Intersection of Two Current Pandemics: VAW and HIV and AIDS
Women have been disadvantaged and marginalized since time unknown. Biological differences have been used to justify a range of biases which treat women as subdued and inferior. These ‘gender’ identities have also been fed into the social psyche to foster a sense of dependence and helplessness amongst women. From an early age, a girl and boy are socialized in such a discriminatory manner that it renders women as having inferior status in society. Women are always supposed to remain under protection of their male counterparts, either he be their father, husband or son. From early childhood, a girl is psychologically prepared for marriage. It is inculcated that she has to leave her maternal home and has to go to her husband’s place, as he will be her only God and she has to keep him happy. Women are always expected to understand and compromise and are not expected to be independent. Prevalence of discriminatory practices and with such values embedded in their minds from the very childhood, women readily internalize and learn to behave in a socially accepted manner.

Patriarchal norms and values are so strongly entrenched in the society that the adjustable nature of women is seen as their weakness. Women have been oppressed and exploited by their husbands from whom they expect love, affection and protection. Socialization plays such a crucial role that women never dare to question their husbands. Their duties are to bear children, to cater to the needs of the family and to obey and respect their elders and male members of the family. The lower status in the family and the society and the psychology of women themselves, which is the result of
the socialization processes, do not allow women to revolt against the various forms of exploitation. All these factors directly and indirectly make women more vulnerable to HIV infection.

Moreover, despite being a significant mode of HIV transmission, it is always a taboo to talk about sexual contacts in a society like ours. People still do not feel comfortable talking about their sexual behaviors. Misconceptions regarding the virus and the disease have stigmatized HIV and AIDS. For example, there is a general social perception that only specific groups of society can be or are infected with HIV, such as commercial sex workers, homosexuals, hermaphrodites and drug users. This misconception impacts women because it fails to focus on the genuine vulnerability of women to the infection.

Therefore, it is not only the biological difference that put women at a greater risk of infection, various social and cultural factors also render women more vulnerable to it. It has therefore been thought essential to conduct a study of the various social and cultural factors that endanger women’s health and lives.

Over the last decade, Nepal has progressed from a low prevalence country to one with a so-called concentrated pandemic among certain sub-groups of the populations, such as sex workers, injecting drug users and returning labour migrants. The major modes of transmissions have been identified as injecting drug use and unprotected sexual contact. Moreover, all the ingredients for a rapid spread of the pandemic exists in Nepal in the form of poverty, gender inequality, low levels of education and literacy, denial, stigma and discrimination making Nepal highly vulnerable. Poverty, socio-economic factors and cultural taboos are the root causes of the HIV and AIDS vulnerability in Nepal and poverty and HIV and AIDS are locked in a vicious cycle.¹

The burden on women’s lives and health from gender violence in Nepal are only beginning to be measured. It is a complex issue because there are costs

¹ See p.13 of this report, Intersection between VAW and HIV and AIDS in the Nepalese context.
not only due to the more direct forms of violence and unfavorable practices harmful to women, but also due to negligence. The neglect that earlier might have been excused as an unavoidable result of poverty is now evident as coming from discrimination so severe, at all levels of society, that it causes disproportionate loss of opportunities, health and well being as well as lives for women and girls because they are female. There are also costs to society from violence against women and girls which are beginning to be measured in Nepal. The society has initiated the measurement

**Objectives of Research**

The main objectives of the study were:

- To consider the policy gaps and ambiguity on the part of the policies
- To testify to the increasing vulnerability of women to HIV and AIDS as a result of violence
- To analyze the intersection between VAW and HIV and AIDS
- To review national laws and state obligation to address VAW and HIV and AIDS
- To assess the HIV and AIDS funding, policies and programs at the national level and the extent to which VAW and their vulnerability to HIV and AIDS have been prioritized
- To compile the experiences of women survivors of violence and women living with HIV and AIDS, particularly, to identify what made/makes them vulnerable to HIV and whether their HIV positive status increases their vulnerability to violence

**Research Methodology**

The study included four inter-related research methods:

1. **Policy analysis**: A rapid assessment of the policy context that underlies efforts to control HIV and AIDS pandemic in Nepal. This assessment
examined the forces that influence strategic approaches program priorities, intervention design and funding opportunities for the prevention of HIV and AIDS pandemic and care and support of HIV and AIDS plus people.

2. **Focus Group Discussion:** Two FGDs with positive women and survivors of VAW were conducted in Hetauda, Makawanpur on July 25, 2006 and Nepalgunj, Banke on September 10, 2006. This part of the study is primarily focused to identify the factors especially the social and cultural factors that make women in general, more vulnerable to the HIV infection. The real names of women who provided accounts of their experiences with domestic violence and HIV and AIDS are not used in this report, unless otherwise indicated. Other identifying information has also been withheld, where necessary, in order to protect their privacy.

3. **Key informant's interviews:** 29 key informants we interviewed to gauge different perspectives from various stakeholders from August-November 2006. The interviews took place in Kathmandu, Makwanpur, Nepalgunj and Dhahran respectively. Interviews were conducted with government officials, United Nations (U.N.) representatives, representatives of I/NGOs working on HIV and AIDS, representatives of I/NGOs working on women’s rights and civil society.

