CIVIL SOCIETY’S ALTERNATE REPORT ON CEDAW CONVENTION

2016

CEDAW Shadow Report
Preparation Committee (SRPC), Nepal
Nepal

CIVIL SOCIETY’S ALTERNATE REPORT ON CEDAW COVENANT

2016

CEDAW Shadow Report Preparation Committee (SRPC)

Co-ordinated by

FWLD

HRTMCC

Supported by

UN Women & Government of Denmark
## CONTENTS

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 1</td>
<td>Non discrimination</td>
<td>1</td>
</tr>
<tr>
<td>Article 2</td>
<td>Obligation to Eliminate Discrimination</td>
<td>3</td>
</tr>
<tr>
<td>Article 3</td>
<td>Advancement of Women through Institutions</td>
<td>6</td>
</tr>
<tr>
<td>Article 4</td>
<td>Special Measures for Substantive Equality</td>
<td>9</td>
</tr>
<tr>
<td>Article 5</td>
<td>Sex Role and Stereotyping</td>
<td>12</td>
</tr>
<tr>
<td>Article 6</td>
<td>Prohibition of Trafficking and Prostitution</td>
<td>15</td>
</tr>
<tr>
<td>Article 7</td>
<td>Political and Public Life</td>
<td>18</td>
</tr>
<tr>
<td>Article 8</td>
<td>Women’s International Representation</td>
<td>21</td>
</tr>
<tr>
<td>Article 9</td>
<td>Nationality</td>
<td>27</td>
</tr>
<tr>
<td>Article 10</td>
<td>Education</td>
<td>31</td>
</tr>
<tr>
<td>Article 11</td>
<td>Employment</td>
<td>34</td>
</tr>
<tr>
<td>Article 12</td>
<td>Health</td>
<td>37</td>
</tr>
<tr>
<td>Article 13</td>
<td>Economic and Social Benefits</td>
<td>40</td>
</tr>
<tr>
<td>Article 14</td>
<td>Rural Women</td>
<td>42</td>
</tr>
<tr>
<td>Article 15</td>
<td>Equality Before the Law</td>
<td>44</td>
</tr>
<tr>
<td>Article 16</td>
<td>Marriage and Family Life</td>
<td>46</td>
</tr>
</tbody>
</table>

### Emerging Issues

- Women, Peace and Security 48
- Women and Disaster 51
- Women Access to Information 54
<table>
<thead>
<tr>
<th>Article</th>
<th>Writer</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non discrimination</td>
<td>Sabin Shrestha / Subin Mulmi</td>
<td>FWLD</td>
</tr>
<tr>
<td>2. Obligation to Eliminate Discrimination</td>
<td>Purusottam Mishra / Bimala Khadka</td>
<td>CSD FWLD</td>
</tr>
<tr>
<td>3. Advancement of Women through Institutions</td>
<td>Manaslu Gurung / Roshana Pradhan</td>
<td>FWLD</td>
</tr>
<tr>
<td>4. Special Measures For Substantive Equality</td>
<td>Sabin Shrestha / Sushma Gautam</td>
<td>FWLD</td>
</tr>
<tr>
<td>5. Sex Role and Stereotyping</td>
<td>Meera Dhungana / Kamala Panthi</td>
<td>FWLD Sancharika Samuha</td>
</tr>
<tr>
<td>6. Prohibition of Trafficking and Prostitution</td>
<td>Uma Tamang / Sabin Gurung / Benu Maya Gurung / Meena Bista</td>
<td>Maiti Nepal AATWIN</td>
</tr>
<tr>
<td>7. Political and Public Life</td>
<td>Sharmila Karki / Saloni Singh / Writu Bhattachari / Meena Bista</td>
<td>Jagaran Nepal DidiBahini</td>
</tr>
<tr>
<td>8. Women's International Representation</td>
<td>Salina Joshi / Roshana Pradhan</td>
<td>FWLD</td>
</tr>
<tr>
<td>10. Women and Education</td>
<td>Prativa Shrestha</td>
<td>Shtrii Shakti</td>
</tr>
<tr>
<td>11. Employment</td>
<td>Manju Gurung</td>
<td>Pourakhi</td>
</tr>
<tr>
<td>12. Health</td>
<td>Pema Lhaki</td>
<td>NFCC</td>
</tr>
<tr>
<td>13. Economic and Social Benefits</td>
<td>Shanti Manandhar / Shreejana Lohani</td>
<td>Shtrii Shakti WSD</td>
</tr>
<tr>
<td>14. Rural Women</td>
<td>Kala Swarnakar / Sangita Dutraj / Rajin Rayamajhi / Radha Poudel / Mahesh Shahi</td>
<td>FEDO WHR AWON</td>
</tr>
<tr>
<td>Article</td>
<td>Writer</td>
<td>Organization</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>---------------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>15. Equality Before the Law</td>
<td>Sharda Subba/ Indira Sirsh/ Tika Dahal/ Subin Mulmi</td>
<td>INWOLAG NDWA FWLD</td>
</tr>
<tr>
<td>16. Marriage and Family Life</td>
<td>Sadhana Shrestha/ Tulsa Lata Amatya/ Tika Dahal</td>
<td>LACC CAC Nepal NDWA</td>
</tr>
<tr>
<td>Women and Disaster</td>
<td>Rajin Rayamajhi/ Sabin Shrestha/ Manaslu Gurung</td>
<td>WHR FWLD</td>
</tr>
<tr>
<td>Women, Peace and Security</td>
<td>Bandana Rana/ Purusottam Mishra</td>
<td>SAATHI 1325 Action Group</td>
</tr>
<tr>
<td>Women's Access to Right to Information</td>
<td>Babita Basnet/ Awantika Thapa</td>
<td>MAG</td>
</tr>
</tbody>
</table>
Nepal ratified the CEDAW Convention on April 22, 1991. The Convention obliges States parties to submit to the Secretary-General a report on the legislative, judicial, administrative or other measures that they have adopted to implement the Convention within a year after its entry into force and then at least every four years thereafter or whenever the Committee on the CEDAW so requests. These reports, which may indicate factors and difficulties in implementation, are forwarded to the CEDAW for its consideration. However, the initial report of Nepal was submitted only on November 16, 1998. The second and third periodic reports were then submitted on November 26, 2002. The fourth and fifth combined periodic reports were submitted after a significant gap on July, 2009. The Shadow Report on the fourth and fifth periodic report was submitted in 2011. Consequently, the CEDAW Committee considered the issues at its 989th and 990th meetings, and on July 20, 2011, issued the Concluding Observations to the Government of Nepal.

The Concluding Observations requested the Government of Nepal to respond to the concerns expressed in its next periodic report and invited the State to submit its next periodic report in July 2015. Additionally, the Committee requested to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 26 (nationality) and 36 (transitional justice) of the Concluding Observations.

The government of Nepal has not obliged to either of the two requests. Considering the vulnerability of women in the aftermath of the earthquake that struck the country on April 25, 2015 and the urgency to implement the new constitution, the Civil Society comprising of more than 50 organizations decided to prepare the Alternate Report on CEDAW in absence of the Sixth Periodic Report of the government. This report has been prepared with the intent to encourage the government to submit the 6th Periodic Report and the Issue wise Report that are due.

This report has been prepared in a participatory manner involving coordination from different organizations working on women’s rights sector with Forum for Women, Law and Development (FWLD) acting as the Coordinator. The preparation of this report was supported by UN Women and Government of Denmark. This report includes information on the status and implementation of women’s rights as categorized in Articles 1-16 of CEDAW Convention. Additionally, three issues Women and Disaster; Women, Peace and Security and Women’s Right to Information have been identified as critical issues and thus
have been incorporated in this report. This report, while documenting positive implementation of the rights of women also points out the gaps that remain and even mentions some of the regressive steps that have been taken in relation to women’s rights in Nepal. It makes several concrete recommendations that must be addressed in the immediate future if Nepal is to be in complete compliance with CEDAW and its General Recommendations.

The Report Writing Process
FWLD has been coordinating the Shadow Report Writing Process of CEDAW from the initial report to the combined fourth and fifth Periodic Report. For this purpose FWLD has been working in close collaboration with other civil society organizations to make the report more effective. FWLD thus, conducted an initial meeting for the preparation of an Alternate Report. The meeting was organized with the member organizations of the previous Shadow Report Preparation Committee (SRPC) and some other organizations interested to be a part of this process. The meeting decided to revive the old SRPC along with other interested organizations. The meeting also decided that FWLD will coordinate the Report Writing Process under HRTMCC.

CEDAW Alternate Report Preparation Committee identified issues for shadow report and formed of writing committee of each issue representing various organizations working in the specific issue. Outline of shadow report was developed and orientation was organized with writing committee members on writing the structure of the report. Experience sharing meeting was held on 22nd December, 2015 with the members of writing group. The main objective of the meeting was to share the experience of shadow report of other countries and also to clarify any questions the writers had in their mind.

Similarly, Regional Level Consultation was held in Biratnagar on December 31, 2015 to share the importance of a Shadow Report, its process on one hand and to get the feedback from the representatives on the issues to be incorporated under different chapters of the report. Focus Group Discussions were carried out to discuss different chapters by the writing groups with the concerned stakeholders. Major outcome of the FGDs was the collection of concerns of the right holders and involving them in the report writing process. A meeting was conducted on April 15, 2016 for the finalization of Alternate Report on CEDAW. Writers of the respective chapters participated in the meeting in order to finalize the content. Presentations were made on the articles by the respective writers from concerned organizations followed by feedbacks from the other writers. All the participants of the organization were asked to make necessary revisions in their chapters as per the feedback and comments received in the meeting.

On April 18, 2016, national level conference was organized inviting participants from within the capital and outside to discuss the draft Alternate Report on CEDAW. The participants were divided in four groups where the writers explained their chapters and sought feedback from the participants. After extensive deliberations and discussions, the chapters were adopted along with the feedback. The Alternate Report on CEDAW was finalized incorporating feedback given by the national level conference.
Non-Discrimination

A. Prevalence of the problem

Nepalese women continue to face social, economic, political, gender, and even legal discriminations in their public and private spheres, directly or indirectly irrespective of the State's number of international vis-à-vis national commitments in relation to non-discrimination, gender equality and social justice. The societal structure in Nepal that is deeply rooted with the patriarchal values, norms and mindset, has hindered Nepali women and girls to live free of gender-based discrimination and violence. Discriminatory practices like dowry, Tilak, Chhaupadi, Deuki, Jhooma and polygamy are still prevalent in various parts of Nepal.

It should be noted that in Nepal, laws including the new Constitution’ neither provide a comprehensive definition of ‘discrimination’ reflecting the elements of distinction, exclusion or restriction nor recognise the discrimination by non-State actors. Consequently, Nepalese women do not enjoy protection from various forms of discrimination including indirect discrimination and discrimination by non-State actors and the victims of discrimination are not entitled to receive compensation.

B. Critical areas of concern

- Lack of a comprehensive definition of discrimination in keeping with international principles of CEDAW, CERD or CRPD.
- The indirect forms of discrimination has not been addressed by the law
- The failure to extend protection against discrimination by non-State actors or within private spheres as fundamental rights have rendered women vulnerable to gender based violence irrespective of the enactment of specific laws.

