



NEPAL

SHADOW REPORT ON SIXTH PERIODIC REPORT OF NEPAL ON CEDAW

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Submitted by

**CEDAW SHADOW REPORT PREPARATION COMMITTEE
(SRPC)**

Co-ordinated by



Working for non-discrimination and equality

FWLD



Beyond Beijing Committee (BBC)

HRTMCC, CEDAW Committee

CEDAW Shadow Report Preparation Committee (SRPC)



Co-ordinated/Secretariat



CEDAW Shadow Report Preparation Committee (SRPC)

1. AaprbaseMahilaKamdarSamuha
2. Action Works Nepal
3. Advocacy Forum
4. Agroforestry, Basic Health and Cooperative Nepal
5. Alliance Against Trafficking of Women in Nepal
6. Alliance for Social Dialogue
7. Association for Dalit Women's Advancement of Nepal
8. Beyond Beijing Committee
9. Biswas Nepal
10. Blind Women Association Nepal
11. Blue Diamond Society
12. Care Nepal
13. Center for Awareness Promotion - Nepal
14. Center for Social Development
15. Centre for Agro-Ecology and Development
16. Centre for Human Rights Education and Access to Justice
17. Centre for Women's Awareness Development
18. Chhori
19. Child Workers in Nepal
20. Children Welfare Association
21. Civil Society Network on Citizenship Rights
22. Committee for the Promotion of Public Awareness and Development Studies
23. Community Action Centre-Nepal
24. Community Development Foundation
25. Creation of Creative Society
26. Dalit Women Right Forum -Nepal
27. DidiBahini
28. Disabled Women Empowerment Center
29. Feminist Dalit Organization
30. Food-first Information and Action Network-Nepal
31. Forum for Women, Law and Development
32. Global Campaign for Equal Nationality Rights
33. Himalayan Human Rights Monitors
34. Holistic Disability Development Society Nepal
35. Human Rights Treaty Monitoring Coordination Center
36. Indigenous Women's Legal Awareness Group
37. Informal Sector Service Centre
38. Injured International
39. Institute of Human Rights Communication, Nepal
40. Institute on Statelessness and Inclusion
41. International Alert
42. IPAS Nepal
43. Jagaran Nepal
44. Jagriti MahilaMahasangh
45. Justice and Rights Institute Nepal
46. Justice For All

47. Kopila Nepal
48. KOSHISH
49. Legal Aid Consultancy Center
50. Maiti Nepal
51. Marie Stopes Nepal
52. Media Advocacy Group
53. Mitini Nepal
54. National Election Observation Committee
55. Nepal Disabled Human Rights Center
56. Nepal Disabled Women Association
57. Nepal Fertility Care Center
58. Nepal Muslim MahilaKalyanSamaj
59. Nepal National Dalit Social Welfare Organization
60. Paurakhi Nepal
61. Psychbigyaan Network Nepal
62. RadhaPaudel Foundation
63. Reproductive Health Rights Working Group
64. Resilience for Sustainable Empowerment
65. Restructuring Nepal
66. Right Here Right Now
67. Rural Reconstruction Nepal
68. Rural Women's Development and Unity Center
69. SAATHI Nepal
70. Safe Motherhood Network Federation
71. Samavikas Nepal
72. SancharikaSamuha
73. Sankalpa
74. Shanti Malika
75. Shtrii Shakti
76. Statelessness Network Asia Pacific
77. SunauloPariwar Nepal
78. System Development Service Centre
79. TEWA
80. The Lutheran World Federation Nepal
81. Transcultural Psychosocial Organization Nepal
82. Ujyalo Foundation
83. WINROCK International
84. Women Culture Development Center
85. Women for Human Rights
86. Women for Social Development
87. Women Friendly Disaster Management
88. Women Security Pressure Group Nepal
89. Women Skill Creation Centre
90. Women's Rehabilitation Centre
91. Youth Champions Advocacy Network Nepal
92. 1325 Action Group Nepal
93. 3angels Nepal

INTRODUCTION

This report has been prepared in a participatory manner involving coalition of 93 civil society organizations i.e. CEDAW Shadow Report Preparation Committee (SRPC) with Forum for Women, Law and Development (FWLD) as the Secretariat of the coalition. This report includes information on the status and implementation of women's right as categorized in Articles 1-16 of CEDAW Convention. This report, while documenting positive implementation also points out the critical areas of concern in relation to women's right in Nepal. It also makes recommendations that should be addressed during constructive dialogue and in concluding comments for Nepal to comply with CEDAW and its GR.

THE REPORTING PROCESS

FWLD has been coordinating the Shadow Report Writing Process of CEDAW since the Initial Report in 1999 to the combined Fourth and Fifth Periodic Report in 2011. For this purpose FWLD has been working as secretariat in close collaboration with 93 civil society organizations under the coalition i.e. SRPC to make the report more inclusive and comprehensive. Civil society organizations also submitted Shadow Report for the pre-session of the 71st session of CEDAW Committee on 29 January, 2018. As Nepal is scheduled to present its sixth periodic report on 23rd October, 2018 in the 71st session, SRPC has submitted this Shadow Report.

The Shadow Report is the updated version of the Shadow Report submitted to the pre-session. For the purpose, FWLD conducted an initial meeting with the members of SRPC on 6 July, 2018 in order to inform the coalition about the Shadow Report Writing Process and its modality. The SRPC was also joined by other organizations that were not part of the SRPC earlier but were interested to contribute to the Shadow Reporting Process. Similarly, a meeting was organized with organizations working on rights of persons with disabilities with purpose of identifying and incorporating issues of women with disability in the Shadow Report. The organizations of the coalition were divided on the basis of the Article of CEDAW they were interested and specifically working on i.e. from Article 1 – 16. Outline of Shadow Report was developed and orientation was provided with writing committee' members on writing the structure of the report. Similarly, two rounds of Article wise specific meetings were conducted for writing the Articles.

Owing to the necessity of engaging province level stakeholders and issues of local level in CEDAW Shadow Report Writing Process, 7 provincial consultations were conducted in all 7 provinces. A meeting was organized on 27 July, 2018 to discuss on the modality of provincial consultation and to update progress of the report writing process. The provincial consultations highlighted on Shadow Report, its importance and discussed on specific issues of importance to get feedback on the draft Shadow Report prepared by the SRPC to be incorporated under different

chapters of report. Similarly, a meeting was organized on List of Issues (LOI) released by CEDAW Committee on 13 September, 2018 where the government response on LOI was discussed by the government representatives.

A National Level Consultation was organized on 21 September, 2018 inviting participants from within the capital and outside to discuss the draft Shadow Report and recommendations from provincial consultations. The participants were divided in 16 groups where they discussed on the report and recommendations from the provinces along with formulating other necessary specific recommendations. After extensive deliberations and discussions, the Shadow Report was endorsed along with the feedback in the consultation. The CEDAW Shadow Report was then finalized incorporating feedback from the national consultation.