4. **Consultation meeting with stakeholders:** Forum for Women, Law and Development (FWLD) and Conscious Media Forum (CMF) in conjunction with Action Aid Nepal conducted a “Consultation meeting on Draft Study” on November 8, 2006 at the Himalayan Hotel with selected stakeholders of Nepal.

The objectives of the meeting were:

- Sharing of a draft study on “Intersections of VAW and HIV and AIDS”
- Dissemination of experiences of intersections of VAW and HIV and AIDS
Sharing researches conducted and field visit experiences

Obtain valued feedback from the participants

Limitations of the study

- The inferences or generalizations made in the report are based on interviews with key informants and focus group discussion. Mainly, they belong to Kathmandu valley and few of them are from other districts

- Most of the key informants covered by the study are urban based and few of them are from INGOs and government
Violence against Women and HIV and AIDS

(A) HIV and AIDS situation in Nepal

HIV has become a global public health crisis challenging the humanity of our time. The crisis is projected to set worse with risk of it turning into a catastrophe. HIV and AIDS is the fourth largest cause of death globally and a leading cause of death in many developing countries. Still rapidly growing, the pandemic is reversing development trends, taking away millions of lives, widening the gap between the rich and the poor and leaving thousands of young children orphaned. The HIV and AIDS pandemic has transcended geographical, gender, racial, ethnic as well as economic barriers and a major chunk of those with HIV and AIDS are living in developing countries. Lack of education, poverty, political unwillingness, conflict, gender discrimination, migration, trafficking, intravenous drug use, sexual abuse are the major factors that are attributed for such high prevalence of the pandemic in developing countries. With increasing globalization, migration and trafficking within and across the country, child labor, injecting drug users, innocent housewives and the HIV and AIDS rate is likely escalate.

HIV and AIDS pandemic transcends geographical, gender, racial, ethnic as well as economic barriers and thus, Nepal remains no exception. Nepal features amongst the poorest countries as well as socio-cultural parameters,
with more than 32 percent of national population living under national poverty line.²

The first case of HIV and AIDS were reported in Nepal in 1988.³ From the very scarce surveillance data available in Nepal, it is seen that HIV prevalence is currently around 0.07 percent in the general population.⁴ Taking into account the poor existing medical and public health infrastructure in Nepal and the lack of reliable reporting system, it is estimated that the actual number of cases are many times higher than what is reported. There are about 69,000 people living with HIV and AIDS in Nepal.⁵

However, the currently low prevalence among the general population masks an increasing prevalence in several groups. It is now evident that Nepal has entered a “concentrated pandemic”, the HIV and AIDS prevalence consistently exceeds 5 percent in one or more sub-groups such as sex workers, their clients and injecting drug users. The main mode of transmission continues to be through commercial sex and the fact that the sexually transmitted disease rates are rising is an ominous sign. Although official reports claim that adequate information is not available about child sex work and girl trafficking in Nepal, it is estimated that every year 12,000 Nepali children (ILO - Rapid Assessment) are taken to Indian brothels and the Gulf countries for the purpose of commercial sex work.

The HIV situation in Nepal is characterized by the high prevalence among groups involved in high-risk behavior. Among street sex workers in Katmandu, it rose from about one per cent in 1992 to about percent in 1998. Amongst Intravenous Drug Users, it raised from about two per cent in 1991 to 50 percent in 1997. The prevalence in general population in Nepal is still low, but is rising rapidly. There are indications that the transmission among housewives is increasing. Though the infection is found everywhere, it is concentrated in the capital.⁶

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² Regional human development report in south Asia 2005.
⁴ Data As of July 31,2006, made available by NCASC.
⁵ According to the data released by ACASC 2006.
Despite the current situation, the implementation of the National Programme, according to UNAIDS, was successful in some important areas; the coverage of targeted 40 percent interventions focusing on sex workers and their clients was increased nationwide. There is Fifteen percent coverage nationwide on harm reduction activities. The Family Planning Association of Nepal and the International Planned Parenthood Association in their HIV and AIDS Strategy have clearly targeted migrant and slum populations as being highly vulnerable to the infection.

Cumulative HIV and AIDS Situation of Nepal [As of July 31, 2006]

<table>
<thead>
<tr>
<th>Category</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
<th>New cases in Nov. 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>HIV Positives (including AIDS)</td>
<td>5817</td>
<td>2427</td>
<td>8244</td>
<td>171</td>
</tr>
<tr>
<td>AIDS (out of total HIV)</td>
<td>875</td>
<td>329</td>
<td>1204</td>
<td>18</td>
</tr>
</tbody>
</table>

Cumulative HIV Infection by Sub-group and Sex

<table>
<thead>
<tr>
<th>Category</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
<th>New Cases in Nov. 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex workers (SW)</td>
<td>0</td>
<td>643</td>
<td>643</td>
<td>3</td>
</tr>
<tr>
<td>Clients of SWs/STD</td>
<td>3886</td>
<td>103</td>
<td>3989</td>
<td>46</td>
</tr>
<tr>
<td>Housewives</td>
<td>0</td>
<td>1531</td>
<td>1531</td>
<td>51</td>
</tr>
<tr>
<td>Blood for Organ recipients</td>
<td>15</td>
<td>5</td>
<td>20</td>
<td>3</td>
</tr>
<tr>
<td>Injecting Drug Users</td>
<td>1699</td>
<td>28</td>
<td>1727</td>
<td>59</td>
</tr>
<tr>
<td>Men having sex with men</td>
<td>10</td>
<td>0</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Children</td>
<td>207</td>
<td>117</td>
<td>324</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>5817</td>
<td>2427</td>
<td>8244</td>
<td>171</td>
</tr>
</tbody>
</table>