C. Implementation of concluding observations

The new Constitution envisages the right to equality and rights on women as fundamental rights. Article 18 of the new Constitution ensures non discrimination based on sex, guarantees equality before the law and provides equal protection of the laws. The Constitution has, to some extent, expanded the scope of non-discrimination thereby recognising physical conditions, disability, health condition, marital status, pregnancy and economic condition as grounds of discrimination. Likewise, Article 38 of the Constitution recognises the rights of women that provides among others, every woman to have ‘equal lineage right without gender based discrimination’.

D. Gaps and weaknesses

- The Constitution fails to acknowledge multiple discrimination on the basis of cross-sectional identities and has not looked into intersectionality within the group. Though it has prohibited discrimination but has not linked discrimination that can be addressed by gender neutral special provisions.
- The Constitution fails to acknowledge discrimination by non-State actors or the distinction in forms of discrimination experienced by women in private and public spheres. This lacuna has also led to the absence of any guarantees against such forms of discrimination.

E. Recommendations

- Adopt a comprehensive definition of discrimination in the Constitution to encompass both dejure but defacto discrimination, direct and indirect discrimination in line with the CEDAW, the CERD, the CRPD acknowledging multiple discriminations on the basis of cross-sectional and cross-cutting identities not only by State actors but also by non-State actors, in the private and public spheres.
- Acts of discrimination should be made punishable under law and the affected party should to entitled to receive compensation.

2. Article 18(1) of the Constitution of Nepal (2015) reads: “All citizens shall be equal before law. No person shall be denied the equal protection of law.”
3. Id, Article 18(2)
4. Id, Article 38(1)
ARTICLE 2

Obligation to Eliminate Discrimination

A. Prevalence of the problem

Nepal, being a State party to the CEDAW, has a legal obligation under the provisions of the Convention including to respect, protect and fulfill women’s right to non-discrimination and the enjoyment of equality. Nepal, during the proceedings of the Universal Period Review in November 2015, presented that “in the new Constitution […] all forms of discrimination and inequalities were ended and multi-ethnic, multilingual, multicultural and diverse geographical specificities were embraced.” However, Nepal has not ensured the complete implementation of provisions of the CEDAW Convention within the national jurisdiction at one hand and on the other; there are still many laws that contain discriminatory provisions against Nepalese women.

Additionally, it is stressed by numerous civil society organisations that in Nepal, gender equality is often limited to policy papers and is frequently not translated into real equality for women. The effect of discriminatory practices continues to remain in day to day life despite of abolishment of such practices by law. For instance, Dalit women still face a high degree of social and economic exclusion and the traditional harmful practices of chhaupadi, kamlari and child marriage continue despite legal abolition of these practices.

7. According to FWLD’s 2009 study report on “Discriminatory laws against Women, Dalit, Ethnic, Community, Religious Minority and Persons with Disabilities”, in 2009, there were 103 provisions and 92 schedules to various Acts and Regulations tending to discrimination against women. In 2015, the Act of 2072 to amend some acts on gender equality and ending of gender violence amended 31 Acts.
9. Id
More importantly, it should be noted that there is no proper mechanism in place to ensure that the laws to be made in the future will envisage the principle of equality and non-discriminatory to the fullest extent.

B. Critical areas of concern

• **Existence of discriminatory laws and provisions:** Several laws, which explicitly discriminate against women on the basis of sex, are still in existence. Discriminatory wordings including kanyadan (donation of girl), Kulpai (Chancellor), Rastrapati (President), Uparastrapati (Vice president) are still used in various legislations. The provisions of the new Constitution relating to citizenship are discriminatory to women.\(^\text{10}\)

• **Discrimination leading from non-acknowledgement and non-enactment of laws and provisions:** Women are subject to several forms of violence against women that are not explicitly recognised by Nepalese law as a separate crime. It is very urgent to enact laws to offer legal protections for women, particularly victims.

• **No Sanction and compensation for discrimination:** Neither the Constitution nor any legislation has provided that discrimination on the basis of gender will be punishable under law. Thus, there is no ground to punish those committing discriminatory acts and to claim compensation by the victims.

C. Implementation of concluding observations

• **Wider scope of rights of women under the new Constitution:** The new Constitution has widened the scope of rights of women thereby recognising women’s right to participate in all bodies of the State on the basis of the principle of proportional inclusion as well as to obtain special opportunity in education, health, employment and social security on the basis of positive discrimination and the equal right of the spouse to property and family affairs, compared to the Interim Constitution of Nepal, 2007.\(^\text{11}\)

• **Enactment of the Act of 2072 to amend some acts on gender equality and ending of gender violence (the Act of 2072):** The Act of 2072 was passed as well as came in force from 1 October 2015. The Act has repealed various provision of 31 Acts including Domestic Violence (Crime and Punishment) Act, 2008, Human Trafficking and Transportation (Control) Act, 2007, Police Act 1955 and General Code (Muluki Ain) 1963. The Act has made some notable improvements in the existing laws such as:

---

10. Article 11(7), the Constitution of Nepal (2015)
11. Article 38, the Constitution of Nepal (2015)
o Acid attack is made punishable under the Chapter of beating of General Code (Muluki Ain) 1963.

o The definition of rape has been extended to the oral or anal sex as well as recognises the use of foreign element. The statute of limitation for reporting rape case has been extended to 6 months from 35 days.

D. Gaps and weaknesses

• The Act of 2072 to amend some acts on gender equality and ending of gender violence has not covered all discriminatory provisions of various Acts and Regulations tending to discriminate women. Thus, several laws continue to discriminate against women.

• Some laws and policies that are considered to be progressive, have not been effectively implemented so far. Lack of proper implementation of the constitutional guarantees and legal provisions adversely affects the initiative to eliminate provisions that are discriminatory to women.

• The law reformation process is very slow. On the other hand, there is no clear provision of conducting gender auditing during law enactment process in order to ensure equal and non-discriminatory laws.

E. Recommendations

• Set up a time line for amendment of all the remaining discriminatory provisions of the Nepalese laws.

• Ensure gender legislative auditing during law enactment process.
Advancement of Women through Institutions

A. Prevalence of the problem

The government of Nepal has taken few steps to strengthen national machineries including for instance establishing gender focal point in all Ministries, establishing Women and Children Directorate in the Nepal Police and Women and Children Cells at all 75 districts and appointment of protection officer to address domestic violence. However, the lack of centralised and regular monitoring mechanisms on gender equality and women empowerment goals as well as gender responsive budget at both the district and central levels makes hard to see whether such steps have produced any visible effect on the overall status of women. Most of the government interventions are structural in nature and have little or no impact on the overall advancement of women. Thus, considerable challenges and obstacles remain in Nepal to ensure the full development and advancement of women in all fields, in particular in civil, political, social, economic and cultural fields, by way of all appropriate measures.

B. Critical area of concern

- **Lack of a multi-dimensional participatory and robust monitoring system:** Government of Nepal has established gender focal points in all the Ministries but they are not effective. Departments and other agencies of the government do not have separate gender units. Additionally, all government institutions focus on their primary responsibility rather than gender perspectives. Therefore, there lacks a comprehensive monitoring framework on advancement of women in all fields.

• **Lack of effective gender disaggregated database:** The government has yet to develop gender disaggregated database. It should be noted that gender disaggregation does not mean, only disaggregated by sex and also by marital status, age, and profession as well as various gender responsive indicators such as different kind of VAWs, women's economic status and poverty including on time spent on unpaid household and care work.\(^{13}\)

C. Implementation of concluding observations

• **Establishment of National Women's Commission as a Constitutional Body:** The National Women's Commission has been upgraded as a constitutional body with the promulgation of the new Constitution.\(^{14}\) Earlier, the commission was established as a statutory body. The National Women Commission as a constitutional body has the mandate to integrate gender perspectives in legislation, public policies, programmes and project as well as to monitor as to whether laws concerning the rights and interests of the women and obligations under the international treaties to which Nepal is a party have been implemented, and make necessary suggestions to the government of Nepal for their effective compliance and implementation.\(^{15}\)

• **Gender budgeting and gender auditing:** Since the year 2002, the gender responsive budget initiative has been implemented. Gender auditing system is also in. A sum of NRs. 135.57 billion i.e. 21.93% of the total budget was allocated for the programmes directly benefitting the women in the year 2014 - 2015. Similarly for the year 2015 – 2016, NRs. 182.51 billion i.e. 22.27% budget has been allocated for women.

D. Gaps and weakness

• The National Women Commission has not been able to function effectively as the necessary law of the commission has yet to be enacted and the appointments to the commission has yet to take place.

• Gender Budgeting is limited only to the Ministry and is yet to be reflected at local bodies. The monitoring of such budget is still lacking. Despite budget allocation for women, women as such have not been able to benefit completely.

---

14. Article 252, the Constitution of Nepal 2015
15. Article 253(a),(b), the Constitution of Nepal 2015
E. Recommendations

- Set up a multi-dimensional participatory and robust monitoring system with gender responsive indicators to track women's overall advancement as well as the impacts of gender mainstreaming programmes.

- Develop a gender disaggregated database by sex, marital status, age, profession as well as with adequately gender responsive indicators in all governmental agencies and if possible by other non-governmental agencies.

- Equip Institutions created for advancement of women including the National Women Commission with adequate budget and human resources as well as train Staff thereof to be gender responsive in their work.
Special Measures for Substantive Equality

A. Prevalence of the problem

Nepal ranked in 108th position in the global scenario in 2014, compared to the rank of 98th in 2013 according to the Gender Inequality Index that indicates the loss in human development due to inequality between female and male achievements in the three dimensions - reproductive health, empowerment and economic activity.\(^\text{16}\) This implies that Nepal has not performed well in ensuring equality between men and women substantively.

On the other hand, the government focuses on reservation and quota as special measures and has not considered other forms of special measures. At the same time, the government’s initiatives of reservation and quotas for women have been widely criticised as implementation of such reservation and quotas has not taken into the consideration of diversities among women resulting into little or no benefit to disadvantaged and marginalised women.\(^\text{17}\) Equally, women and other groups are further treated as weak and vulnerable and always in need of reservation or quota in order to participate or compete in society that put adverse psychological and social pressure on women.

Therefore, in order to uplift the position of women in the society vis-à-vis ensure equality, there is a need for strategic interventions by taking temporary special measures that guarantee the de facto equality of women keeping in the mind a wide range of temporary special measures to be taken by the government for accelerating access of women in the areas of education, employment, and economic.

\(^{\text{16}}\) UNDP, The Human Development Index 2015, pp.224-227 and The Human Development Index 2014.
B. Critical areas of concern

- **Lack of conceptual clarity**: Lack of conceptual clarity related to the principle of equality amongst judiciary and lawmakers has created confusion on understanding substantive equality, which further limits women’s fundamental rights and freedom.

- **Limited nature of special measures**: The government focuses on reservation and quota as special measures and has not considered other forms of special measures. This has resulted into general assumption that special measures mean reservation. Special measures encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; targeted recruitment, hiring and promotion.

- **Special measures unable to reduce gender gap**: The Gender Development Indicator (GDI) shows that Nepal falls under the category of low human development ranking 145th position in the world and also has the lowest GDI amongst South Asian Countries. It can be attributed to the fact that special provisions for women are inadequate to address the needs of women and does not take the consideration of diversities among women resulting into little or no benefit to disadvantaged and marginalised women. This is due to the lack of a target based and time-bound special measures which fail to reduce the gender gap.

