharma (Visible Impact)	Saharsha Joshi (Saathi) Niraj Neupane (Girls Kick) Kabita Tamang (Women Lead) Subashna Gurung (Mitini Nepal)

# Provincial Level Consultations



Organized by : WHR and Nispakshya  
Dharan, Sunsari | [August 18, 2019]



## Province 2



Organized by : TEWA and FEDO

Janakpur, Dhanusha | [August 20, 2019]



Organized by : WFDM and MAG  
Kathmandu | [September 11, 2019]



Organized by : SAATHI

Pokhara, Kaski | [August 22, 2019]



Organized by : SAATHI

Butwal, Rupandehi | [August 20, 2019]



Organized by : Shtrii Shakti  
Birendranagar, Surkhet | [September 6, 2019]



Organized by : Shtrii Shakti  
Dhangadhi, Kailali | [August 29, 2019]







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72, Aadarsha Marg, Thapathali

P.O. Box 26538, Kathmandu, Nepal

Ph No.: 977-1-4233524, 4233525, 4242683, 4266415

Fax: 977-1-4240627

Email: [fwld2013@gmail.com](mailto:fwld2013@gmail.com)

Website: [www.fwld.org](http://www.fwld.org)

Youtube: [youtube.com/fwldofficial](https://www.youtube.com/fwldofficial)