Source: NCASC

Cumulative HIV Infection by Age Group

<table>
<thead>
<tr>
<th>Age group</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
<th>New cases in Nov. 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-4 years</td>
<td>86</td>
<td>46</td>
<td>132</td>
<td>4</td>
</tr>
<tr>
<td>5-9 years</td>
<td>102</td>
<td>57</td>
<td>159</td>
<td>3</td>
</tr>
<tr>
<td>10-14 years</td>
<td>32</td>
<td>22</td>
<td>54</td>
<td>3</td>
</tr>
<tr>
<td>15-19 years</td>
<td>206</td>
<td>211</td>
<td>417</td>
<td>4</td>
</tr>
<tr>
<td>20-24 years</td>
<td>928</td>
<td>482</td>
<td>1410</td>
<td>18</td>
</tr>
<tr>
<td>25-29 years</td>
<td>1426</td>
<td>622</td>
<td>2048</td>
<td>40</td>
</tr>
<tr>
<td>30-39 years</td>
<td>2337</td>
<td>745</td>
<td>3082</td>
<td>76</td>
</tr>
<tr>
<td>40-49 years</td>
<td>587</td>
<td>202</td>
<td>789</td>
<td>18</td>
</tr>
<tr>
<td>50-above years</td>
<td>113</td>
<td>40</td>
<td>153</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>5817</td>
<td>2427</td>
<td>8244</td>
<td>171</td>
</tr>
</tbody>
</table>

Source: NCASC.

Female sex workers

Due to their highly marginalized status in the society, sex workers have little access to accurate information about reproductive health and STI. Cultural, economic and social constraints limit their access to legal protection and to medical services. Almost 60 percent of their clients, who are mainly transport workers, members of the police or military, wage earners and migrant workers, do not use condoms. While nationally, HIV prevalence among FSWs is approximately 4 percent, infection rates among street-based sex workers in the Kathmandu valley are between 15 and 17 percent. Nationally, clients of FSWs have an estimated HIV prevalence rate of 2 percent.

A major challenge to control HIV in the country is the trafficking of Nepali girls and women into commercial sex work in India and their return to the

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practice in Nepal. Additionally, there are thousands of girls who are forced into religiously, culturally and traditionally institutionalized sex work practices such as Deuki and Badi. Although Human Rights organizations have often reported on this problem, no serious steps have been taken to reduce the practice significantly.

Most sex workers experience increased vulnerability to HIV and AIDS due to a low level of education which restricts access to information and health care services. They have little control over the risk in sexual encounters because the client often determines whether or not to use a condom. Moreover, violence against sex workers is a common phenomenon.

**Mobile population**

Mobility has complex causes, ranging from economic and political reasons to forced displacement. Each of these mobile groups and their respective families are vulnerable to HIV and AIDS in different ways. There are 100,000 to 200,000 Internally Displaced Persons in Nepal. And although WHO and UNAIDS do not categories IDUs as a high risk group, it has to be noted that the far western region of the country where the majority of IDUs are concentrated have one of the highest rate HIV and AIDS in South Asia. In fact, Nepal figures as one of the 8 priority countries in a report on HIV and AIDS and IDUs.

Economic migration, both internal and external, is not a new phenomenon in Nepal. Estimates range from 1.5 to 2 million Nepali nationals, who work outside the country; 1 million are estimated to be in different parts of India alone. Although information is limited about the behavior of labour migrants in their respective host countries, the assumption is that during their long

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9 A tribal group of people in the mid and far-western Nepal who traditionally make their living by dancing and prostitution.
13 Ibid.
absence from their families a considerable number of them become clients of sex worker. Recent studies among labour migrants revealed HIV prevalence rates between 2-10 percent for migrants returning from Mumbai, India.

Injecting drug users and HIV

Although it was initially believed that HIV prevalence among drug users sharing needles was of low scale in Nepal, there has been a drastic increase in contraction of HIV among this group. There have been some attempts of harm reduction programmes that have led to encouraging results.

Men having sex with men

Although the Nepali society is yet to openly accept the existence of homosexuality or men having sex with men, the practice continues to exist. A few progressive people have started coming out, forming organizations and demanding their existence and rights to exercise their sexual orientation. Since their practice is not socially accepted, sex practices and often casual and unprotected. This entails the risk of contract HIV for themselves and subsequently to the wives of those who are married. Further, the issue has not been adequately addressed by the organizations working in lowering HIV prevalence. Therefore, this matter should be given adequate attention and addressed in the process of curing HIV.