The preparation of this Report was supported by UN Women and SRPC is grateful to Care Nepal, Winrock International, UNFPA, Sankalpa, Ford Foundation, UNHCR, BBC and Right Now Right Here for the financial support catered during the Shadow Report Writing Process.

THE SRPC agrees that the submission can be posted on the CEDAW website for public information purposes.

PREVALENCE OF PROBLEM

Nepal is state party to major international human rights instruments. In terms of domesticating its international obligations into national legislation, Nepal has adopted a comprehensive legal framework. The Constitution of Nepal, 2015 (hereinafter “The Constitution”) in its preamble aims to end all forms of discrimination and oppression against all people of Nepal. It guarantees the right to equality and rights of women under the section of fundamental rights. Moreover, it can be seen that the Constitution contains provisions for institutional mechanisms relating to gender equality. Other Nepalese statutes too reveal legal safeguards on special provisions for the women. However, the deep rooted patriarchal mindset often takes precedence over these laws and policy, regressing the status of women.

Despite the legal guarantees for women rights and gender equality, practical implementation remains a major challenge with regards to the compliance of Nepal’s treaty obligation under CEDAW. In addition, though some discriminatory provisions have been repealed, the *de facto* discrimination still prevails. Furthermore, there is a lack of disaggregated data and lack of information in the implementation status of the laws and policies.

Likewise, there is lack of the concrete measure specially on monitoring part to improve the implementation of the function and responsibilities being taken by all the state mechanism (Executive, legislature and Judiciary) on the issues of the concern as listed in by the CEDAW committee¹, especially for the women who are living in the vulnerable condition².

As public service delivery occurs primarily at the Local Level, the biased attitudes and behaviors of local actors and institutions is central to effectively address the problem with due diligence. Despite laws and mechanisms, due to various malpractices at the local and central level, Nepal is failing to progress in actuality. There is still a wide scope for improvement to build necessary strategy to accelerate the achievement of *de facto* or substantive equality through intersectional approach within women ensured by CEDAW.

¹ This is inline with the articles of CEDAW, the concluding observations on Nepal that was issued on 29th July 2011

² For the operational definition, the vulnerable condition has been defined as condition that obstructs in availing services as an equal citizen of this country without any forms of discrimination and who are in need of special treatment of equity based equality.

DISCRIMINATION AGAINST WOMEN

Critical Areas of Concern

- Absence of definition of discrimination against women in line with the definition of discrimination with Article 1.³
- The indirect forms of discrimination have not been addressed by the law.
- No viable steps have been taken to address intersectional and multiple forms of discrimination of women especially multiple discrimination faced by Dalit women, women with disabilities, displaced women, women from religious and sexual minorities, indigenous women and Madhesi women.

Implementation of Concluding Observations

- The Constitution has prohibited discrimination on any ground and has amended gender discriminatory legal provisions.⁴

Recommendations

- 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 intersectionality and multiple discriminations.

³ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.html> [accessed 28 September 2018], Paras 9-10, CEDAW/C/NPL/CO/4-5

⁴ Art 18 of the constitution: “no discrimination shall be made in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or religion, ideology or on similar other grounds”. Chapter 3, Sections 17, 18 and 19 of the National Civil Code, 2017 that has come to force from August 17 2018, ensures equality of all citizens, right against discrimination and positive discrimination/affirmation action respectively. Section 19 of the Civil Code clearly spells out special measures ensured by the law for the protection, empowerment and development of the citizens including the socially or culturally backward population. Chapter -10, Sections 160 and 161 of the National Penal Code 2017 criminalize discrimination.

STATE OBLIGATION

Critical Areas of Concern

- Discriminatory laws against women on the basis of sex are still in existence including the discriminatory words in various legislations
- There is no clear provision of conducting gender auditing during law enactment process in order to ensure equal and non-discriminatory laws.⁵
- Gender Equality has only been considered equality among male and female and not for the LGBTI group.
- Legal Aid is only provided to economically vulnerable people whose income is less than NRs. 40,000 annually and not to the socially vulnerable people.⁶
- There is a lack of Universal design and reasonable accommodation structure and gender friendly structure to women with disability resulting in women with disability being dependent upon others.
- Nepal being a state party to the CEDAW convention has ensured that all instances of *de jure* discriminations have been eliminated in most of the areas⁷ However, the same cannot be said about elimination of *de facto* discrimination.

Implementation of Concluding Comments

- As provided by Article 47 of the Constitution⁸, in a time frame of 3 years, the federal parliament has enacted 16 different laws to give effect to fundamental rights.⁹

Recommendation

- Set an immediate time frame and eliminate discriminatory laws and multiple forms of discriminatory laws.

⁵ UN Women, Mapping Progress on Women's Rights in Nepal, December 2014, p.4

⁶ Legal Aid Rules 1998, 6(1)

⁷ State has amended some legislation relating to gender equality and ending gender based violence, thereby bringing 88 legal provision into the conformity in line with principle of gender equality set out in the constitution and convention.

⁸ The Constitution of Nepal, Article 47

⁹ 6th periodic report of Government of Nepal

- Women's Right for Article 38 [women fundamental right] has still not been enacted although provided by Article 47 of the Constitution.
- Legal Aid must be provided to socially vulnerable groups such as SGBV survivor, LGBTI, Dalit, displaced women, women with disabilities, indigenous women and religious minorities.
- Universal design and reasonable accommodation accessible for disability friendly structure and gender friendly structure must be constructed everywhere.
- Provision for gender auditing of legislation during drafting, enacting and implementation must be enacted.

ADVANCEMENT OF WOMEN THROUGH NATIONAL MACHINERY

Critical Areas of Concern

- Lack of adequate financial and human resources for National Women Commission (NWC) to operate effectively.¹⁰
- Lack of disaggregated database at federal, provincial and local level of government and judiciary including SGBV and impact of disaster and earthquake.
- Non-integration of Gender Responsive Budgeting (GRB) at provincial and local levels.
- Victims of conflict-related sexual violence (CRSV) are not recognized as there are no interim relief packages for them. Non-removal of statute of limitation in CRSV cases, lack of gender sensitive mechanisms¹¹ and lack of confidential reporting mechanisms during complaint process¹² resulted into lower registration of CRSV cases¹³ thereby promoting impunity for CRSV crimes.
- *De facto* amnesty prevails in the draft Transitional Justice Bill¹⁴ which is against the Supreme Court decision¹⁵ to amend amnesty provisions for CRSV crimes.

¹⁰ Budget for National Women Commission, available at http://mof.gov.np/uploads/document/file/speech_english_20180715091522.pdf, accessed on 20 September, 2018.

¹¹ This also includes non-availability of trained female members.

¹² The complaints for CRSV were collected by Truth and Reconciliation Commission (TRC) with the support of Local Peace Committees (LPCs).