C. Implementation of concluding observations

The new Constitution acknowledges the need for special measures for women to accelerate the advancement of women in areas in which women, in particular those facing multiple forms of discrimination, are underrepresented or disadvantaged as well as provides conceptual framework for special measures. The Constitution provides that women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion as well as the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination. The Constitution in equality clause states that special provisions by law can be made for the protection, empowerment or development of socially or culturally backward women.

D. Gaps and weaknesses

- **Narrow scope of special measures for women in the Constitution**: The new Constitution has even further limited the provision by adding the condition of ‘lagging
behind socially and culturally’ which indicates that the positive discrimination may not extend to all women but only those who are proven to fulfil the condition. As of now, it has not been defined what is meant by the specific term.

- **Inadequate and ineffective special measures as well:** A study conducted by FWLD shows that there are limited measures quantitatively as well as qualitatively for accelerating gender equality at one hand and on the other, number of special provisions in place for women has been decreased from 446 to 304 during last one decade.21

- **Non-acknowledgement of diversity among women:** Women are not homogenous group. Intersection among women has not taken into consideration in special measures. Women from marginalised group such as women from Dalit, Madhesi, and indigenous communities, from the religious minorities, women from geographically disadvantaged locations and women with disability have been lesser representations in all sectors. More significantly the engagement of limited women in various sectors has not been able to yield effective results.

- **Lack of implementation vis-à-vis monitoring mechanism of implementation status:** Besides enacting these legal provisions, the government has not taken any initiative to implement them or monitor their actual implementation. A study conducted by FWLD shows that excluding a few positive exceptions, the special measures are only on paper and have not made any difference to the lives of women.22

### E. Recommendations

- Train judges, law enforcers and legislators on the issues of substantive equality and difference between corrective approach and protectionist approach to increase awareness and bring conceptual clarity thereof.

- Introduce target-based and time-bound new special measures in favour of women together with phase out policy where applicable not only in education, health, political participation, and civil service but also in social, cultural and economic areas.

- Acknowledge the diversity of women within the framework special measures in order to advance the situation of women in disadvantaged groups such as indigenous women, rural women, dalit women, disabled women and women from minority communities.

---

21. FWLD, Special measures for women and Their impact, 2004 and updated report special measures for Women and its impact, 2014
22. Id
Sex Role and Stereotyping

A. Prevalence of the problem

An entrenched traditional value system, patriarchal social norms and stereotyping continue to hinder Nepalese women's progress in a way that legitimise discrimination and violence against women and girls in the household, community and the market. In various parts of Nepal, women are subjected to discriminatory practices such as Chhaupadi, Deuki, Jhooma, kumara, boksi (witch) and polygamy that assign the stereotyping roles. Daughters when married are deemed as part of the family of the husband with legal ties to the parents' family. The role of married women is generally limited to looking after the household work and rearing of the children.

The Constitution and prevailing laws have abolished some discriminatory cultural practices for instance Chhaupadi, boksi (witch) and caste and gender based discrimination but the practice in the society still prevails and women are forced to comply with those practices. Thus, women at large are struggling to live a life with dignity and personal autonomy.

B. Critical areas of concern

- Women at large are not in position to enjoy their rights and protection against discrimination. There is no enabling condition in place to ensure that women are not subjected to discriminatory practices. This makes women a victim of cultural practice of Deuki, Badi, Jhuma, Chhaupadi, domestic, sexual and other forms of violence. In spite of legal provisions which aim to eliminate some of these practices, the changes are yet to occur.

- Women are still delegated stereotypical roles and responsibilities such as household chores, looking after children and caring for the elderly. Breaking down these barriers by enabling women to take on decision-making roles, positions of power and fighting age old discriminatory practices face enormous obstacles.

• The patriarchal value does not allow women especially married women to have access to economic opportunity and control over the resources in the family and community.

• Dowry as a harmful traditional practice has a very negative impact on the lives of woman and girls. Implication of dowry leads to violence against the bride, including bride burning and death.

C. Implementation of concluding observations

• Amendment of the Domestic Violence Act, 2009: The Domestic Violence Act has been amended by the Act of 2072 in October 2015. The amendment has widened the scope of domestic violence encompassing the acid attack as physical violence, discriminatory practices as mental violence and dowry related violence as economic violence in the definition as well as extending domestic relationship to separated spouse with or without property partition.\textsuperscript{24} The domestic violence relating to acid attack will be prosecuted as a State case and anyone can report it nearby police as per law.\textsuperscript{25} According to new amendment, a victim of domestic violence is entitled to receive immediate support from the alleged perpetrator to cover medical treatment and if alleged perpetrator is unable to provide such expenses, the Office of Women and Children will be responsible to provide immediate expenses to the victim.

• Constitutional Protection against various form of violence: Article 38(3) has made acts of physical, mental, sexual or psychological violence or any kind of oppression against women as a result of religious, social or cultural tradition punishable by law with the victim able to seek compensation in accordance with law. Likewise, Article 51(j)(4) of the Constitution recognizes the economic contribution of women in the child care and care for the family.

• Enactment of Anti-Witchcraft Act: The Legislature Parliament has already passed Anti-Witchcraft Act (Crime and Punishment) 2015 to book the perpetrators who subject violence against women in the allegation of being witch.

D. Gaps and Weakness

• No proper law to seek compensation: Although the Constitution provides a right to seek compensation against any acts of physical, mental, sexual or psychological violence or any kind of oppression against women as a result of religious, social or cultural tradition but there is no clear law under which the compensation can be claimed. Additionally, the State has put limitation on implementation of the fundamental rights which require legal provisions/laws stating that it will enact necessary laws within three years of the commencement of the Constitution.\textsuperscript{26}

---

\textsuperscript{24} Amended provisions of Section 2(a), (b), (c), (d), (f), the Domestic Violence Act 2009 by the Act of 2072.

\textsuperscript{25} Inserted Section 5(a), the Domestic Violence Act 2009 by the Act of 2072.

\textsuperscript{26} Article 47, the Constitution of Nepal (2015)
• **Existence of discriminatory cultural practices:** Discriminatory cultural in the society still prevails and allegation against a woman as a witch is prevalent in our society even after enactment of the Anti-Witchcraft Act.

• **Lack of awareness about laws vis-à-vis effective implementation of laws:** Very few women have filed the cases invoking the Domestic Violence Act or Anti-Witchcraft Act. This is partly because of lack of awareness among women and partly because there is no proper mechanism to ensure effective implementation of these laws.

**E. Recommendations**

• Eliminate cultural practices that encourage stereotyped roles of women in the society such as women socially obligated to go to men’s home after marriage.

• Amend laws, adopt policy and generating awareness through involvement of civil societies/ NGOs and the mass media in order to change the mindset of people and society at large.

• Enact specific laws to criminalize discriminatory practices such as Badi, and Jhuma, among others. Measures need to be taken to make people aware that these practices are illegal, and carry criminal penalties. It is important that the victims of these practices must be provided speedy justice and appropriate remedies.
A. Prevalence of the problem

Nepalese women and girls are subjected to sex trafficking in Nepal, India, the Middle East, Asia, and sub-Saharan Africa.\textsuperscript{27} Cases of human trafficking occur mainly in three areas: cross border trafficking beyond India; cross border trafficking to India and internal trafficking mainly in entertainment enterprises, brick kilns, jari (embroidering) industries, and streets.\textsuperscript{28} In the recent past, the trend of unsafe and illegal migration has increased trafficking of women and girls, especially, women who go via individual agents instead of authorised recruiting agencies often fall victims. According to report, 181 incidents of human trafficking have been reported to the Nepal Police between July 2014 to June 2015.\textsuperscript{29} The record shows that during that period, around 148 cases of human trafficking were dealt by the Office of Attorney General whereas the Offices of Appellate government Attorney handled 322 cases and the Offices of the District government Attorney prosecuted 96 cases of human trafficking and 110 cases of human transportation.\textsuperscript{30}

Media has widely reported that aftermath of the earthquake disaster, vulnerable families who have lost everything have now been targets for human traffickers looking to exploit women and children.\textsuperscript{31} The government and non-government actors are taking initiatives

\begin{itemize}
\item \textsuperscript{28} National Human Rights Commission, Trafficking in Persons Especially on Women and Children in Nepal (National Report 2011), December 2012, p.ii.
\item \textsuperscript{30} Office of Attorney General, Annual report of the Office of the Attorney General as of Fiscal Year 2071/072
\item \textsuperscript{31} Hundreds Of Children In Nepal Are At Risk For Trafficking After Earthquake. Here’s Who’s Helping, Huffington Post, available at http://www.huffingtonpost.com/2015/06/22/nepal-children-trafficking_n_7637776.html <access 24 April 2016>
\end{itemize}
to prevent the trafficking but loss of livelihoods and worsening living conditions may allow traffickers to easily convince parents to give their children up for what they are made to believe will be a better life resulting many of those children being horrendously exploited and abused.\textsuperscript{32} Equally, human trafficking incidents are under-reported due to various obstacles including lack of proper mechanism to protect the survivor and victims as well as stigma attached thereto.

\textbf{B. Critical areas of concern}

- Lack of disaggregated data by age, sex and country of origin, in order to identify trend
- Difficulty in dealing internal trafficking issues, especially thousands of women and girls working in the entertainment sectors including cabin/dance bar and massage parlours. In the course of police raids, there were reports police sometimes detained sex trafficking victims and subsequently returned them to their traffickers.\textsuperscript{33}
- Lack of research to understand cross cutting issues such as poverty, economic hardship, foreign employment, unsafe migration and trafficking.
- Lack of effective coordination at international, regional and bilateral levels including SAARC Level to prevent trafficking of Nepalese women and children
- Lack of proper mechanism to protect survivors and victims of trafficking so that they don’t have to face social stigma and threats from the alleged perpetrators. Victims frequently retracted their witness statements following alleged threats by traffickers.\textsuperscript{34}

\textbf{C. Implementation of concluding observations}

- The government has recently amended the Human Trafficking and Transportation (Control) Act 2007. According to new amendment, establishment of Rehabilitation Fund will be for operation of rehabilitation centre as well as paying compensation to the survivor and victims if the perpetrator is unable to pay the compensation.\textsuperscript{35} Additionally, in order to encourage witness, the amended Act has included a provision of paying daily and travel allowances to the witness.\textsuperscript{36}
- “High-Level Crime Investigation Task Force” has been formed on 7 June 2015 in order to prevent and control the incidences of trafficking backed by the unsafe migration in the aftermath of the earthquake.

\textsuperscript{32} Id
\textsuperscript{34} Id
\textsuperscript{35} Amended Section 5, Human Trafficking and Transportation (Control) Act 2007
\textsuperscript{36} Id, Section 24(a)
The government demonstrated increased efforts to prevent human trafficking thereby making the inter-ministerial National Committee for Controlling Human Trafficking active and increased funding allocations to each of the 75 districts for establishment of at least three new village-level anti-trafficking committees.

The Ministry of Women, Children, and Social Welfare (MWCSW) continued to partially fund eight rehabilitation homes and emergency shelters for female victims of gender-based violence, including trafficking. At the same time, the Standard Operating Procedures for the Shelter Homes have been made.

Nepal has reaffirmed its commitment to effective implementation of revised SAARC convention on Preventing and Combating Trafficking of Women and Children for Prostitution.

D. Gaps and weaknesses

The government inconsistently implemented anti-trafficking laws, as many government officials continued to employ a narrow definition of human trafficking and domestic sex and labor trafficking victims and male victims of transnational labor trafficking were only marginally protected, often leading to repeated victimisation.