Affected Populations

- VULNERABLE POPULATION
  - Sex Workers
  - Trafficked women
  - Men having sex with men
  - Injecting drug use

- BRIDGE POPULATION
  - Clients of Sex workers
  - Mobile populations
  - Population in conflict

- GENERAL POPULATION
  - Men
  - Youth
  - Housewives
Mother to child transmission

HIV positive women may transmit HIV to their children during pregnancy, in childbirth or through breastfeeding. According to UNAIDS, mother to child transmission of HIV is 15-30 percent. While antiretroviral therapy significantly reduces the risk of mother to child transmission of HIV, only smallest fractions have access to it unattainable and inaccessible to the rest.

(B) VAW Situation in Nepal

A combination of factors heightens women’s vulnerability to HIV and AIDS. Cultural perceptions of women’s sexual and reproductive obligations in marriage rob women of bodily autonomy, while unequal property rights, the payment of bride price and women’s inability to take their children from the fathers’ homes render women unable to leave abusive relationships. In addition to coping with violence and disease, many women must also contend with the uncertain future their children face as children of parents with HIV and AIDS. As a result, many economically dependent women stay in high-risk and violent marriages. Widows also face imposing obstacles: many are stripped of their property and left to struggle to support themselves and their children while they are at their weakest. These factors and more, combine with violence, or the threat of violence, to create an environment within which women are trapped into having unprotected sex with HIV-positive men and are unable to seek information or treatment on HIV infection and AIDS.

In the voices of women, this chapter provides an insight into the ways in which violence strips women of bodily autonomy, prevents them from safeguarding themselves from exposure to HIV infection and forces them to go to great lengths to disguise their HIV-positive status. The chapter also reveals the links between certain traditional practices and women’s heightened risk of HIV infection and ultimately, how economic dependency underpins women’s vulnerability to both domestic violence and HIV and AIDS.
Lack of Bodily Autonomy

During the study, the interviewed women confirmed that in many instances, men have absolute dominion over the matters of sexual relations with their spouses. The stories also depict the picture of how innocent persons find themselves getting infected with HIV and the consequences after the infection. If the husband is HIV-positive, this dominion directly threatens women’s lives. In one such case, Kabita, (pseudonym applied for victim’s privacy) who, though, was aware of her husband’s disease, was forced to have unprotected sex with him and was persistently forced till the stage when he got bedridden. He used to routinely beat her and in one occasion, attacked her violently with an axe. Kabita is now HIV-positive.  

“I was always beaten. He would beat me to the point that he was too ashamed to take me to the doctor. He forced me to have sex with him and beat me whenever I refused. Innumerable women face such a plight. Even though he knew he was HIV positive, he insisted on unsafe sexual intercourse and would refuse to use a condom.”

During the time of FGD, some of the interviewees stated that their partners react with abnormal behavior. The abnormal behavior includes argument, scolding, beating, threat of second marriage or extramarital relationship and so on. Some of them who refused sexual intercourse stated that their partners react very seriously and the reaction depends upon the temperament of their husband. Serious reactions range from: their partners turning the other side, expressing anger the next day, not wanting to talk, not proposing sex for many days after the refusal, forcing them to go to their paternal home, etc. However, some of the women who refused sexual intercourse stated that their partners accepted the refusal easily. Some women also complained that their partners consider having sex with their wives as a matter of their right and can rape their wives whenever they felt like and are never bothered.

14 Interview with FGD participant, on Aug, 2006, Hetauda.
15 Interview with FGD participant, Aug, 2006, Hetauda.
about the wives’ feelings. Furthermore, few of the women stated that during the initial days, there was an understanding with their partners and they accepted the refusal to sexual intercourse easily, but later, some women found their partner’s attitude had changed and were more suspicious towards the wives’ character. One of the women mentioned that as a result of her refusal to sexual intercourse, her husband remarried.

Sometimes I was forced to have sex. He forced me before we were tested.  

According to HIV and AIDS service providers, the majority of their female clients got infected through unprotected heterosexual sex. There is a high incidence of infection amongst faithful wives of errant husbands. The woman most at risk is a woman in a monogamous marriage. Many of the women were powerless to resist sex with their husband or to insist the philandering husbands to stop having affairs or use condoms. For some, rape and battery had literally become a part of the fabric of their daily lives.

**Sex as a marital obligation**

Individual women, NGO representatives and government officials all referred to the prevalence of the belief that wives have no right to refuse their husbands sexual advancement. A number of government representatives stressed that married or cohabiting women appeared to be at a far greater risk of HIV infection than single women. The fact that in some cases actual violence did not take place did not alter the coercive nature of these relationships. Women’s own perception that they had no authority over sex often made it easy for husbands to assume that the wife would not oppose having sex at any time.

He never forced me to have sex. He would beat me for other things but not sex. There were times when I had sex with him even though I didn’t want to. I would just do it. What could I do? I have never used a condom. I am HIV-positive. 

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16 Interview With FGD participant Aug 2006, Hetauda.
17 Interview With FGD participant Aug 2006 Hetauda.
In a FGD, some of the interviewees responded that they have sexual intercourse with their partners because they perceive it as their responsibility and duty towards their partners. Only some of the respondents stated that they have sexual intercourse only when they desire, whereas, one third of the women interviewees chose not to give any response to the question. Few of the respondents stated that they did not know the reason for having sexual intercourse with their partners.