¹³ The Kathmandu Post, available at <http://kathmandupost.ekantipur.com/printedition/news/2016-12-02/trc-records-295-complaints-on-sexual-assault.html>, accessed on September 05, 2018. Of the 57,205 complaints screened by the Truth and Reconciliation Commission (TRC) in 2016, only 295 complaints are regarding sexual assaults.

¹⁴ Draft Bill to Amend the Act on Enforced Disappearances Enquiry, Truth and Reconciliation Commission, 2014, Section 30(i) proposes to reduce sentences of perpetrators even in the cases of serious human rights violations including sexual violence which promotes *de facto* amnesty. International law envisages that perpetrators of serious human rights violation should face full punishment and the requirement of penalties that are appropriate in relation to the gravity of the crime. This provision of total exclusion of imprisonment in cases where the perpetrators does not reveal the truth to the Commission defeats the objective of delivering justice through prosecution and investigation and is therefore not consistent with international norms and standards.

¹⁵ Supreme Court of Nepal, SumanAdhikari et. al. versus Government of Nepal et. Al, Writ Petition No. 070-WS-0050, decision of 26 February 2015.

- Wives and families of enforced disappeared persons contend with administrative and legal issues concerning the transfer of land or property.¹⁶
- Only 28 government established Shelters i.e. 1 long term and 27 short term shelters (17 for domestic violence victims and 10 for the trafficking survivors) exist and are often inaccessible to women with disabilities.
- Women often lack access to information on laws, policies and services. Survivor of SGBV and women with disabilities cannot take benefit of these services due to improper means of communication.

Implementation of Concluding Observations

- The NWC has been upgraded as a constitutional body with the promulgation of new Constitution.

Recommendations

- Maintain disaggregated database by sex, marital status, age, types of disability, caste, ethnicity, religion, LGBTI, and impact of conflict and disaster/earthquake at all government bodies and judiciary.
- Decentralization of NWC at provincial and local levels (wherever possible) with adequate financial and human resources with proper monitoring structures.
- Revision of GRB Formulation Guidelines, 2013 to bestow GRB planning at provincial and local levels, expand its scope beyond government budgets¹⁷ and make GRB planning mandatory for non-governmental agencies.
- Institutionalize GRB by establishing Gender Focal Units¹⁸ with specific mandates and adequate training/orientation to its staffs.
- Establish at least one Shelter with comprehensive services¹⁹ including legal, psychosocial, medical and livelihood support at all local levels with

¹⁶ See Annex 1.

¹⁷ Ministry of Finance, GRB Brochure, GRB is not just about government budgets but also concerned with budgets of NGOs, Civil Society Organizations, Elected Assemblies, Departments as well as Central and Local Governments.

¹⁸ An individual as a Gender Focal Point is not very effective to mainstream gender in the Ministry and the major concern of Institutional Memory also remains as a challenge. A Gender Focal Unit should be established in the Ministry.

¹⁹ The government run Shelter should provide comprehensive and integrated services including legal, psychosocial, medical and livelihood support, linking the services provided with the concept of broader definition of 'reparation' as per the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.

appropriate facilities for women with disabilities, LGBTI groups, women with mental health problems, and victims of all forms of violence including SGBV.

- Amend the draft Transitional Justice Bill to address impunity and *de facto* amnesty for CRSV crimes by removing ‘statute of limitation’, including ‘imprisonment as a form of punishment’ and providing ‘appropriate reparation to victims’.
- Ensure gender sensitive investigation process in transitional justice mechanisms including the establishment of Gender Unit.
- Facilitate the issues of wives and families of enforced disappeared persons with regards to property transfer.
- Adopt second *National Action Plan on Women, Peace and Security* without further delay.
- Establish proper information dissemination mechanisms at all levels for women particularly ensuring compatible technologies, including languages such as *Brail* and sign language, for women with disabilities and information in mother-tongue for indigenous women.

SPECIAL MEASURES FOR SUBSTANTIVE EQUALITY

Critical Areas of Concern

- Nepal has a Gender Inequality Index (GII) value of 0.480, ranking it 118 out of 160 countries in the 2017²⁰ which also resulted due to inadequate special provisions to address the needs of women.
- The government has failed to enact law to implement the special opportunity provision²¹ under fundamental rights of women as per Article 47 of the Constitution.
- The Constitution has further limited the special provision by adding the condition of 'lagging behind socially and culturally'²² which indicates that the positive discrimination may not extend to all women but only those who are proven to fulfill the condition.
- Women from marginalized group such as Dalit, Madhesi, and indigenous communities, religious minorities, gender and sexual minorities (LBTI), women from geographically disadvantaged locations, women with disabilities and displaced women have lesser representations in all sectors. Intersection and vulnerability within the marginalized women has not taken into consideration in special measures e.g. lack of reservation and quota for LBTI.²³
- Sexual Minority group were deprived from opportunities as they were not categorized under the Minority group in the definition released by Ministry of Home Affairs²⁴

Implementation of Concluding Observations

- The new Constitution provides that women shall have the right to participate in all bodies of the State on the basis of the principle of

²⁰ Human Development Indices and Indicators: 2018 Statistical Update <http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf> accessed on 26 September 2018

²¹ Constitution of Nepal 2015, Article 38(5)

²² Ibid, Article 18(3) – 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.

²³ Rights of LGBTI people should be protected <<http://therisingnepal.org.np/news/23500>> accessed on 22 September 2018

²⁴ Ministry of Home Affairs released definition of minority group during local level election.

proportional inclusion as well as the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination.²⁵

Recommendations

- Introduce target-based and time-bound temporary special measures in favor of women together with phase out policy where applicable.
- Make special provisions for women in general with preference to socially or culturally backward women on the basis of positive discrimination
- Immediately enact law to implement the special opportunity provision of the Constitution.
- Acknowledge the diversity of women within the framework of special measures in order to advance the situation of women from marginalized group such as from Dalit, Madhesi, indigenous communities, religious minorities, LGBTI, women from geographically disadvantaged locations, women with disabilities and displaced women keeping in mind the necessity of further special measures for vulnerable group within those marginalized group.

²⁵ (2) Ibid, Article 38 (4) (5)

SEX ROLES AND STEREOTYPES

Critical Areas of Concern

- Mind sets continue to prevail that perpetuates stereotypes on harmful practices such as menstrual restrictions²⁶, witchcraft, bonded labor and *Triple Talak*²⁷.
- Lack of support mechanism resulting in less reporting about the cases of witchcraft, child marriage²⁸ and bonded labor.
- Non-resettlement of the ex-bonded labour.²⁹
- The discrepancy between the Civil and Criminal Code with regards to the void of child marriage is problematic.³⁰
- Increasing trend of sexual and gender based violence.³¹

²⁶ Radha Paudel Foundation, 'Menstruation: An Urgent Call for Peace, Human right, Empowerment ,2016. <Consequently, girls/women have been facing immediate and long-term problems related to: physical (reproductive, urinary, nutritional) and mental illness; deprivation of education, participation and employment; pressure for child or early marriage; and frequent encounters with rape, sexual abuse, murder, snake (and other wild animal) bites; death due to extreme hot or cold, and suffocation/asphyxiation resulting from the need to light fires in poorly-ventilated menstrual huts to keep warm>

Kamal DevBhattarai, "Nepal's Deadly Chhaupadi Custom" (January 30 2018) *The Diplomat*<www.thediplomat.com/2018/01/nepals-deadly-chhaupadi-custom> accessed on 25th August, 2018.