The legal provisions relating to the victims and witnesses protection is not strong and enough to provide security and protection in an actual sense.

There are not enough shelters to accommodate survivor and victims of trafficking at one hand and on the other, shelters offer very short period of stay for survivor and victims not allowing an opportunity to rehabilitate survivor and victims need a proper shelter socially and psychologically.

E. Recommendations

Establish shelter homes as well as make such shelter homes easily accessible for the survivor and victims in trafficking prone districts.

Ensure effective coordination at international, regional and bilateral levels including SAARC Level to prevent trafficking of Nepalese women and children.

Ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and incorporate the protocol into the local laws so that the anti trafficking laws comply with international standards.

Political and Public Life

A. Prevalence of the problem

Currently, Nepal has a woman as a head of the State - president, a woman as a chief justice of Supreme Court and a speaker of the parliament is also a woman. This gives a positive picture of the country. However, overall representation and participation of women in political and public life have been significantly limited.

The current representation in transformed parliament is only 29%. In regards to the women's participation in public offices and institutions, data of year 2014 shows only 10.5% civil service positions with only 6.2% in officer or higher positions were occupied by women. The data of year 2015 shows that there were only 3.2% to 5.7% women in security force. In 2014, the number of policewomen serving was as low as 4,123, constituting around 6 percent of the total force. By 2015 January only 6 female judges (8.1%) were in appellate court and only 2 judges (1.2%) were in district courts. Women's representation in the constitutional bodies is very low, for instance in the National Human Rights Commission, only one female commissioner, compared to 4 male commissioners.

The participation of women in ministerial cabinet remained 10-24% since 2006; as of April 2016, there are only 5 women out of 40 cabinet ministers. The women representation in leadership of political parties is significantly low ranging from 4.34% to 21%. Women from madhesi, janajati, dalit, rural and remote are further excluded in political structures and governance with very low representation.

It should be noted that there is no efforts or policy measures on stricter application, monitoring and regulation of Gender Equity and Social Inclusion (GESI) policies as well as the CEDAW committee’s recommendation on increasing quota in the future parliament has not been given priority by government of Nepal. For instance, former Deputy Inspector General (DIG) Parvati Thapa was not promoted to the post of Additional Inspector General in 2013 because of her gender.

41. General Recommendation 24, CEDAW/C/NPL/CO/4-5.
B. Critical areas of concern

- Women do not hold key positions in the political parties so they are still invisible in the political structure.
- Not enough measures to increase the capacity of women representatives
- Prevalence of socio-economic and cultural obstacles to women's political and public participation due to lack of education and training required
- Lack of gender friendly election process is a key in discouraging woman candidacy in the election for instance, no special measure like candidacy without deposit for women or refund of the deposit regardless of results of the election or security and protection facilities during election campaign
- Less exercise of voting rights by women as there are no special arrangements made for catering the needs of aged, pregnant and physically weak women to cast their votes easily.

C. Implementation of concluding observations

- The Constitution of Nepal (2015) has constitutionally provisioned right of women to participate proportionately in all state bodies as fundamental right; to have 33% women's representation in parliament and 40% in local government with equal representation of women in upper house of parliament.\(^{42}\) The Constitution has also provisioned that the election to the President and the Vice President has to be made as to have representation of different sex or community.\(^{43}\) Likewise, the Constitution has provisioned to have one women either as chair or vice chair in parliament in both upper or lower house.\(^{44}\) Under the State Guiding Principles, the Constitution guides the state to have full respect and implementation of international human rights conventions, to adopt social justice and inclusiveness along with mandatory parliamentary reporting on the progress.\(^{45}\)
- The government of Nepal has also adopted Gender Equity and Social Inclusion Policy in almost all institutions and also promoted same to the non-governmental and private sectors too. The Civil Service Act 1993 (Revised 2007) have provisioned 33% reservation seats for women; Five years grace period for women to enter into civil service;\(^{46}\) halved the probation period for women.\(^{47}\) Similarly amendments have been made on the

---

42. Article 38(4), 84(8), 86, 295 (4), 216(4), the Constitution of Nepal (2015)
43. Article 70, the Constitution of Nepal (2015)
44. Article 91(2), the Constitution of Nepal (2015)
45. The Constitution of Nepal Article 51 (b), 51 (j), 53.
46. For Men to enter into civil service one should not have completed 35 years, but for women it is 40 years.
47. For men the probation period is one year and for women the probation period is 6 months.
recruitment regulation of security forces (Police, armed police and military) with 20% reserved seats for women. In 2007 government of Nepal issued a direction for all public and financial institution including NGOs to adopt 33% reservation for women in all structures and opportunities.

- The election commission of Nepal has proposed provision in New Political Parties registration Act to have 33 percent women in all structures and mechanism of political parties to be recognized by the commission.

D. Gaps and weaknesses

- The Constitution at one point has adopted the notion of proportional representation of women and on the other hand, it advocates for 33% representation in the parliament. This appears to be contradictory.

- The reservation of either president or vice president position have included condition that it can be alternatively two different communities or cast too; such provision may replace women's reserved position to have equal opportunity as men in the leadership of nation. Similarly in the chapter 17 of the Constitution that deals about local governments and local legislature, there is absence of provision of chair/vice chair or mayor/vice mayor reserved position for women in local governments; where a high number of women have potentiality to have candidacy.

- There is limited space and less attraction for young women to join political actions, organizations and leadership owing to various reasons including economic control and dependency of women on men and adoption and application gender bias slogans and methods on their protest and rally by political organisations.

E. Recommendations

- Adopt legal measure to increase women's representation and remove the socio-economic and cultural barriers against women's participation in public life.

- Develop and implement Standard of Procedures for political parties, public institution and government agencies confirming women friendly and safer provisions as well as ensuring women's proportional representation.

- Develop gender friendly election process by waiving candidacy deposit fee for women candidate, control and reduce cost of election and electoral violence as well as adopt local government election policies with reservation of chair/vice chair or mayor/vice mayor position for women in local election.
Women’s International Representation

Article 8: States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

A. Prevalence of the Problem

Nepal has been appointing its officials in different capacities internationally as Ambassadors, Permanent Mission Members to UN (New York and Geneva), Labour Attaches (7 countries) and Consulates General (5 countries). The government also nominates names for various international bodies including the International Treaty Bodies, and International Organisations. In addition, Nepal government represents at various international forums such as for reporting under ratified international instruments, as well as global and regional conferences.

Therefore, women’s governmental representation is examined in all the categories mentioned above, however, examination in some categories such as participation for reporting under ratified international human rights instruments, and global and regional conferences are limited due to lack of sufficient data and information. Below, women’s representation is assessed under various international roles.

Women as Ambassadors: Currently, Nepal has its embassies in 29 countries and Consulates General in 5 countries. Nepal has been appointing its ambassadors since late 1940s, however, only in 1988 a woman was appointed as an Ambassador for the first time.

It took nearly 50 years for Nepal to appoint its first woman ambassador (Ms. Bhinda S. Shah). In 2008, the second time a woman was appointed an ambassador after 16 years - Ms. Gunalaxmi Sharma (Bishwokarma) was appointed for Myanmar. Relatively, in a short interval of time after 3 years Ms. Maya Kumari Sharma was appointed to Qatar in 2011. And in 2015 after 4 years, the third time a woman was appointed an ambassador - Ms. Ambika Devi Luitel for France. Until now, only 4 women have been appointed ambassadors in nearly 75 years of history of appointing ambassadors by Nepal. Although, the trend of appointing women is in increase, however, more needs to be done to ensure that at least a minimum of 33 percent is ensured among ambassadors as targeted by the government at all levels of public life.

<table>
<thead>
<tr>
<th>Year</th>
<th>Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988-1992</td>
<td>Ms. Bhinda S. Shah, Ambassador to India</td>
</tr>
<tr>
<td>2008-2012</td>
<td>Ms. Gunalaxmi Sharma (Bishwokarma), Ambassador to Myanmar</td>
</tr>
<tr>
<td>2011-2013</td>
<td>Ms. Maya Kumari Sharma, Ambassador to Qatar</td>
</tr>
<tr>
<td>2015-2019</td>
<td>Ms. Ambika Devi Luitel, Ambassador to France</td>
</tr>
</tbody>
</table>

On 19 April 2016 the government recommended names of Ambassadors for 21 countries. Among the recommended three are women - Ms. Lucky Sherpa, Ms. Shiva Maya Tumbahamphe and Ms. Sewa Lamsal Adhikari for Australia and Pakistan respectively.

### Women as Counselors and Staff of the Embassies:

<table>
<thead>
<tr>
<th>Year</th>
<th>Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-2015</td>
<td>Ms. Ambika Devi Luitel, Minister Counsellor, Embassy of London</td>
</tr>
<tr>
<td>2013-2017</td>
<td>Ms. Dhana Kumari Joshi, Second Secretary, Embassy of Sri Lanka</td>
</tr>
<tr>
<td>2016-2020</td>
<td>Ms. Ranjita Dhital, Second Secretary, Embassy of Switzerland</td>
</tr>
</tbody>
</table>

---

51. Ms. Sharma was recalled from Qatar in 2013 after she made some remarks such as called the Gulf state an “open jail” for Nepalis who suffer labor abuses, and amid outrage about labor conditions and deaths as the emirate prepares to host the 2022 World Cup: http://www.reuters.com/article/us-nepal-qatar-ambassador-idUSKBN1TV0R120130926 14 January 2016.
52. Ms. Sharma was recalled from Qatar after she made some remarks such as called the Gulf state an “open jail” for Nepalis who suffer labor abuses, and amid outrage about labor conditions and deaths as the emirate prepares to host the 2022 World Cup: http://www.reuters.com/article/us-nepal-qatar-ambassador-idUSKBN1TV0R120130926 14 January 2016.
54. Mahendra Bahadur Pandey – China, Dr. Niranjan Thapa – Russia, Lucky, Sherpa – Australia, Durga Bahadur Subedi – UK, Dr. Khadga KC – Japan, Lok Bahadur Thapa – Belgium, Sewa Lamsal Adhikari – Pakistan, Yuvnath, Lamsal – Denmark, Prakash Subedi – Austria, Yuvraj Karki – South Korea
Women as UN Permanent Missions representatives: Nepal has Permanent Missions to United Nations (UN) in New York and Geneva. Since 1955 Nepal has been sending its mission to the UN. However, only after 70 years, in 2003 a woman (Ms. Sewa Adhikary) for the first time was appointed as the Deputy Permanent Representative to the UN in New York. The same year Ms. Illa Mainali was appointed as the Second Secretary to the UN Permanent Mission-New York.

<table>
<thead>
<tr>
<th>Year</th>
<th>Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>Ms. Sewa Adhikary, Deputy Permanent Mission to UN, New York</td>
</tr>
<tr>
<td>2003</td>
<td>Illa Mainali, Second Secretary, Permanent Mission to UN, New York</td>
</tr>
</tbody>
</table>

Women as Labour Attaches: The government appoints Labour Attaches in some of the labour destinations with higher number of Nepalese workers namely - Malaysia, Kuwait, Saudi Arabia, South Korea, Qatar, and UAE. In January 2016, the Ministry of Labor and Foreign Employment (MoLFE) appointed two female officers to UAE (Ms. Hira Kumari Yadav) and to Kuwait (Ms. Goma Devi Poudel).  