“My first husband often forced me to have sex with him . . . . .
When I got pregnant, I didn’t feel like having sex. He interpreted it as infidelity. He would first threaten and then would rape me and I would vomit. He finally realized it was a problem . . . . It would be a woman’s duty to have sex with her husband if you have compromised. We never used a condom in our marriage. They weren’t very common. There were times when he forced me to have sex and would always use force whenever I refused.”

Inability to negotiate condom use

Many of the women were afraid to introduce the subject of prophylactic protection for the fear of being beaten either for suspecting their husbands of having extramarital affairs or because they might be accused of adultery themselves. When they did raise the subject of condom use, violence typically ensued.

Many of the women interviewed were unable to negotiate condom use even when their husbands had tested HIV-positive. Some of these women quoted husbands that had tested HIV-positive as saying that condoms were ineffective or even that there was no reason for them to die alone.

He used to force me to have sex with him. He would beat me and slap me when I refused. He never used a condom. When I got pregnant I went for a medical check-up. When I gave birth and the child had passed away, they told me I was HIV-positive.”

18 Interview With FGD participant Aug 2006 Hetauda.
19 Interview with FGD participant Aug, 2006 Hetauda.
Very few respondents mentioned that their partners have used condoms while having sexual intercourse, whereas, many women stated that their partners have never used a condom and some of them didn’t give any response to this question.

**Forced sex**

Though the law has recently criminalized marital rape as a form of rape in Nepal, yet forced sex within marriage is rampant. There is widespread belief that women have an obligation to submit to their husband’s sexual advances upon the terms that he dictates, and furthermore, wives have no authority to negotiate condom use. The constant refrain in diverse regions and districts of Nepal was that “a man cannot rape his wife.” The following accounts demonstrate otherwise.

According to a participant, her husband liked to have forced, rather than consensual sex. “That was a hard marriage. He beat me. There were times when he would want me to have sex with him even when I was on my period. Sometimes he forced me because he wanted to have forced sex.”

A number of women were not even aware of their husband’s illness until after his death. Some found out later that their husbands had been aware of their HIV-positive status and had been attending HIV and AIDS clinics secretly. Typically, the woman would either be advised to go for an HIV test by a relative or someone in the community, or would stumble across her late husband’s medical prescriptions.

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In a few cases where their husbands had tested HIV-positive and were open about their status, women shared the same story; that the instances of forced sex increased and their husbands would suddenly become insistent on not using a condom, even when they had used one previously. Most were unable to explain why.

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Obstructed access to HIV and AIDS information and treatment

Despite the efforts of service providers, many women were unable to access HIV and AIDS information and treatment because of domestic violence. NGOs have been providing care and support to people living with HIV and AIDS. Women explained how they were afraid to discuss HIV and AIDS with husbands who were unwell, how a fear of violence prevented them from openly attending HIV and AIDS sensitization programs and how, despite feeling unwell themselves, they were unable to go for HIV testing or were too scared to pick up the results. Women who were experiencing symptoms were also unable to access testing and information centers because they had no money to travel or to pay for care and were too afraid to ask abusive husbands for funds.

Financial dependence

Women and girls are commonly discriminated in terms of access to education, employment, credit, health care, land and inheritance. With the downward trend of economies increasing the ranks of people in poverty, relationships with men . . . can serve as vital opportunities for financial and social security or for satisfying material aspirations. The combination of dependence and subordination can make it very difficult for girls and women to demand safer sex or to end relationships that carry the threat of infection.  

Although financial autonomy was not the sole factor limiting women’s capacity to leave abusive relationships, many of the women experienced poverty so severe that they had no option but to remain with husbands who would routinely batter them. Their worth and social acceptance was found in marriage and children, making separation or divorce almost impossible. Lack of education clearly contributes significantly to women’s financial dependency. Financial dependency also prevents women from reporting abusive husbands to the proper authorities.

I used to barely earn two thousands rupees a month. My alcoholic husband would ask for all of it to buy his alcohol. When I would refuse, he would be suspicious and would accuse me for having an extra-marital affair and would harass me.  

Lack of property rights

For all women, property rights are central for survival. As one of the key informants views, access to land is a key determinant of economic status. Women’s unequal property and inheritance rights therefore place them at an economic disadvantage. The risk of poverty and the physical well-being of a woman and her children could depend significantly on whether or not she has direct access to income and productive assets such as land.

Property rights violations exacerbate the vulnerability of HIV-positive women who are evicted from their homes and are pushed back into poverty. These physically vulnerable women thereby lose the means to care for themselves precisely when they are in need of resources. Many women were deprived of access to land they had cultivated for years. Nearly all of the women who had lost property after their husband’s death had been forcibly evicted from their homes by their husbands’ relatives.

Limitations on redress

Domestic violence goes largely unpunished in Nepal. Ignorance of law coupled with the expense required to seek remedy impede the access to justice for many poor, illiterate women. Health care systems are not equipped to deal with domestic violence cases beyond the treatment of injuries and few shelters are available for women attempting to escape abusive husbands. For many women, violence was a fact of life, and it was difficult for them to separate it from normal everyday aspects of marriage.