<Local media reports suggest that up to 90% of women and girls in mid- and far-western Nepal practice *chhaupadi* in one form or another>

²⁷ Muslim women strongly raised their voice about the suffering 'TripalTalak' and sequential exploitation and violence followed by it. 'TripalTalak' itself is not included as violence by law. Further women experienced with multiple layers of exploitation and violence if the ex. husband likes to re-marry. Women should wait for 3 months and 13 days whether she conceive or not. For re-marry, she shouldn't conceive. [Provincial Consultation at Province no. 6 during CEDAW Shadow Report Process]

²⁸ CRR, *Ending Impunity for Child marriage*, 25th November 2016
<<https://nepal.unfpa.org/en/publications/ending-impunity-child-marriage-nepal>> accessed on 24th September.[Incidents of child marriage are rarely reported to state accountability mechanisms, including the police. In the last 18 years (1996–2014, 2053/4 -2070/1 B.S.), only 93 cases of child marriage have been reported to the police]

²⁹ Bonded labor includes *Kamaiyas, Haruwas, Haliyas, Hali*.
The Luthran World Federation Nepal, *Project Document of Action for Advancing Freedom of Freed Haliyas, ex-Kamaiya and Kamalari Project (2015-17)*.
<2,802 freed category A and B *Kamaiya* households (3.2%) are waiting for the rehabilitation as agreed in 2002 with the Government.>

³⁰ Criminal Code 2017, Section 173.<Under Section 173 of Criminal Code 2017 stipulates that any marriage purportedly concluded between any person(s) younger than 20 years is null and void.>
Civil Code 2017, Section 71 and 73.<By contrast, under Ss. 71 and 73 of the Civil Code, a marriage between persons of below 20 years of age is merely voidable (and not void *ab initio*)>

³¹ CRR, *Ending Impunity for Child marriage*, 25th November 2016
<<https://nepal.unfpa.org/en/publications/ending-impunity-child-marriage-nepal>> accessed on 24th

- Although the Constitution provides equal rights to women, the negative stereotype exists due to lack of understanding and awareness on SOGIE³² and on women with disabilities at all levels, including the grassroots level.
- Women lack control over their bodies including their sexuality.
- Adolescent girls are deprived of basic knowledge and information about Sexual and Reproductive Health and the cause and consequences of harmful traditional practices like child marriage, menstrual exclusion. There is lack of comprehensive sexuality education in the school curriculum.

Implementation of Concluding Observations

- The legislature has passed: the Criminal Code 2017, which makes it a criminal offence to force a woman/girl to practice *chhaupadi* and similar kinds of restrictions³³ entered into force on 17 August 2018; with the provision of compensating the victims and the Anti-Witchcraft (Crime and Punishment) Act 2015.

Recommendations

- Actively engage the media, men and boys, faith healers, political and women leaders—at the local, provincial and federal level—in strategies to alter the prevailing mind sets that perpetuate gender stereotypes and harmful practices.
- Launch sensitization programs to encourage individuals to report cases of child marriage, witchcraft and menstrual restrictions.
- Resettle the ex- bonded labourers.
- Establish a separate “child marriage relief fund” in each district to mobilize necessary resources to prevent child marriage and to provide access to legal remedies to victims of child marriage in local communities.
- Harmonise the Civil and Criminal Code, so that all marriages concluded below the minimum legal age are null and void *ab initio*.
- Formulate comprehensive policies to eliminate religious discrimination and to provide support mechanisms to victims of harmful practices and SGBV including protection measures, interim relief, services for physical and psychosocial well-being, access to comprehensive sexual

September [reveals that 37% of currently married girl aged 15 to 19 in the Terai region have experienced sexual violence, and 19% of them have experienced other forms of physical violence.] Violence against women in a month: 710 incidents of rape in last 5 months, Factsheet released by Nepal Police on SGBV, The Republica, 28th September, 2018.

³² SOGIE refers to “sexual orientation, gender identity and expression.

³³ Criminal Code 2017, Section 168.

and reproductive health services, rehabilitation, and adequate compensation and reparations.

- Provide age-specific, rights-based and evidence based Comprehensive Sexuality Education to boys and girls in both public and private schools, to enable them to make informed choices and decision, control over their sexuality and adopt safe and responsible sexual behaviors.

TRAFFICKING AND EXPLOITATION OF PROSTITUTION

Critical Areas of Concern

- Human trafficking laws fail to define all forms of exploitation as a human trafficking³⁴.
- The Supreme Court of Nepal has issued the Guideline for Prevention of Abuse and Harassment in the Entertainment sector³⁵ and also ordered to enact law to regulate the sector however no separate law brought by the State till date³⁶.
- Lack of local-province-federal level mechanism to control human trafficking.
- Lack of the victims and witness protection provisions related to GBV and trafficking.³⁷
- Lack of rescue and repatriation policy for inter-countries trafficking survivors.

Implementation of Concluding Observations

- A National Plan of Action against Trafficking in Women and Children of 2012A ten year National Plan of Action to Combat Trafficking in Persons has been implemented.

³⁴ Human Trafficking and Transportation (Control) Act, 2007, Section 4 - Acts considered as Human Trafficking(a) To sell or purchase a person for any purpose (b) To use someone into prostitution, with or without any benefit (c) To extract human organ except otherwise determined by law(d) To go for in prostitution.

³⁵ 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

³⁶ Ibid

³⁷ Ward chief held on trafficking charge available (Dec 26, 2017) <http://kathmandupost.ekantipur.com/news/2017-12-26/ward-chief-held-on-trafficking-charge.html> at <http://kathmandupost.ekantipur.com/news/2017-12-26/ward-chief-held-on-trafficking-charge.html> (access on 26 September 2018)

Recommendations

- Ratify the UNTIP Protocol (Palermo) without further delay and integrate its provisions into the human trafficking legislations.
- Harmonize the human trafficking and foreign employment laws to address human trafficking in the name of foreign labor migration.
- Constitute mechanisms to control human trafficking in all federal-province- local levels.
- Formulate a separate law to control sexual exploitation of women working in the entertainment and hospitality service sector
- Conduct legal literacy campaigns targeting especially to displaced women³⁸, women affected by disaster, indigenous women, Dalit women, LGBTI, women with disabilities and women from geographically disadvantaged locations.
- Formulate national policies relating to rescue, repatriation, rehabilitation, and re-integration of in country and inter countries trafficking survivors.