Women as members of International Treaty Bodies: Ms. Sapana Pradhan Malla was appointed to the Committee Against Torture (CAT) in 2015. It was the first time that a woman was appointed as a committee member of an international treaty body. Ms. Renu Raj Bhandari, UN Secretary General as one of the four prestigious members of the Board of Trustees of the UN Voluntary Fund on Contemporary Forms of Slavery.

Women’s participation in International Forums/Conferences: As of 2015, Nepal is party to 20 international human rights instruments including the CEDAW Convention. Nepal government has been reporting under the core conventions it has ratified. The Government delegates have reported to CEDAW Committee thrice in 2001, 2004 and 2011. However, the delegation has been dominated by male participation, and women’s inclusion in the delegations is token basis, often represented by the National Women Commission who is an independent body.

<table>
<thead>
<tr>
<th>Year</th>
<th>No of Government Delegates</th>
<th>No of Women Delegates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999- Initial Report</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>2004 - 2nd and 3rd Government CEDAW Report</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>2011- 4th and 5th Government CEDAW Report</td>
<td>5</td>
<td>2</td>
</tr>
</tbody>
</table>

Women's participation in government delegation is still tokenistic, and often in gender related forums. In non gender related issues women’s participation is not held as important.

Women's participation as civil society representatives in international forums: Although there is an absence of consolidated data on women’s representation in international forum from the side of civil society. However, by observation it is clear that more woman are...
representing from civil society in different international forums including in the reporting processes of different international instruments. However, it is clear from the absence of consolidated data on women’s representation from civil society that monitoring and assessments of such representation does not exists. There are criticisms within the women's organisations that representation is often limited to women who have access and resources. There is representation of same faces, and international organisations invite same person all the time, this could be due to language and access issues. Very less efforts are put into place to mentor and build capacity of those who are remote and disadvantaged positions to be able to represent. Often participation of rural based and disadvantaged women are tokenistic who participate without much support for preparations in understanding the issue and procedures of a certain process they are participating in. Need of English language and access to information about the different forums/events becomes barriers for those women who should have been representing their issues by being physically present and learning from the processes. National machineries can do more in relating to monitoring and sharing these assessments towards encouraging women's organisations to promote women's representation especially from those who are in remote or disadvantaged settings.  

In addition to this, the participation of National Women’s Commission in CEDAW reporting process is unclear. The NWC is a independent body and reporting on CEDAW implementation with government may raise questions about their independent status. Also, how much space and independently can they deliver their findings is another question. Relevant UN agencies in Nepal, and MWCSW need to support in clarifying such issues.

B. Critical Areas of Concern

Women's low international representation owing to low number of women in Civil Service/ Foreign Service: Women's international representation is largely dependent on women's number in government services/civil service. Currently, the percentage of women in government service is only 12 %, among them mostly those on foreign services are eligible for international appointments. Although, there are political appointments, opportunities for women are rare. The quota for women in government service is only 15 percent, the government of Nepal should come up with a 10 year or 15 year strategy to expand this quota for women to give a boost to increase women's number in the service. These efforts will not only increase women in government service, but will also increase women's international representation. Also, women is not a homogenous group, therefore, efforts should include promoting women from promoting rural and disadvantaged groups.

Initiation from the government to nominate women in various international positions weak: Governmental initiation to nominate women to various international positions is weak, as is evident by the data above. So far only one woman have been nominated for the

---

60. Focus Group Discussion on Article 8 of the CEDAW Convention, Sap Falcha, 11 January 2016.
member of a treaty body –Ms. Sapana Pradhan Malla for Committee against Torture, and few in international organisations. The government is yet to nominate names of women to be included in the UN Roaster as provided by UNSCR 1325.

Lack of data generation/consolidation, sharing and progress tracking on women’s international representation: When reporting under CEDAW, both the government report and the shadow report have been presenting a merged version of Article 7 and 8, which often focuses on Article 7 and the issues of article 8 has remained in shadow. It’s important to highlight article 8 as well to ensure that issues of women’s international representation receives adequate attention. No institution is responsible for data generation/consolidation and progress tracking.

**Inadequate training, lack of understanding of procedures and language barriers:** In terms of women’s participation in international forums such as conferences and seminars, many women are yet to fully contribute and participate primarily due to language barrier, and adequate orientation or training on the procedures and issues in question. Rural women, illiterate women and women who may not have English language skills are not able to fully participate. While women’s number may have increased, the quality of their participation remains a concern, adequate understanding of the issues that they are involved in or the processes, the language seems a great barrier and those who are familiar with the English language alone can get easier access. Some lack even basic understanding about the process they are involved in especially in the reporting processes, or even in participating in conferences, or workshops.

Latest data shows that there are only 12 percent women in government service. In addition, there is significant lack of political will to provide women the opportunity and space for constructive participation. Nepal government can do more in adopting special measures in civil service vacancies to allow more women to take up the governmental positions.

**C. Implementation of concluding observations**

The Committee recommended Nepal to utilize general recommendation No. 23 and adopt temporary special measures to accelerate full and equal participation of women in public and political life including diplomatic services. However, only two namely Dr. Shivamaya Tumbahamphey and Ms. Lucky Sherpa were recommended for a ambassador out of 21 ambassadors in the recent decision made by the Government of Nepal on April 20, 2016.

**D. Recommendations:**

- Develop a system to generate/consolidate and share periodic gender data on women’s international representation both from the government and the civil society capturing the number of women’s representation in permanent appointments, and other international forums including the delegations for the reporting under the ratified international treaties. Ensure coordination between the Ministry of Foreign Affairs
and National Women’s Commission to initiate data generations/consolidation and sharing, provide NWC the responsible to monitor and follow up on the work. Develop a policy guideline to share gender composition of all embassies and consulates generals, UN mission and Labour Attaches on respective websites, and periodic publications.

- As guaranteed by Article 18 of the Constitution of Nepal, ensure proportional representation of women by setting a minimum target for women’s representation at international level (at least 33 percent), and addressing the problem of low level of women in civil service by increasing the quota for women in civil service.
A. Prevalence of the problem

Nepal is one of 27 countries around the world that continues to discriminate against women in their ability to confer their nationality on their children on an equal basis with men.\(^{61}\) The number of persons without citizenship in Nepal is a staggering 4.6 million and the number is expected to rise to 6.7 million by 2021 if the problems related to citizenship acquisition, according to a study by Forum for Women, Law and Development (FWLD).\(^{62}\)

The new Constitution has succeeded to recognize citizenship as a right for every citizen of Nepal.\(^{63}\) Additionally, the new Constitution has included a separate provision for children of single women whose fathers are unidentified\(^ {64}\) which was not present in the Interim Constitution of Nepal, 2006. The children of Nepali women and foreign fathers can, however, only acquire naturalized citizenship only. Women still do not possess the right to independently confer nationality as men which is protected by CEDAW.\(^ {65}\) Furthermore, the Constitution does not ensure naturalized citizenship for foreign men spouse of Nepali women which is not in accordance with Article 9(1) of CEDAW.\(^ {66}\)

---

65. Article 9(1) of CEDAW.
66. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
B. Critical Areas of Concern

- **Discrimination between father and mother:**

  - **Mother unable to transfer citizenship independently:** Despite Article 11(2)(b) of the Constitution and Section 3 of the Citizenship Act stating that a person can acquire citizenship by descent if their mother or father is a Nepali citizen, other discriminatory legal provisions and practices curtail the right of women to pass on their citizenship to their children. According to Article 11(7) of the Constitution, the children of Nepali women and foreign men can only acquire citizenship through naturalization, and not by right, through descent. There is no similar restriction on men. One of the consequences of Article 11(7), is that state authorities in practice refuse to accept citizenship applications submitted only by mothers, as they require proof of the father’s identity to establish that he is not a foreigner. Though the Supreme Court has set precedents recognizing equal rights of women, including through establishing the rights of married women and single women to transfer citizenship to children, women continue to face discrimination.

  - **Mother unable to confer citizenship by descent:** Article 11(7) of the Constitution, complemented by Section 5(2) of the Citizenship Act and Section 7 of the Citizenship Rules; deny Nepali women the right to confer their citizenship to their children by descent. Instead, such children only have the option to seek naturalization. However, the discretion possessed by the state authorities in relation to naturalization is extremely wide, and the overwhelming majority of naturalization applications do not result in the conferral of nationality. Research conducted by FWLD reveals that in the first six years of the implementation of these provisions, not a single naturalization application was successful. Due to many women working as foreign migrants and many becoming victims of trafficking, many children are born in foreign lands whose biological fathers cannot be traced or refuse to acknowledge the relationship. Such children are barred from obtaining the citizenship of Nepal and thus become stateless.

- **Discrimination between son and daughter:** While there is no legal barrier to women obtaining citizenship certificates through their parents after marriage, in practice, married women are required to submit citizenship documents of their spouse and his family in order to obtain citizenship. This places women in a vulnerable position. Additionally, Nepali women who marry foreigners before having obtained their own citizenship certificates are barred from subsequently doing so. This is a direct violation of Article 11(2) of the Nepal Constitution and amounts to an arbitrary deprivation of nationality.

67. Section 8(1)(a) of the Citizenship Act 2006.
• **Discrimination between husband and wife:** While Nepalese men can convey their nationality to foreign spouses and their children, Nepalese women are barred from doing so. The only path to Nepalese citizenship for foreign male spouses is through the residence based naturalization process.

• **Children whose parents are unidentified unable to acquire citizenship:** Nepalese children whose both parents are unidentified also face the problem of acquiring citizenship certificates as such children are refused to even file an application for citizenship if they cannot submit citizenship certificate of a legal guardian or recommendation from a government approved child care center. The street children and the children who have grown up working as domestic help have been deprived of the citizenship certificates.

**C. Implementation of concluding Observations**

• There is still a discriminatory provision with regard to transfer of citizenship by men and women in the Constitution despite the father OR mother provision. Regarding the implementation of the law, various training programs are being conducted on distribution of citizenship certificates. In order to provide accessibility to people from geographically remote areas, citizenship certificates were distributed through integrated mobile camps and citizenship teams in 2013. Nepal was also suggested to accede to the Statelessness Conventions but no efforts have been made to accede to the 1954 and 1961 Conventions.

• Among other issues, the provisions in the Constitution does not address citizenship by birth but allows children born in the territory of Nepal to acquire the citizenship of Nepal who would otherwise be stateless. This does not however address the cases of street children and children working as domestic help.

**D. Gaps and Weaknesses**

• The geo-political situation, the open border with India, the size of Nepal and its population in relation to India are used as justifications for continuing discrimination against women by creating disincentives against their marrying foreigners.

• The attitudes of public servants and first instance decision makers in Nepal remain largely discriminatory towards women and patriarchal. As a result, despite the positive jurisprudence of the Nepal Supreme Court, unfair and impractical administrative burdens and barriers continue to be imposed against women attempting to confer their citizenship to their children.

68. A total of 1,126,430 citizenship certificates were distributed through Citizenship Certificate Distribution Camps, Integrated Mobile Camps and the regular process only in the fiscal year 2013/14.
A deeply rooted patriarchal mind set of the political leaders and the prevalent socio-cultural bias towards woman is also responsible for the continuing discrimination of women in the area of citizenship. The understanding that women once married go away to the husband’s house and take up the family name and nationality of their husband still prevails in Nepal which fails to recognize the independent identity of women and the equal rights guaranteed to women.