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22 Interview with Key informants, Aug 2006.
He had gone to India for four years and then came back. He did not tell me anything about his health problem. He looked sick and thin. He slept with me. He died after 3 months. We have never used condom. When I went to check up, doctor found I was HIV positive.

(C) Intersection between violence against women and HIV and AIDS

There are some critical elements that are common all over the world to explain the dynamics of interplay between violence against women and HIV and AIDS. This subsection offers some of these elements:

**Rape**

Forced or coerced sex increases women’s vulnerability to HIV infection by severely limiting women’s ability to negotiate safe sexual behavior: in situations of rape, condom use is rare. In addition, women’s biological vulnerability to infection may be increased through physical trauma to the body resulting from violent sexual encounters. Young women and girls may be more susceptible to tears and abrasions to the vaginal wall, due to under-development of their reproductive tracts. More the space in and around the vagina available for semen to spell, higher are the chances of infection.

The consequences of rape can be long lasting. Compounding the emotional and physical trauma of the assault itself is the stigma associated with rape, which can deter women from seeking medical services, including post-exposure prophylaxis, when these are available. A history of sexual assault can affect a woman’s willingness or capacity to use condoms consistently in later sexual activity.

**Intimate partner violence**

Intimate partner violence occurs in all regions of the world and within all social, economic, religious and cultural groups. It includes physical, sexual

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23 Interview with FGD participants, Sept. 2006, Nepalgunj.
and psychological violence and threatens women’s ability to protect them from HIV infection. The fear of violence effectively prevents many women from demanding that their partners use condoms or otherwise alter their sexual behavior, as such requests can reveal suspicion and distrust and create hostility.

The phenomenon of intimate partner violence reveals that marriage and monogamy are not always preventive factors for women. In fact, in some countries, married young women have a higher HIV prevalence than their unmarried, sexually active counterparts.

**Violence against HIV positive women**

Women who are or who are even perceived to be infected with the HIV virus face considerable risk of violence, discrimination, ostracization and abandonment by their partners or other family members. A 2005 study conducted by the Asia Pacific Network of People Living with HIV/AIDS (APN+) in Indonesia, India, Philippines and Thailand found that HIV positive women were significantly more likely than men to experience discrimination and physical assault and be forced out of their homes. Fear of violence associated with gender discrimination and the stigma associated with being HIV positive can also dissuade women from seeking information about or getting tested for HIV, disclosing their HIV status or seeking treatment and counseling.

**Sexual violence in conflict**

Women and girls are at greatly increased risk of violence in times of war and conflict. Under these conditions, acts of violence include strategic targeting of rape and gang rape, forced pregnancy, forced marriages with enemy soldiers, sexual slavery and mutilations and are perpetrated by various community and state actors, including soldiers and police. In various conflicts, rape has been used as a deliberate weapon of war to brutalize and dehumanize civilians, often through targeting women as the “bearers of community.” During conflicts, women often flee from their homes, lose their families and

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livelihoods and may have little or no access to healthcare. Women may be forced to engage in survival sex to secure safety, food, shelter, and services for themselves and their families. Refugees and internally displaced women, who bear primary responsibility for collecting food, water, and firewood, are at heightened risk of violence as they complete their routes, often within unsecured camp settings where violence may be committed with impunity. It is also likely that the rate of other forms of violence against women, such as intimate partner violence, increases during conflicts due to ready availability of weapons and a general breakdown in law and order.

Young women and girls

HIV prevalence rates among young women have been on the rise in many regions, as they face physical and sexual abuse at the hands of various actors, including family members and teachers. Many young women around the world are coerced into their first sexual experience. Young women and girls also face increased biological risk of HIV transmission during sexual assault.

Violence against sex workers

It is estimated that sex workers, on a global level are mostly young girls and may number in the tens of millions worldwide. Current statistics indicate that HIV prevalence among sex workers is high in many regions: 20 percent in Jamaica, 33 percent in the Russian Federation, 50 percent in Ghana. Sex workers are more vulnerable to HIV infection and violence because they are often discriminated and are invisible in decision-making processes. In addition, many countries criminalize sex work, driving the industry underground and thus out of reach of law enforcement and key health services. Sex workers work in a variety of settings and are often open to exploitation, harassment and physical and sexual abuse from managers, clients and police. Under these conditions, they may find it difficult to negotiate condom use.

Trafficking

Trafficking is a form of violence in which people, primarily women and children, are forcibly transported from their home communities through the

use or threat of violence or other coercive means and placed in forced labor, servitude or slavery-like practices, including but not limited to forced marriage and forced prostitution. Trafficking exists at the nexus of many human rights violations, including those related to violence against women and HIV and AIDS and affects millions of women and girls worldwide. As trafficking activities usually take place secretively and out of the reach of law enforcement, trafficked women are vulnerable to a wide range of abuses, including physical and sexual violence, that increase their risk of HIV infection. Trafficked women often have little power to negotiate sexual choices and condom use.

"My husband hated condom use. He never allowed it. He would beat me often..... He used to beat me when I refused to sleep with him...... He said ‘when we are married, how can we use a condom?’ . . . It is a wife’s duty to have sex with her husband because that is the main reason people marries. But there should be love.....But he didn’t listen to me. I tried to insist on using a condom but he refused. So I gave in because I really feared."  