³⁸ Definition of displaced person / displacement available at <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/displaced-person-displacement/>

POLITICAL AND PUBLIC LIFE

Critical Areas of Concerns

- The electoral quota of Nepal has ensured 33% women's representation in the federal and provincial parliaments and 40% in local governments.³⁹ However, women were given seats by political parties mostly under PR category.⁴⁰ Out of 753 local bodies, only 18 (<3%) are headed by women (Chairperson/Mayor)⁴¹; only 16 female judges (4%) out of 400 judges are serving in judicial service⁴² ; only 23.54% are in civil service sector.⁴³
- Existing legal loopholes has allowed party leaders have upper-hand in nominating male candidates in senior executive positions despite reserved quotas for women, reflecting patriarchal mindset.⁴⁴ All chief ministers in seven provinces are male; there are only 4 women ministers out of 25 members of Federal Cabinet. There is no woman Secretary in the federal government or women Chief Secretary in the provincial governments.

Implementation of Concluding Observations

- 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.⁴⁵
- Local Body Election (First Amendment) Act, 2017 has provisioned 50% women candidacy for position of Chair, Vice- Chair; Mayor, Deputy Mayor;

³⁹ Constitution of Nepal 2015, Article 38(4), 84 (8), 86, 91(2), 295 (4), 216 (4).

⁴⁰ Quantitative Details of Elected Candidates by Sex, <<http://result.election.gov.np/>> accessed on 10 September 2018 (In House of Representatives, 3.64% were elected via -FPTP (First-Past-the-Post) and 76.36% via PR (Proportional Representation). Similarly, in Provincial Assembly, 5.15% were elected via FPTP and 78.18% via PR).

⁴¹ Ibid.

⁴² As per data collected from National Judicial Council, there are 2 women judges out of 19 in Supreme Court, 10 women judges out of 147 in High Court and 4 women judges out of 234 in District Court as of 28th September 2018.

⁴³ Department of Civil Personnel Records, 2018.

⁴⁴ Local Body Election (First Amendment) Act 2017, Section 17(4) provides 50 per cent candidacy of women from each political party for the position of Chairperson and Vice-Chairperson of rural municipalities, mayor and deputy mayor of municipalities as well as chairperson and vice-chairperson of District Coordination Committees where the provision is not applicable if political party submits only one candidacy.

⁴⁵ Constitution of Nepal 2015, Article 70, 91(2),

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 ⁴⁶. Around 6567 Dalit female members were able to win in local level election. Specific Acts have been formulated to ensure underrepresentation of women in respective communities. ⁴⁷

Recommendations

- Reform the electoral quota in the laws to include specific quotas for women in both the electoral systems – FPTP, and PR, ensuring women the opportunity to contest elections, and represent their constituents.
- Develop as well as implement Standard of Procedures for women's reservation in key position and in public institutions and government agencies.
- Adopt the measures ensuring equal and inclusive participation of women in all levels of political and public life, especially Dalit women, women with disabilities, women from religious and sexual minorities, indigenous women and Madhesi women.
- Political parties should increase its women's membership to 50% and Election Commission should strictly implement respective Act regarding women's participation during political party registration.⁴⁸

⁴⁶ Local Body Election (First Amendment) Act 2017, [Chapter 4, Section 17 (4); Chapter 2, Section 6 (2) and Chapter 4, Section 21].

⁴⁷ Tharu Commission Act 2017 ; Indigenous Nationalities Commission Act 2017 have been enacted.

⁴⁸ Political Party Act 2017, Article 15(4) provides that the organizational structure of the political parties must have at least one third of women members. However, Election Commission had registered Communist Party of Nepal (CPN) which failed to fulfill the provision of 33 per cent women's representation in its central committee.

PARTICIPATION OF WOMEN AT THE INTERNATIONAL FORUM

Critical Areas of Concern

- Inadequate data and non-identification of the areas to reflect women participation in International Forums and the level of effort initiated to promote women's participation.
- Absence of information among women on available opportunities and mechanisms for these positions.
- Despite the constitutional provision⁴⁹, the principle of inclusion is not followed during the appointment of ambassadors.⁵⁰

Implementation of Concluding Observations

- 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.⁵¹
- Ms. Sapana Pradhan Malla was appointed in UN CAT committee in 2015 and Ms. Bandana Rana was appointed as UN CEDAW committee member in 2017.

Recommendations

- Ensure and promote equal and inclusive representation of women at international levels and forums.
- The representation must be based on competency that should not be politicized. Intersecting factors within the gender components, women with disabilities, Dalit and Indigenous women, LGBTI, religion needs to be taken into account during the process.

⁴⁹ Constitution of Nepal 2015 Article 282.

⁵⁰ Nepal Govt nominates 14 ambassadors on pro rata quota, [The Himalayan Times](https://thehimalayantimes.com/kathmandu/cabinet-picks-14-names-ambassadors/), February 20, 2017 <<https://thehimalayantimes.com/kathmandu/cabinet-picks-14-names-ambassadors/>> accessed on 25th September.

⁵¹ Government's reply on LOI.

NATIONALITY

Critical Areas of Concern

- Non Recognition of the Independent identity of women in transferring the citizenship to the spouse and children.⁵²
- The categorization of Nepali Women envisioned by the Constitution derails the personality of women. For instance: Article 11 (2), 11 (5) and 11 (7) categorizes Nepali Mother as: Nepali Mother with Nepali Men, Nepali Mother with unidentified men and Nepali Mother with foreign men.
- 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.⁵³
- The Citizenship Act Amendment Bill (under the consideration in the Parliament) does not ensure the rights of gender minority i.e. Transgender, Intersex who acquired the citizenship before as male or female to amend their gender and name in the citizenship certificate.
- Self-Declaration with justification appended by the punishment (up to 5 years of imprisonment) in case the self-declaration is found to be fraudulent by a mother applying for the citizenship if father is not identified undervalues the identity of a mother.⁵⁴
- Non implementation of the progressive court decisions and precedents.⁵⁵
- Non recognition of the single mother to register the birth of her children.
- Inadequate Implementation of Universality Principle of Birth Registration

⁵² 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.

⁵³ Constitution of Nepal 2015, Article 11 (6) states that: "A foreign woman who has a matrimonial relationship with a citizen of Nepal may, if she so wishes, acquires the naturalized citizenship of Nepal as provided for in the Federal law."

⁵⁴ Citizenship Act Amendment Bill 2018, Section 8(1) (a2) has made the Self Declaration with justification mandatory, while Section 21(3) (a) states that: If the self-declaration is found to be fraudulent, the punishment ranges from 1 to 5 years of imprisonment or 50,000 to 100,000 rupees fine or both. If convicted, the citizenship shall automatically become void.