E. Recommendation

- Recognise that right to a nationality is not subject to the unfettered discretion of administrative authorities, but instead should be protected by the state, which has an obligation to implement court decisions in this regard.

- Take immediate steps to amend/repeal all discriminatory provisions that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men in the Constitution, Citizenship Act and Rules, and ensure the effective implementation of the law.

- Recognise the independent right of each parent to provide citizenship based on lineal descent to their children, and the right of both women and men to confer citizenship to their foreign spouse on equal terms.

- Recognize citizenship as a remedial right and draft laws for getting remedy in cases of refusal to obtain citizenship.

Women and Education

A. Prevalence of the problem

There is a significant discrimination in education opportunities for men and women creating gender disparity. It should be noted that gender parity in the Net Enrollment Ratio (NER) has been more or less equal since 2011 and the gender parity in gross enrolment rate exceeds more than one indicating enrolment of more girls than boys in primary education. However, the ratio of women to men remains at 0.91 for higher-secondary level and 0.71 at the tertiary level indicating as education level increases, so does the gender gap.

Girl student’s retention in the primary level is apparently a serious problem. Likewise, girl students are found to be irregular in the class. This is caused by various factors including distance between the school and home, burden of household chores and child marriage. The data shows that 22.1% of children never attended the school because they had to help at home. Equally, in the patriarchal society, families are less willing to invest in girl children’s education and there is lack of scholarship provisions for girl children to complete their education that results into the school dropout.

To make matters worse, the earthquake that struck Nepal has caused major disaster in schools infrastructure and has left many schools incapable in continuing educational services; the government has been unable to initiate the rebuilding process. This has forced many children especially girls and students with disabilities to remain out-of-school involuntarily until for unknown period in future.

B. Critical Areas of Concern

- **Destruction of school infrastructure caused by earthquake and delay in building temporary learning centres:** Destruction of school infrastructure caused by earthquake and delay in building temporary learning centres have had impact on

---

70. Id
71. Id
enrolment, attendance and internal efficiency, leading to an increase in the number of out-of-school children especially girl children and children with disability.

- **Lack of effective scholarship programmes for needy students:** The government’s scholarship programme for girls, Dalit, children from remote and deprived areas (Karnali zone) and those with disability has not been sufficient to meet all their needs including indirect costs such as costs for notebooks, burden of household chores and economic needs of family.

- **Absence of proper monitoring mechanism to ensure quality education:** Department of Education is responsible for monitoring of the education programme. However DEO personnel, especially school supervisors are rarely involved in monitoring the effectiveness of programme such as scholarship programme and delivering of quality education at the school level.

- **Lack of gender friendly environment in the school:** The school lacks gender friendly environments such as a separate toilets for girl students and boy students. Girl students with disability generally lack access in public schools including accessibility in terms of infrastructure such as access to classroom, library and toilets.

- **Patriarchal mindset leading to early child marriage:** Owing to patriarchal mindset, girls are forced to give less priority for their education resulting in decreased number of retention rate in schools. On the other hand, girls are subject to early child marriage which affect not only their education but their health as well.

**C. Implementation of concluding Observations**

- The government has formulated standard for Priority Minimum Enabling Conditions (PMECs) that must include teacher, classroom, separate girl’s toilet with water and sanitations, textbooks and a separate book corner in every class.

- According to the CBS 2011, the literacy rate of Nepal is 65.9%. The female literacy rate has jumped from 35% to 57% in one decade which is seen as a significant improvement but comparing with the literacy of male i.e. 75% there is still a big gap between the two genders. The government had initiated its ‘Literate Nepal Mission’ as per Nepal’s global commitment to eliminate illiteracy by 2015 as envisioned in the Millennium Development Goal. Accordingly, the government has allocated Rs 1 billion for the project, spending Rs 1,000 per person on an average and the Non-formal Education Centre will undertake the responsibility of addressing the learning needs of the socially and economically marginalised population who never enrolled in school or those who dropped out of schools.

- Currently 45 % of all teacher positions are reserved by policy for under-represented groups, out of which 33 % are reserved for female teachers only. Additionally schools management committees need to have a representation of at least one female teacher. According to the Flash Report of 2071 produced by Department of Education, the presence of female teachers in all types of schools includes 41.9% at primary level, 27.6% at lower secondary level and 17.4% at secondary level in 2013/2014.
• The government of Nepal has also introduced a policy to expand technical and vocational training for women. It should be noted that females’ participation in vocational and livelihood courses is increasing.

**D. Gaps and Weaknesses**

• Due to the earthquake disaster, many schools are running in temporary learning shelters. Therefore, majority schools do not fulfill PMECs.

• No proper measures have been taken to ensure retention of girls in the school. No public awareness campaign has been launched that encourages parents to send and keep their girl children in the school.

• Despite of the fact that attendance of female students on the vocational courses is increasing, their participation is still very low in comparison to male students. The gendered distribution of students on individual courses conforms very strongly to occupational gender stereotypes. For instance, according to the report of DFID 2012, 100 percent of Nursing Diploma students are women, while conversely 100 percent of Mechanical Engineering Diploma students are men.

• Although, there is mandatory provision of female teachers in schools, the numbers is still not adequate.

**E. Recommendation**

• Reconstruct and operate schools with PMECs as well as female student friendly vis-a-vis disability friendly infrastructures.

• Introduce an effective scholarship programmes for needy girls including Dalit, children from remote and deprived areas and those with disability that meet all their needs including indirect costs such as costs for notebooks, burden of household chores and economic needs of family.

• Launch public gender sensitization programmes to raise awareness among parents and community regarding the importance of girls and women’s education in Nepal as well as provide income generation activities for poor parents so that they will send their children to schools regularly, especially daughters.

• Recruit female teachers offering more trainings and capacity building opportunities.
Women and Employment

A. Prevalence of the problem

Women in Nepal continue to face considerable barriers in employment sector as they remain in subsistence agriculture, the informal non-agricultural sector and at the lower rungs of the formal industrial and business establishment, prevented from benefitting from the market opportunities opened up by the democracy and an open economy. Women also continue to experience problems accessing adequate credit and other support services for successful entrepreneurship. In practice, women lag behind men in terms of wage and earning.

In recent times, women migration for foreign employment has risen signification but the government has taken a protective approach attempting to restrict women going certain countries for employment for domestic work. For instance, till 2015, the government allowed Nepalese women aged 25 and above to work as housemaid in Gulf and Malaysia through “a few selected” recruiting agencies in Nepal. Earlier in August 2012, the government had barred women under 30 from taking up domestic jobs in the Gulf and Middle East. However, women often emigrated via India or other third country putting them at more risk of being exploited and trafficked for sex work.

B. Critical Areas of Concern

- Women are still confined to traditional and stereotypical role such as in subsistence agriculture, the informal non-agricultural sector and at the lower rungs of the formal industrial and business establishment.

73. Id
75. Id
• Women under age of 24 are not allowed to work as housemaid or domestic workers in foreign countries whereas there is no age restriction in case of men aspired to go for foreign employment. It has been said that the restriction is put in place to protect female migrants.

• Lack of safe and healthy working environment continue to affect women seeking employment and severely curb their economic rights.

C. Implementation of concluding Observations

• The Constitution has guaranteed women’s right to obtain special opportunity in education, health, 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.

• The Sexual Harassment at Workplace (Elimination) Act 2014 has been enacted and came into force since February 2015. The Act defines ‘workplace activities motivated with sexual intent including eve teasing with ill or sexual intent, physical touching with sexual intent, using or demonstrating or publishing sexual words, objects, pictures, audio-visuals or other vulgar and seductive materials, proposing sexual activities at workplace’ as sexual harassment at workplace. Any person found guilty of committing sexual harassment as per the act can be slapped with six months in prison or Rs 500,000 fine or both.

D. Gaps and Weaknesses

• It took 11 years to formulate the Act against workplace sexual harassment. The Supreme Court had directed the government to formulate and enforce the Act against workplace sexual harassment some 11 years ago but the law was enacted only in 2015. Additionally, the government has not formulated the Regulation against workplace sexual harassment in order to ensure effective implementation of the Act.

• Although the Constitution has taken a policy to evaluate economically the work and contribution such as maintenance of children and care of families, it is yet to see how this will change the lives of women in concrete terms. Additionally, the wage discrimination among male and female remain intact in the society, especially in informal sectors.

E. Recommendation

- Ensure women’s participation in every sector by ensuring at least 33% reservation and more preferably 50% reservation.

- Provide various types of training such as income generation training and high skill training to women in order to enhance their capacity that reduce unemployment and risk of being subject to violence.

- Create mechanism to monitor and punish the practice of wage discrimination on the basis of gender especially in informal sectors as well as remove discrimination against women in foreign employment.

- Ensure effective implementation of work place harassment laws.

- Ratify the ILO Convention concerning Decent Work for Domestic Workers (Convention No. 189).
Health

A. Prevalence of the problem

Reproductive and maternal health is of particular concern among Nepali women. As due to a gender stereotypical role in the society as a child bearer, early and excessive childbearing weakens women, many of whom die or are chronically disabled from complications of pregnancy. It is not uncommon for Nepali women to experience a prolapsed uterus following birth. Often, the prolapse remains untreated and women continue their remaining reproductive life miserable due to pain and suffering. On the other hand, there is risk of sex selective abortion, discrimination in nutrition and post natal care among girl and boy children. A mother giving birth to girl children are treated less favourably in the traditional society. Additionally, the family, school or community at many cases is not well equipped to support a girl child transiting to adolescent with offering her information or services on many pertinent topics like adolescence, menstrual hygiene or even sexual abuse. This may attribute to the dropout rate among young girls that was 22% according to Nepal Adolescent And Youth Survey 2012.77 Additionally, girl children are subject to child marriage in order to avoid the burden of dowry by parents. The child marriage rate was 58.2% in 2012.78 This results into unwanted pregnancy, unsafe abortion and health complications including extreme risk of premature or still birth as well as miscarriage. Thus, girl children and women face numerous health challenges.

B. Critical Areas of Concern

- Despite of the government’s commitment to establish a strong primary health case system, a proper mechanism of putting this in place is still lacking. Women lack access to health care facilities.

- The government has mobilised female community health volunteers and auxiliary nurse midwife to help to deliver health care in community level. But in many districts

78. Id
lack trained skilled birth attendants at the birthing sites and this affect maternal mortality and morbidity. However, Nepal has reduced the maternal mortality rate significantly in past few years but this is still not enough.

- Women in Nepal have been a victim of malnutrition, especially pregnant women that result into a birth of underweight child.
- Women have less say on family planning due to cultural barriers and unwanted pregnancies continue to be high due to the unavailability of contraceptives as well as unwillingness of their spouse to use contraceptive.

C. Implementation of concluding Observations

- The new Constitution ensures women's right to health stating that “every woman shall have the right to safe motherhood and reproductive health.”
- The government has allocated 5.89% of the total budget to health. There are more than 52470 female community health volunteers has been mobilised in community level who provides necessary health services to needy people thereto.
- The government has recognised around 245 abortion sites across 75 districts till today .The government of Nepal through its annual budget of 2015/2016 made all abortion services free.
- The government has banned to smoke tobacco in public places. Those smoking in public places will be fined up to Rs 100 and civil servants will be liable to departmental action. government offices, corporation, educational institutions, libraries, airports, public vehicles, orphanages, child-care centers, cinema halls, homes for the elderly, cultural centers, children's gardens, hotels, restaurants, resorts, girls’ and boys’ hostels, department stores, religious sites and industries have been designated no smoking zones.