A multi-country study by the WHO found that about 55 percent of women had sexual and physical violence by an intimate partner. Also, a study by the international center for research on women found that almost 40 percent of women in South Asia interviewed reported severe physical abuse of whom, half reported being beaten during pregnancy, if she refused to have sex with him.

**Other vulnerabilities of women**

Poverty can lead women into selling sex and thus increase their risk of exposure to HIV infection. Exclusion and social deprivation can be linked to HIV and AIDS risks through unsafe drug use. Similarly, discrimination and lack of

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26 Interview with FGD Participant Aug, 2006 Hetauda.
legal protection can result in HIV and AIDS infected people or their families losing their home and livelihood.

There are biological factors too. Social studies have revealed that transmission of HIV and AIDS (and other STDs) from men to women is to four times greater than to men from women. This is due to the physiological characteristics of the female genitalia - with its greater exposed surface area which can suffer lacerations during sex which facilitates transmission of the virus - and due to the higher concentration of HIV and AIDS in semen. This risk increases in the case of adolescents due to added factors of lower defenses and the immaturity of vaginal tissues and cervical mucus. It has been shown that women’s risk of contracting HIV increases as her age at first sexual intercourse decreases and/or the age difference with her partner increases.29

An additional factor that increases the possibility of infection in women is the existence of an undiagnosed STD, largely asymptomatic in nature, a fairly common reality. This reflects the difficulties faced by women - and especially adolescent women, in accessing health services, information and counseling.

Sexual victimization at an early age can leave women with fewer skills for protecting themselves and make them unsure of their own worth and more apt to accept victimization as part of being female. In other words, a history of sexual abuse or domestic violence is linked to future behaviour, which places women at increased risk for HIV. Recent estimates indicate that between 10-50 percent of adult women around the world, have experienced violence against them by a husband or a boyfriend30. In a household study as many as 40 percent women reporting abuse did not share with any outsider, 58 percent reporting partner violence continued staying with the abuser.31

Many factors in the vulnerability - the root causes of the pandemic can be best be understood within the universal principles of human rights.

29 Adriana Gome: Women and HIV/AIDS; A gender Perspective... Reprint (Elias and Heise 1993)
30 Progress of World’s Women, UNIFEM, 2000
31 ICRW, 1999
Vulnerability to AIDS is often engendered by a lack of respect for the rights of women and children, the right to information and education, freedom of expression and association, the rights to privacy and confidentiality.

HIV and AIDS have brought to the fore new dimensions of human rights violations, particularly issues that intersect gender and sexuality. The second International Consultation on HIV and AIDS and Human Rights concluded that the protection of human rights is essential to safeguard human dignity in the context of HIV and AIDS and to ensure rights based response to the pandemic. CEDAW has recommended that state parties implement a comprehensive national strategy to promote women’s health through their life span.

Nepal ratified the CEDAW in 1993 and is signatory to the Beijing Commitments. The Convention demands that all inter-related factors that can have a causal link to the denial of women’s rights whether ideological, material or institutional be identified and eradicated. By demanding the practical realization of rights, the Convention promotes the substantive model of equality: Equality of Opportunity, Equality of Access and Equality of Results. The Women’s Convention Framework for Equality for women clearly asserts the attainment not only of desire but more significantly of de facto equality for women.

The issues of HIV and AIDS and other sexually transmitted diseases are central to the rights of women and adolescent girls to sexual health. Adolescent girls and women lack adequate access to information and services necessary to ensure sexual health. As a consequence of unequal power relations based on gender, women and adolescent girls are often unable to refuse sex or insist on safe and responsible sex practices. Harmful traditional practices, such as female genital mutilation, polygamy, as well as marital rape, may also expose girls and women to the risk of contracting HIV and AIDS and other sexually transmitted diseases. State parties should ensure without prejudice all discrimination, the right to sexual health information, education and services.
for all women and girls, including those that have been trafficked, even if they are legally not a resident in the country. In particular state parties should ensure the rights of male and female adolescents to sexual and reproductive health education by properly trained personnel in specially designed programmes that respect their rights to privacy and confidentiality.\(^{33}\)

The existence of a favourable legal framework does not automatically confer rights on women. It legitimizes women’s claims for rights and makes possible women’s transformation from passive beneficiaries to active claimants. However, as women gain conviction of the legitimacy of their rights, demand will arise for national and international mechanisms to claim those rights.

Women with HIV and AIDS often suffer discrimination and stigma and are often victims of violence. Issues related to prevention, mother-to-child transmission, breast-feeding, information and education in particular of youth, curbing high-risk behaviors intravenous drug users, support groups, counseling and voluntary testing, partner notification and provision of high costs of essential drugs have not been sufficiently addressed.

**Within the Family**

There is ample recognition worldwide of the fact that rights of women are often violated in the private domains of their lives. The culture of silence and the ideological basis of patriarchy which perpetuate myths that women are caring, subservient, inferior keeps women in abusive relationships for a long time. A significant feature of gender based violence is that the so-called protector is often the violator. The family is the hidden site and given the intimate faces of violators, women find it extremely difficult to break the silence and expose the private nature of this violence.