⁵⁵ The non-implementation of the precedent has resulted in significant cases that have widened the scope for the vulnerability of statelessness. For more details, See Annex 2.

Implementation of Concluding Observation

- MoHA has organized training and acclimatization sessions for the responsible officers of DAOs.⁵⁶
- The Government repealed the 2007 Constitution and introduced 2015 Constitution.
- The Citizenship Act Amendment Bill has been proposed in 2018 is under consideration in the Parliament.

Recommendations

- 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.⁵⁷
- Take immediate steps to amend the clause "Father AND Mother" mentioned in Article 11 (3) and replace it by "Father OR Mother"
- Ensure the equal spousal right to transfer the citizenship on equal terms.
- Ensure right to change the gender and name in the citizenship certificate by the gender minority.
- Recognize and implement court decisions and the precedents.
- Recognize the universal concept of Birth Registration and right of a single mother to register the birth of her children irrespective of the status of the parents.
- Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

⁵⁶ States Parties on Sixth Periodic Report 2015, pg. 12

⁵⁷ Citizenship Act Amendment Bill 2018, Section (5) (1) (a), Section (8) (1) (a1, a2), Section 8 (b) (1, 2), Section (21) (3) (a).

EDUCATION

Critical Areas of Concern

- The academic performance of girl students remains unsatisfactory compared to their male classmates⁵⁸, though gender parity in primary school has been achieved.
- The education budget is decreasing in the recent years. The current fiscal year 2018-2019 allocated only 9.91⁵⁹percentage in education which is very low and thus, it is a challenge to ensure free and compulsory education.
- The GoN initiated scholarship program for girls but there is lack of effective monitoring mechanism. Though access has increased, disparities still exist among certain geographical areas, children with disabilities and children from Dalit community and ethnic groups⁶⁰.
- Schools lack gender and disability friendly environments in terms of infrastructure such as access to classroom, library and toilets. The earthquake of 2015 has damaged the school infrastructures more.
- No separate education policies to specifically cater to girls with disability depicting serious problem due to educational neglect from mainstream education system.

Implementation of Concluding Observations

- The government has formulated standard for PMECs⁶¹
- Consolidated Equity Strategy for the School Sector and the development of an Education Equity Index to address the disparities in access, participation and learning outcomes
- 45% of all teacher positions are reserved by policy for under-represented groups, of which 33 % are reserved for female teachers only. Additionally SMCs⁶² need to have a representation of at least one female teacher.
- Inclusive Education Policy has been formulated by GoN.

⁵⁸ Government of Nepal 2015, Education Review Office

⁵⁹ Ministry of Finance, 'Budget Speech of Fiscal Year 2018'
<http://mof.gov.np/uploads/document/file/speech_english_20180715091522.pdf> accessed on September 28 2018

⁶⁰ Poyck Maria Catharina et al. (2016). *Joint evaluation of Nepal's School Sector Reform Plan Programme 2009-2016*: Kathmandu, Nepal.

⁶¹ Priority Minimum Enabling Conditions

⁶² School Management Committees

Recommendations

- Reconstruct and operate schools with PMECs vis-à-vis gender and disability friendly infrastructures.
- Introduce an effective scholarship programs to girl students with special attention to girl with disabilities and from ethnic and Dalit community.
- Recruit female teachers offering more capacity building opportunities.
- Full scholarship and arrangements of hostel facility for girl and disability students from rural areas (technical and multi technical education)

WOMEN AND EMPLOYMENT

Critical areas of concern

- Despite the existence of normative framework, there is lack of information on measures being taken to eliminate horizontal and vertical segregation in the labour market⁶³, gender wage gap in the public and private sectors along with information on steps taken to ensure access to social protection and benefits, including their right to basic health care.
- Non-formulation of Regulation of Sexual Harassment at Workplace (Prevention) Act 2015 to ensure effective implementation of the Act.
- Lack of data on the cases filed and investigated under Sexual Harassment.
- Contradictory provision between the specific laws that guarantees the economic and social benefits of Women.⁶⁴

Implementation of Concluding Observations

- The Constitution has guaranteed women's right to obtain special opportunity in employment and social security, on the basis of positive discrimination. Likewise, the Constitution has taken a policy to evaluate economically the work and contribution such as maintenance of children and care of families.

Recommendations

- Implement the verdict of the Supreme Court without delay regarding equal remuneration for male and female workers in various enterprises and monitor the situation properly⁶⁵ and implement the GR 26 especially on migration policy and domestic worker's.

⁶³ Women under age of 24 are not allowed to work as housemaid or domestic workers in foreign countries whereas it does not apply for men.

⁶⁴ Section 45 (3) of the Labor Act 2017 ensures 60 days of paid maternity leave while Section 13 (1) of the Right to Safe Motherhood and Reproductive Health Right Act 2018 ensures 98 days of paid maternity leave.

⁶⁵ Republica, SC tells government to ensure equal pay for female workers, available at <http://www.myrepublica.com/news/30013/?categoryId=81>, [accessed on 16th September 2018]

- Make data available on the number of complaints filed and investigated under the Sexual Harassment at Workplace and also indicate the steps being taken to effectively implement the law including enactment of regulation and guidelines relating to Sexual Harassment at Workplace(Prevention) Act, 2015 especially with regards to complaint.
- Remove the age bar of 24 imposed on women and the bar forbidding the lactating mother up to 2 years from going in foreign employment for domestic work.
- Ratify the ILO Convention concerning Decent Work for Domestic Workers (Convention No. 189) and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families.

SEXUAL AND REPRODUCTIVE HEALTH (SRH)

Critical Areas of Concern

- Sexual and reproductive ill health is one of the most common health problems for women aged 15 to 44 in Nepal, where early pregnancy, unsafe abortions, childbirth or harmful traditional practices like menstrual exclusion etc endanger the lives of women and girls.
- 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 Nepal⁶⁶. Unequal power relation between men and women makes it difficult for women and girls to decide over their own bodies and negotiate safer sex⁶⁷.
- Women in urban setting face unnecessary cesarean section as a form of obstetric violence that have an impact on the health of mother and child.No regulation, monitoring and punishment provision has been made by the government to address this issue and hence, mostly private health institutions are doing this extreme violation for their business.
- Risks of caesarean include increased need for blood transfusion, admission to intensive care, hysterectomy, or in extreme cases – death among mother while the babies born or cesarean section are at risk of 50% more chance of developing chronic health problems like asthma, diabetes, obesity, rheumatism, allergies, bowel disorders, and leukemia.
- Women lack access to quality SRH care services and information contributing to high prevalence of morbidities like Uterine Prolapsed, Obstetric Fistula, Cervical Cancer, Reproductive tract infection and mortality that are largely preventable SRH problems in Nepal.
- Health facilities at local level have no women friendly services that encompass psycho-social counseling services, female medical practitioners in rural areas and manage reproductive health problems of women and girls.