D. Gaps and Weaknesses

- Most of health posts and hospitals in rural areas have very poor health facilities. They lack proper infrastructure such as beds, clinical laboratories, medicines and doctors. People in rural areas especially pregnant women need to depend upon community health volunteers or auxiliary nurse midwife.
- There is huge difference between governmental hospital and private hospital. Private hospitals are well equipped and very expensive in comparison to governmental hospitals. Additionally, there is no health insurance scheme available that meets critical health needs.

---

• Lack of monitoring affected implementation of many health policies and laws including banning smoke in public places.

E. Recommendation

• Inform women and young girls about new governmental policies like abortion, elimination of chhaupadi through initiating a campaign on Clients Rights and Accountability in health services and organising regular health camps and preventive programs to minimise uterine prolapse, cervical cancer, maternal health as well as increase women's access to contraception and family planning.

• Train more community health volunteers or auxiliary nurse midwife as well as provide follow up trainings to enhance their skills in delivering health care in local level.

• Provide quality health care facilities free of charge or with minimum charge for poor women as well as introduce health insurance scheme for all.
Economic and Social Benefits

A. Prevalence of the problem

The international community has been heavily involved in supporting Nepal’s democratic transition and making progress toward the achievement of the Millennium Development Goals. Although the UN estimates that poverty in Nepal dropped from 42% in 1996 to approximately 25% in 2009, that trend was not sustained; recent estimates indicate that a quarter of the population are still below the poverty line which is 23.8% in 2012-13.\(^81\) However poverty has not been distributed equally between rural and urban areas and between various caste and ethnicity. Nepal’s governance and development challenges have been exacerbated by frequent changes in government and the absence of elected local bodies since 2002. Additionally, aftermath of the earthquake disaster, the economic growth of a country has been slowed, with an unemployment rate of more than 40 percent.

Equally, discriminatory social, religious and cultural practices continue to exist in economic and social settings of Nepal. For example, despite interventions, Dalit women still face a high degree of social and economic exclusion and traditional harmful practices of Chaupadi, Kamlari and Deuki, as well as child marriage continue despite legal abolition.

The new Constitution guarantees economic and social rights of women but Nepalese women at large are not still fully aware of their rights. Additionally, those who have information about their rights are still not been able to realise it due to the prevailing patriarchal norms and social structure. It should be noted that Nepalese women still have less access to or control over resources including land, even if it is inherited property.\(^82\)

---

81. Ministry of Finance, 2013
82. FWLD, CEDAW Sub Committee and HRTMCC, Shadow Report on the 4th and 5th Periodic Report by the government of Nepal on CEDAW, 2011, pp.49-52.
The Constitution has adopted a policy to provide certain allowances to socially and culturally backward women, senior citizens or helpless single women. The government has been providing support and nominal allowances on the basis of classifications for particular social groups, such as minority groups such as dalits, single women and inhabitants of Karnali (underprivileged zone), all persons including women above the age of 70 and persons with disabilities. However, Nepal does not have proper social security system.

Some employee working for the private organisations or the government receive better benefits such as maternity leave, pension whereas majority of women who work in the informal sector do not have access to such benefit.

B. Critical Areas of Concern

- Inadequate support and allowances provided by women facing the multiple forms of discrimination such as Dalit, indigenous women, single women and women with disabilities
- Lack of uniform maternity benefits for women in Nepal
- Lack of acknowledgement of women's contribution in the GDP as women's work is often unpaid and not recognised in the national economic. The data shows that women's share of total foreign labour force has increased thirtyfold from 0.19% in 2006/2007 to 5.96 in July 2012 increasing women's contribution in remittance.
- Lack of special credit facilities of women that enables women to establish small enterprises and encourage women to participate in microfinance activities.

C. Recommendation

- Create more economic opportunities for women within the country thereby strengthening the existing initiatives.
- Amend laws to make uniform maternity benefits for women in Nepal in line with the ILO Maternity Protection Convention 2000 (Convention No. 183) regardless of involvement in formal sector or informal sector.
- Introduce a concrete social security system that benefits and supports people of all walk of life, in particular women facing the multiple forms of discrimination such as Dalit, indigenous women, single women and women with disabilities.

A. Prevalence of the problem

Nepal is one of the poorest countries in the world where 25.4% of the people live below the poverty line and 86% of the people in the country live in villages.\textsuperscript{84} Poverty in the Far-Western and Karnali regions is more acute than it is in other parts of Nepal. Rural women and girls are in high risk of sexual and gender based violence. They are not confident enough to report and take legal action due to power politics and social norms and traditional taboos. Health services in rural Nepal are inadequate and insufficient and are thus reflected in the low health status of rural women compared to urban women.

In particular, dalit rural women are among the most disadvantaged people as majority of them belong to the family who are landless and subsist on less than 1 $ per day. Likewise, rural single women including widow, divorcee and unmarried women face various discrimination, especially widows are not allowed even to wear the red color and eat good food.\textsuperscript{85}

B. Critical Areas of Concern

- Lack of awareness and low self confidence in rural women
- Lack of access to various opportunities including education, health, employment, foreign employment as well as justice and security
- Lack of access, control and right in natural resources as well as lack of representation in ward citizen forum, local cooperative and network
- Existence of harmful and discriminatory cultural practices including Chhaupadi, caste discrimination and untouchability
- Little or no benefit from budget allocated for women in rural areas due to lack of rural women’s participation in local decision making bodies.

\textsuperscript{84} Concept paper for three year plan, 2011-2014, National Planning Commission 2011, p.4.
C. Recommendation

• Develop capacity building programmes and deliver trainings to rural women so that they would be able to combat discriminatory culture and demonstrate effective leadership in local bodies.

• Decentralise Gender Responsive Budgeting and ensure participation of rural women in decision making position in development program formulation, implementation, monitoring and evaluation.

• Focus on awareness raising regarding family planning and human rights enabling them to make informed decision and choices regarding their body and health.
A. Prevalence of the problem

Despite equality provisions in the Constitution, the status of women is not equal to men in certain areas. Specifically, married women do not have the exclusive right to buy, sell or use the property. The name of the mother is not sufficient for the child to obtain the birth registration certificate. Even during the issuance of the citizenship certificate, physical presence of father is necessary for the certificate of the process. Recently, during the earthquake relief process, the Victim Identity Card was issued to mostly male member of the affected family.

With regard to entering into contracts, applying for loans, and travelling, women do share equal rights with men. However, during the court procedures, women’s names are not required in legal documents such as: petition, reply or appeal in the higher court. Women’s freedom of choice of domicile is also curtailed for those married to a foreign man. Since the foreign man cannot acquire Nepal’s naturalized citizenship and the child can only apply for naturalized citizenship which is hardly issued, such women lose their rights to reside in Nepal after marriage.

B. Critical areas of concern

- Women’s name not mentioned in registration of transaction: According to the prevalent law relating to registration of transaction, the names of father and grandfather are required giving no value to the name of the mother.\(^{86}\)

- Recognition through the father/husband: For individuals to acquire citizenship certificate, the certification needs to be done by the father or any relative within three generation from the father side. Similarly, for the married women applying for citizenship, their process needs to be certified by their husbands. Additionally, the model prescribed by the law for interrogation of witness states that name of the father/husband should be asked.

---

86. No. 31 of the Chapter on Registration, the General Code, 1963.
• Discrimination in naming a child: Children using the surname of the mother are generally denied to obtain identity documents such as birth registration certificate or citizenship certificate. In the case of Deepti Gurung vs. the government of Nepal, and Bipana Basnet vs. the government of Nepal, the applicants were denied birth registration and citizenship, respectively as they used the surname of the mother.

• Discrimination in issuance of Victim ID Card: For the victims of the earthquake to receive relief measures, the government made provisions for the issuance of Victim Identity Card for each affected family. Men were prioritized while issuing the ID card and only in those households where men were absent, women were provided with the ID card that would enable them to obtain relief measures of the government.

C. Implementation of concluding observations

• Constitutional provisions: Article 38(1) of the Constitution states that women have equal lineage rights without any gender discrimination which did not exist in the previous constitutions of Nepal.

• Enactment of Gender Equality Act, 2015: The Gender Equality Act, 2015 was enacted to amend some laws to maintain gender equality between men and women. Married daughters are also now eligible for inheritance of parental property. The child can now be named by the father or the mother.

• Judicial initiatives: The Supreme Court in the case of Deepti Gurung vs. the government of Nepal decided that children’s birth can be registered through the mother irrespective of the details of the father. Also, in the case of Bipana Basnet vs the government of Nepal, the Supreme Court decided that the children can use the surname of the mother in their citizenship certificates.

D. Gaps and Weaknesses

• The provisions in the Constitution and the newly enacted Act is insufficient to address the discriminatory practices that stems from the law of citizenship as women’s identity has been considered to be weaker than that of men.

• Despite positive judgements of the Supreme Court, the decisions are limited to that particular case and are not applied as laws for other cases.

E. Recommendations

• Amend and repeal the existing laws that undermine the status and identity of women.

• Effectively implement the ‘directive orders’ of the Supreme Court regarding the status of women.
A. Prevalence of the problem

Nepal society, being highly influenced from religion and social norms, has put many limitations on women in relation to marriage and family life. Generally, women and girl are not in position to choose their partner as in reality, girl child is forced to get married at an early age. Likewise, they have less say on family planning and are often not allowed to exercise the right to choose the time, number and spacing of children they have. At majority of instances, they are forced to beget a son. Additionally, single women, especially widows are treated as a curse to the family and blamed as a cause for her husband's death.

B. Critical areas of concern

- **Contradictory legal provisions relating to polygamy**: In the Country Code, No.10 chapter on Marriage 2020 criminalizes bigamy. However, bigamous marriage is considered lawful once the offender is penalized with punishment of an imprisonment from 1 year to 3 years and a fine of Rs. 5000 to Rs. 25000.

- **Continuation of practices of child marriage**: Child marriage has been declared unlawful pursuant to No. 2 of the Chapter on Marriage in the Country Code, 1963. There are numerous offences of child marriage being committed in the country especially in the Terai Region and Far Western Regions.

- **Lack of proper law to deal with dowry related violence**: Existing Laws on Social Practices Reform Act and Domestic Violence Act has not been able to prohibit dowry practices in Nepal.

C. Implementation of concluding Observations

marriage and family life the existing laws such as ‘the chapter on Adultery has been repealed’ and punishment for marital rape has been increased to 3 to 5 years.

- The new Constitution has upgraded the National Women Commission as a constitutional body with a new mandate to integrate gender perspectives in legislation, public policies, programmes and project as well as to monitor as to whether laws concerning the rights and interests of the women and obligations under the international treaties to which Nepal is a party have been implemented, and make necessary suggestions to the government of Nepal for their effective compliance and implementation.

D. Gaps and Weaknesses

- Bigamy and polygamy is not illegal in Nepal. Interestingly, Bigamy and polygamy is punishable but not illegal.
- Weak implementation of laws relating to prohibition on child marriage and non-enforcement of law against dowry system.
- Existence of de facto discrimination in practice due to traditional mind set as well as traditional and cultural practices.