⁶⁶ Nepal Demographic Health Survey (NDHS) 2016, Key findings page 8. Ministry of Health
⁶⁷ <http://www.manskligarattigheter.se/en/human-rights/what-rights-are-there/sexual-and-reproductive-healthand-rights-srhr>

- Very less health facilities run adolescent, disability and LGBTI friendly health services.
- Due to stigma and lack of knowledge on Safe abortion many women turn to clandestine services, impacting their reproductive health.⁶⁸ In addition, 58% women go for clandestine abortion.⁶⁹
- Due to the conditional criminalization of abortion, women are often prosecuted and imprisoned in abortion related offences.⁷⁰

Implementation of Concluding Comments

- The Constitution ensures reproductive health rights of women and the Federal Parliament has passed Safe Motherhood and Reproductive Health Right Act and the Act came into force on September 18, 2018.
- Procedure Guidelines on Safe Abortion Services Program was revised to implement free abortion services in 2016.

Recommendations

- Ensure accessibility, availability, safe and quality reproductive health services (psycho-social counseling services, safe abortion, maternal health services, pre-natal care, emergency obstetric care, safe delivery and post-natal care, skilled birth attendants) throughout the life-cycle.
- Ensure health service facilities are gender sensitive and adolescent, disability and LGBTI friendly.
- Decriminalize safe abortion and increase awareness program on safe abortion.
- All type of safe abortion services upto second trimester services should be included in Basic Health Care package.

⁶⁸ According to NDHS 2016, only 41% women know about legalization.

⁶⁹ Guttmacher Institute, CREHPA, 2014.

⁷⁰ According to fact-finding study conducted by FWLD and the Center in 15 districts of Nepal, 54 abortion related cases were registered between 2011 to 2016 in the district and high courts, out of which 13 cases were against women for terminating their pregnancies. Among these 13 cases, 5 women were convicted, of which four imprisoned.

ECONOMIC AND SOCIAL BENEFITS

Critical Areas of Concern

- Shortcomings in accessing the social/economic benefits⁷¹ and special measures⁷² provided by the Government.
- Prohibitively formal and stringent requirements for access to credit, which are disproportionately barring women from obtaining financial credit from which they, their businesses, families and communities and, ultimately, their creditors, may benefit. For example, one particularly problematic prerequisite in the financial markets of Nepal is the requirements banks have for the immovable collateral.⁷³
- Requirements of Civil Documents in order to claim the social and economic benefits.⁷⁴

Implementation of the Concluding Observations

- The Government of Nepal from the past 2013 to 2018 has passed specific Laws that consolidate and addresses the Economic and social benefits of

⁷¹ Single Women Security Fund (Running) Guideline 2013, Labor Act 2017, Contribution based Social Security Act 2017, Social Security Act 2018, Rebate in house-land registration fee through financial Act 2016,

⁷² Formation order relating to land registration issued by the Ministry of Land Reforms and Management which mentions the Registration of land in the name of husband and wife, Industrial Policy 2010 that mentions the Rebate in registration of Industry (There is a provision in the Industrial Policy that provides a rebate of 35 per cent of the registration fee for industries registered in the name of a woman, and a 20 per cent rebate for registration of an industrial property patent, design and trade mark in the name of a woman), Rebate in remuneration Income, Income Tax Act 2001, Rebate in Income Tax (There is a provision in the Income Tax Act that provides a 20 per cent rebate in the income tax annually for industries that provides direct employment year-round to more than 100 Nepali citizens, among whom include at least 33 per cent women, Dalit and people with disabilities).

⁷³ World Bank, "Access to Financial Services in Nepal", < <http://siteresources.worldbank.org/NEPALEXTN/Resources/publications/4158301174327112210/complete.pdf> >, pg. 15, Conjointly as per the Focused Group Discussion (FGD) conducted on 21st-22nd September, 2018 at Far Western Part of Nepal within the 4 groups of Freed Haliya (Dalit) Community, it was demonstrated that 140 males took the loans from the cooperative while only 60 females were among the respondents who took the loan. There seems a significant gap in the loan taking process between male and female though 75% respondents of the FGD were women.

⁷⁴ As per the FGD Conducted with the People without citizenship Certificates in Madi, Municipality of Chitwan (Terai region of South Central Nepal) on 27th June, 2018, significant numbers of women claimed that they are not being able to initiate small scale business or open a bank account or even borrow a loan from any financial institutions in absence of the citizenship certificate due to which they have to be economically dependent on their spouse, family.

Women.⁷⁵ Simultaneously the Government has architected various policies and funds for the enhancement of women.⁷⁶ Additionally, the Government has broadened the conditions of age bar for providing the allowance to the single women.⁷⁷

Recommendations

- Address the underlining causes including the lack of civil documents that hinders the access to social / economic benefits from Government.⁷⁸
- Implement regulatory frameworks aimed at encouraging financial institutions that facilitate women's access to credit (*e.g.* by allowing subsidy in the collateral or in the government guarantee without collateral and by allowing movable property as collateral).

⁷⁵ Single Women Security Fund (Running) Guideline 2013, Labor Act 2017, Contribution based Social Security Act 2017, Social Security Act 2018.

⁷⁶ States Parties on Sixth Periodic Report, 2015, pg. 21, (Until April 2014, the Poverty Alleviation Fund (PAF) has assisted the formation of 23,788 community organizations of the economically poor to carry out different livelihood enhancing and capacity development activities. The programme has benefited 663,151 poor households, mostly indigenous communities, *Dalits*, and women. Of these, 75 percent are women, 65 percent are those who do not have sufficient food for more than 3 months a year).

⁷⁷ Social Security Act 2018, Section 7 (1) guarantees the single women allowance to the vulnerable single women below the age of 60 years whose remuneration is minimum than what is determined by the Nepal Government and who cannot be involved in employment cannot be involved in employment.

⁷⁸ Social Security Act 2018, Section 7 guarantees the vulnerable single women allowance. Number 4 of the Single Women Security Fund (Running) Guideline 2013 that ensures the formulation of Security Fund and its usage in the below mentioned sectors:

- a. To develop skill generating trainings and education to the single women.
- b. To conduct the Employment programs for the single women.
- c. Medical treatment of the single women.
- d. To rehabilitate, rescue and provide relief to the single women.
- e. To provide legal assistance to single women
- f. To assist single women in inclusive community or cooperative organization
- g. To conduct awareness campaign in order to generate the social norms in single women.
- h. To investigate the programs to be conducted by the Fund Regulation Committee.
- i. To conduct other activities for the betterment and amelioration of single women.

RURAL WOMEN

Critical Areas of Concern

- Long distance to schools, heavy household chores, school dropout, early marriage, threats of sexual harassment, violence, inadequate facilities for menstrual needs, are some detrimental factors to rural girls' education, which dramatically narrows rural women's opportunities.
- Lack of knowledge and access of information of rural women on various plans and policies targeted to rural women.⁷⁹
- Rural women, especially of marginalized communities⁸⁰ are deprived of access to right to food.⁸¹
- 83.5%⁸² single women (widow) out of five hundred thousand live in rural locations and harmful traditional practices, lack of control over inheritance and land rights, inadequate access and control over community resources and limited social security schemes for single women (government has only provided with monthly allowance⁸³) which increases their vulnerability.
- Lack of proper infrastructures focusing rural women with disabilities.

Implementation of Concluding Observations

- The Constitution has guaranteed right to food and food sovereignty⁸⁴. Right to Food and Food Sovereignty Act 2018 has recently been enacted. Livelihood programs and capacity development activities have been implemented.⁸⁵ Policy to prioritize programs increasing access, ownership and control of women over financial and other resources. Identification and implementation of programs for empowering women and building capacity

⁷⁹ As per the Focused Group Discussion on the issue of displaced rural women, freed haliyas, dalits, santhal, mushar and disaster affected and refugees in Morang, Lalitpur, Sarlahi and Baitadi district of Nepal conducted by The Lutheran World Federation Nepal

⁸⁰ Dalit, indigenous, women living with disabilities, HIV/AIDS infected/affected single women, displaced women

⁸¹ Children 1379 in Humla, 1015 in Mugu, 202 in Jumla, 3026 in Kalikot and 235 in Dolpa district are under chronic mal-nutrition – Media clips and FIAN Nepal cases of right to food violation at province 3, 5, 6, and 7

⁸² Central Bureau of Statistics (CBS), 2011 census

⁸³ Social Security Act 2018, Section 7

⁸⁴ Constitution of Nepal, Article 36

⁸⁵ Poverty Alleviation Fund <<http://www.pafnepal.org.np/>> accessed on 23 September 2018

of rural women.⁸⁶ Micro enterprise development initiative of government for empowering rural women and to provide employment opportunities.⁸⁷

Recommendations

- The local government mechanism should establish rural women information and learning centers to disseminate the information regarding policy and provision in wider level.
- Train responsible authorities understanding, commitment, ownership and accountability – at all levels - to reach education, health, right to food, empowerment needs of under-served and marginalized rural women.
- Develop infrastructures focusing on universal design and reasonable accommodation for easy access of rural women with disabilities.

⁸⁶ An Approach Paper to the Thirteenth Plan (2013-2016), National Planning Commission, 2013, p. 135

⁸⁷ Micro-Enterprise Development Programme (MEDEP)
<<http://www.np.undp.org/content/nepal/en/home/projects/medep.html>> accessed on 19 September, 2018

EQUALITY BEFORE LAW

Critical Areas of Concern

- Women are still not considered as an independent coparcener to the ancestral property in practice⁸⁸.
- Women with disabilities are not considered eligible to have insurance policy, to open bank accounts, and are compelled to be accompanied by a guardian to hold legal ownership of any properties.
- The eligibility criteria for right to vote and right to get elected for women with disabilities, especially challenging psychological/psychosocial conditions are put together without any specific categorization.
- 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.
- Women headed household, women with disabilities, pregnant women, lactating mother LGBTI had the least access to relief materials, as well as to relevant disaster related information⁸⁹.

Implementation of Concluding Observations

- The Constitution guarantees women's equality before law and prohibits all forms of discrimination.

Recommendation

- Recognize women as an independent coparcener as men in all ancestral property documents. The land revenue offices should include daughters irrespective to marital status in partition deeds related to the ancestral property.

⁸⁸ 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) .

⁸⁹ Women Friendly Disaster Management, *Gender Assessment of Flood Response*, (2017)

- Remove discriminatory provisions that stop women with disabilities to acquire properties in the absence of guardians, obtain insurance policies, and open bank accounts.
- Develop infrastructures and government mechanisms that address need based assistance to include diverse disabilities issues of women.
- Ensure inclusive participation of women in all disaster cycle, process, and committees at all levels⁹⁰.

⁹⁰ National Women's Conference on Gender Responsive Disaster Management, *Kathmandu Declaration* (March, 2016)

MARRIAGE AND FAMILY RELATION

Critical Areas of Concern

- The Criminal Code prohibits Bigamy⁹¹ but Section 74 of the Civil Code is ambiguous⁹². Additionally Section 209 (3) of the Chapter on partition of property of the Civil Code is contradictory to the provision of prohibiting bigamous marriage.
- Sec 94 (2) of Chapter on Divorce of the Civil Code provides that husband can dissolve the marriage where he can dissolve if his wife doesn't provide food, and banish him from home. However Section 99(6) of the same provides that if husband applies for the dissolution of marriage according to Section 94 (b) (c) (d), he is not obliged to provide property or give the money to the wife whereas same provision is inapplicable to the husband.
- Narrow definition of marriage which has not legally recognized the same sex marriage.⁹³
- Multiple discriminations faced by the women living with disabilities in their marital relations.

Implementation of Concluding Observations

- Partition of the family Property does not discriminate between son and daughter as both are granted equal status with regard to the property

⁹¹ Criminal Code 2017, Chapter on Offense relating to marriage, Section 175 (1).

⁹² Civil Code 2017, Chapter on Marriage : Marriage to be deemed solemnized if a child is born from physical intercourse:

(1) Notwithstanding anything contained in sub-Section (2) of Section 69, if a woman is proved to have produced a child by conceiving pregnancy from physical intercourse with a man, marriage between such a man and a woman shall, ipso facto, be deemed to have been solemnized.

(2) Notwithstanding anything contained in sub-Section (1), no marriage shall be deemed to have been solemnized between a man and woman in the following circumstances even if a child is born from physical intercourse with a man:

(a) If a woman gives birth to a child by conceiving pregnancy as the consequence of rape,

(b) Except in case of the relationship of under sub-Section (2) of Section 70, if a woman gives birth to a child by conceiving pregnancy from a physical intercourse with a man within the relationship punishable by law for incest.

⁹³ Civil Code 2017, Chapter on Family Law, Section 67 provides that marriage is to be solemnized only between man or woman who accepts each other as husband and wife through any occasion, ceremony, formal or any act, a marriage shall be deemed to have been solemnized.

granting equal opportunity to son and daughter to claim the ancestral property irrespective of marital relation.⁹⁴

Recommendations

- The grounds for the termination of marriage for the women living with disabilities shall be appended with additional protective measures so that the women living with disabilities would not have to face abandonment by their husband.
- Repeal the provision that ipso facto establishes marriage in case if it is proved that a child is born out of sexual relation between men and women.
- Legal recognition of the same sex marriage.
- Ensure that, in law and in practice, women and men are granted equal rights to share all marital property upon dissolution of marriage.

⁹⁴ Civil Code 2017, Chapter on Partition of Family Property, Section 205 and 206.