E. Recommendations

- Amend and repeal remaining discriminatory laws against women with regard to marriage and family such as discrimination among daughters on the basis of marital status, provision of bigamy (second marriage without divorcing the first wife) and partition of property equally amongst all the wives.
- Declare Bigamy/polygamy marriage null and void in order to abolish the practice of bigamy/polygamy.
- Address the problem of child marriage comprehensively along with initiating a massive awareness campaigns in coordination with NGOs, INGOs for creating awareness to general public.
- Adopt a separate and specific law to deal the ill practice of dowry along with a proper mechanism to implement it effectively.
A. Prevalence of the problem

From 1996 to 2006, an armed conflict raged in Nepal between the government of Nepal and the Communist Party of Nepal - Maoist (CPN-M). According to data, among the total number of killed, disabled and disappeared (around 15027), 11% (1665) were women.\textsuperscript{87} The conflict ended with the signing of the Comprehensive Peace Agreement (CPA) on 21 November 2006. However, women’s equal and full participation as active agents in the prevention and resolution of conflicts, peace building and peacekeeping has not been properly acknowledged and ensured.

The Truth and Reconciliation Commission (TRC) and the Commission on Investigation of Enforced Disappeared Persons (CIEDP) have 2 woman commissioners and 1 woman commissioner respectively. Women have been included as a member in Local Peace Committees but women at many instances lack leadership position and influence in decision making.

The Government has completed implementation of National Action Plan on UNSCRs 1325 and 1820 (NAP 1325 and 1820) and Nepal received appreciation as being the first country in South Asia to adopt the NAP 1325 and 1820. Currently, the Government is in the process of revising and extending the NAP which ends in early 2016 and it is yet to see whether NAP has brought any significant changes in women’s lives and better sense of protection and security.

Additionally, after promulgation of the new Constitution, certain parts of Nepal including Terai belt has been under protests and the situation is not normal till date. It is reported that in Terai, schools and campuses are not running normally and local security mechanisms and Local Government bodies have displaced to headquarters that have added security risk and vulnerability of women and girls.
B. Critical Areas of Concern

- **Lack of statute of limitation for prosecution of war era sexual violence crimes:** Recent amendment has extended the statute of limitation for reporting rape to 6 months. However, this 6 month statute of limitation is not adequate to prosecute war era sexual violence crimes.

- **Lack of women’s meaningful participation in Local Peace Committee:** Local Peace Committee formed at the level of a district, municipality, town or village with the aim to encourage and facilitate joint, inclusive peacemaking and peace building processes has been politicised and has not provided enabling environment for women’s meaningful participation and leadership.

- **Lack of psychological support:** Women and girls who have suffered sexual and gender based violence needed psychological support but there have been very less efforts towards ensuring psychological support thereto.

C. Implementation of concluding Observations

- **Formation of transitional justice mechanisms:** On 11 February 2015, the TRC and the CIEDP were formed and the long-pending appointment of Chairpersons and Commissioners was done. The both commissions have started receiving complaints since Mid April 2016.

- **Court verdict on the TRC Act:** On 26 February 2015, the Supreme Court decided upon the petitions against the TRC Act of 25 April 2014, and annulled some wording of the Act regarding the possibility of granting amnesties to perpetrators of human rights violations, and the power given to the executive to recommend prosecution of serious crimes. The Supreme Court also held that the victims’ consent should be made mandatory for reconciliation and that cases that are sub judice at various courts cannot be transferred to the Commissions. However, the TRC Act has not been amended as per the Supreme Court Verdict till date.

- **Provision of free legal aid and support system:** The Government and different organizations have been providing free legal aid to women affected by the conflict, including women victims of sexual violence. The effort to enhance women’s access to justice has been ongoing. Likewise, one stop Crisis Centres have been run by Government.

- **Implementation of NAP 1325 and 1820:** The National Action Plan on UNSCRs 1325 and 1820 has been implemented and is in the process of revision and extension.

D. Gaps and Weaknesses

- Though commissions on TRC and CIEDP have been formed, they have not been able to address Sexual and Gender Based Violence and remained inoperative for more than
a year. The recently both commissions have started collecting complaints, through various modes and means including at local level through Local Peace Committee. Many victims have raised their concerns and security issues as the Local Peace Committee includes representation of alleged perpetrators. Likewise, it is not clear whether there will be an effective gender unit in the TRC and CIEDP or any gender sensitive approach will be undertaken by the commissions.

- One stop Crisis Centres have been run by Government but special counselling centres for women to address traumatic experiences in regard to sexual violence, and adequate access to healthcare services has not been developed yet.
- Use of small and domestic arms by different armed groups in the name of political agendas is in the rise which has posed more security risk for women and girls.
- There are no proper mechanisms to address victims and witness protection; though there are some shelter homes supported by Government but it is not only for victims of sexual violence and is not adequate as well.

E. Recommendation

- Ensure gender friendly truth seeking processes in Nepal thereby hiring more women staffs in the commissions and providing gender sensitive trainings to the staffs.
- Adopt proper victim and witness protection programme in order to encourage women and girls to share their testimonies during the truth seeking process as well as public hearing and to create enabling environment to ensure accountability and prosecution.
- Prosecute conflict era rape and sexual violence cases without applying statute of limitation as provided by the ‘UN 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.’
- Adopt revised NAP thereby considering high priority to women’s security and protection and issues related to UNSC 1820.
Women and Disaster

A. Prevalence of the problem

Nepal is one of the most disaster prone countries in the world and studies have already shown that climate change will intensify the disaster related incidents in the days to come. For instance, between the period of 1971-2007, there were casualties accounting for over 27,000 lives, 50,000 injuries and 3,000 missing. More than 5 million people were affected by the disasters.  

The devastating earthquake that hit Nepal on 25 April 2015 killed more than 9000 thousands and left hundreds of thousands in dire need of aid. Nepali and international actors – including civil society - have responded to this humanitarian crisis heroically, but issues of discrimination during relief process have drawn attention nationally and internationally. It was reported by Amnesty International that groups who are often the target of discriminatory treatment in Nepal, including women who head households, Dalits, Indigenous Peoples or people with disabilities, faced increased challenges when accessing urgently needed relief. International Dalit Solidarity Network urged the aid agencies to counter caste discrimination in aid delivery after earthquake in Nepal citing examples of discriminations faced by dalit community during initial days of relief distribution such as refusal to provide relief to poor dalit women or unwillingness of non-dalits to eat together in temporary shelters.

---

90. Id
It should be noted that young girls are more prone to sexual exploitation and rape while women in reproductive age, such as pregnant women and breastfeeding mothers, can face health risks due to inadequate health facilities. In the aftermath of the quake, various cases of sexual exploitation, trafficking and rape have been reported at temporary shelters, including those in the capital. Additionally, the United Nations Population Fund in Nepal has recorded that out of 8 million victims of the earthquake, 1.5 million are women in reproductive age, whereas about 138,000 women in the districts are or will be pregnant in next 12 months.

Nepal is currently under reconstruction phase but the reconstruction activities has been very slowly moving and lacks women representation in decision making bodies further making women vulnerable even in reconstruction phase.

B. Critical Areas of Concern

- Lack of preparedness to deal with disaster in Nepal resulting discrimination in relief distribution process
- Lack of effective laws and policies mitigate risks of natural calamity as well as poor implementation of prevailing laws such as Natural calamity Relief Act 1982 etc
- Lacuna in proposed draft Disaster Management Bill such as non-acknowledgement of the link between poverty, sustainable development and equity, need for special measures to protect rural women and lack of minimum standards for the reconstruction, while addressing people’s right to safe, livable shelter. The bill also fails to address provision for the protection and reconstruction of cultural heritage sites that was damaged during the disaster.
- Low representation of women in Disaster Risk Reduction Committee. The Government for the reconstruction process has established 7 core committees. Within the 7 core committees, the involvements of institutions that work for the upliftment of women and girls have not been included. The National Reconstruction Consultation Council, out of 96 members only 2 of the members are women. Similarly in the Directive Committee, Executive Committee, Development Assistance, Coordination and Facilitation Committee and District Coordination Committee, the involvement of institutions working for women such a women children office are not included. Also

93. Id
95. Forum for Women, Law and Development (FWLD) and NDI Nepal/USAID, Gender and Social Inclusion Monitoring of Post Earthquake Response, 2015 - 2016
the inclusion of the Ministry of Women, Children and Social Welfare in the Central Housing Reconstruction Committee which is a core committee that aims to build women friendly housing, is nil.  

- Failure to address women's specific needs such as access to dignity kits, sanitary toilets  
- Failure to ensure measures to protect women from risk of exploitation, trafficking and rape in temporary shelters.  
- The patriarchal attitude of accepting women as subordinates to men throughout their life still continues. This has led to constant discrimination of women especially those who have fallen victim to the earthquake. Many women and girls in Rasuwa and Dhading District (especially single women and girls who've lost both their parents) who have taken temporary shelter in a new area have fallen victim to harassment, bullying and discrimination by the locals of the area as a result leading to constant revictimization. Furthermore, social stigma is also attached to vulnerable women, girls and social minorities’ i.e. HIV-positive women, widows, lesbians, homeless women, poor women, mentally and physically disabled women and Dalit women.

C. Recommendation

- Amend the proposed draft bill on Disaster Management in order to protect people at large including rural women and ensure women's participation in relief to reconstruction phase as well as provide minimum standards for reconstruction work in Nepal.

- Ensure non-discrimination and equality while undertaking any relief to reconstruction effort thereby including proportional representation of women in the process and decision making bodies.

- Cater special needs of special groups of women such as lactating women or women with disabilities or dalit women while ensuring preparedness against natural disaster.

- Ensure women representation in the various core committees of the Reconstruction Process.

- Urgency towards and effective gender disaggregated data.

96. Forum for Women, Law and Development (FWLD) and NDI Nepal/USAID, Gender and Social Inclusion Monitoring of Post Earthquake Response, 2015 - 2016

97. Forum for Women, Law and Development (FWLD) and NDI Nepal/USAID, Gender and Social Inclusion Monitoring of Post Earthquake Response, 2015 - 2016
Women’s Access to Information

A. Prevalence of the problem

Despite constitutional recognition of right to information as a fundamental right since more than two decades and enactment of the Right to Information Act 2006, women have not been able to exercise this right to the fullest extent and lack access to information creating a huge gap between information rich and information poor and further being marginalised due to their condition as information poor. 98

Women in Nepal are considered to be information poor as they lack asking culture and file less application in the public bodies requesting information. Writing simple application has been problem for many women including illiterate women or rural women. On the other hand, the law mandates the public bodies to proactive disclosure of information but many public bodies are providing very little information under proactive disclosure tending to favour disclosure upon request.

B. Critical Areas of Concern

- Lack of proactive disclosure of information in Nepal and wide practice of public bodies disclosing information upon request
- Lack of asking culture among women in Nepal as women are less familiar with the process and have limited access to public bodies
- Low number of women visiting information centres in comparison to male
- Lack of legal provision to classify documents and information as public and private

• Low level of knowledge about the right to information and the Right to Information Act and Regulation that allow individuals to seek and receive information held by public bodies.

C. Recommendation

• Launch mass media campaign to sensitize women to visit and ask information from public bodies not only relating to themselves but people at large that help in empowering them thereby bridging the gap between information poor and information rich.

• Enact laws relating to classification of documents and information mandating public bodies to compulsory self-disclosure of information and following the concept of open government

• Enact laws relating to right to privacy so that sensitive information held by public bodies relating to women is protected by law. For instance, protection of privacy of rape victims during court trials.