- Some women shared that they have particularly been subjected to physical, sexual and mental violence. They have suffered abuse and neglect at the hands of their husbands and their in-laws. In Nepal, women suffered beatings, marital rape, forced sex and mental torture.

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33 Article 12:18, General Recommendations No. 24, 20th Session, 1999, CEDAW.
Positive women were isolated after the death of the husband, by their marital family and thrown out of the house or sent to her natal home.

- Women were held responsible for the husband’s infection. Their husbands blamed them for being a ‘loose character’.

- Another area of rights violations are with respect to property rights. Families believed that on the death of the husband there was no need to make any legal arrangements for the wife (such as house, land and other property resources) and children especially if they were infected, because they would die anyway. Many women could not re-claim the dowry and jewellery and lacked knowledge of how to access the same.

- The experience of discrimination continues in widowhood in that women have to display the symbols of being a widow socially coupled with being a widow of a positive man.

- Displacement from their homes and neighborhood once sero-status was known was common. In the case of men being HIV positive, the family often relocated to places where their status would be unknown. Families also suffered when relatives did not visit them.

### Violations within the community

Many respondents faced different forms of discrimination - experiencing fear, shame, being a sinner and being isolated. Some things that may seem very insignificant in daily life suddenly became very obvious.

- Some telling examples are: Neighbours did not talk the way they did earlier, neighbours were not interested in the “help exchange” business, they were excluded from community festivals, people talked to them with spite, etc.

- The experience of prejudice extends to all members of the family. They are rejected and socially boycotted

### Violations in terms of access to services

Both men and women frequently experienced discrimination at the health service settings. A few respondents have experienced rejection when their
status had been revealed by the doctors or family members, thus intensifying the feelings of rejection.

- Positive people experienced neglect by the medical staff. The staff refused to touch them and give them injections; instead they were given oral medication. Some said they were tested without their consent and had not been counseled while being tested, treated, etc. Some positive people were discharged by the hospitals, as they no longer wanted to keep such infected people. Some said they were even perceived as criminals.

- Some doctors used ‘death as a metaphor’ to reject any treatment to the client, thus taking away the essence of positive living from them. Therefore, many clients left the hospital without completing the treatment.

_Nexus between VAW and HIV and AIDS in the Nepalese Context_

Violence against women is a human rights violation. Violation against human beings has been one of the major factors which has prevented the realization of human rights goals in the 21st century. Women have been vulnerable to acts of violence in the family in the community and by the states.
Family: (Physical, psychological and economic abuse, sexual assault, incest, deprivation of food, marital rape, female genital mutilation).

Violence in the community: Rape, sexual assault, sexual harassment, trafficking in women, forced prostitution and witch set ablaze

State: Women in detention who were raped in times of armed conflict and repression.

In the FGD, one participant mentioned: “I have never advised any woman to leave home mainly because there are three reasons: where to stay, what to do and what to eat. Even if it is a problem of severe beating, I tell them to avoid fights. If he is a drunkard, try to get him home early. Most of the women here don’t work and don’t have much. They should stay with their husbands because if they’re sick he can’t leave them to die. Even if the husband abandons them in the hospital, there will at least be someone to take care ..........”

(D) HIV and AIDS to Make Women More Vulnerable

Women experience a double burden as a result of the spread of HIV and AIDS: a burden of suffering and a burden of taking care of those who are suffering. The UNDP Human Development Report 1999 states that “globalization is putting a squeeze on care and caring labour. There are changes in the way that men and women use their time that put a squeeze on their care labour. The gender division of labour hands the responsibility of caring labour to women, much of it without remuneration.”

Women’s vulnerabilities are further compounded if she is single or widowed; with discriminatory access to inheritance, shelter and other care facilities.

34 Interview with FGD participant Aug 2006 Hetauda.
An emerging area of discrimination is the stigmatization of women “as vectors of the disease”, irrespective of the source of infection. As a consequence, women who are or are perceived to be HIV-positive face violence and discrimination in their private and public lives. Sex workers too, face a lot of violence. Many times HIV and AIDS programmes target women, particularly pregnant women, who are subject to pre-and postnatal testing followed by coerced abortion and sterilization. Sex workers too are subjected to mandatory testing with little or no support to encouraging men/clients to use protective measures and to limited access to health care. The protection of the sexual and reproductive rights of women and girls is very critical in this respect.

Yet another site of discrimination is the women’s body. Women’s bodies have historically been subjected to control, restrictions and inhibitions and women and girls have been alienated from their bodies through the socialization process.

Despite the chronic and widespread nature of the global phenomenon of domestic violence, there has been an astounding failure to prosecute this crime even in countries with greater institutional capacity. In Nepal, there are no specific laws that provide Nepalese women with any meaningful protection from domestic violence. Since the early 1990s, local NGOs have unsuccessfully lobbied the government to pass domestic violence legislation and legislation addressing domestic relations. According to women’s rights activists, in many communities, wife battery that does not result in serious injury is tolerated and is considered a normal part of marriage. As a result of the underreporting of domestic violence and the paucity of official statistics, domestic violence rates are difficult to measure with absolute accuracy. However, it is generally agreed that domestic violence rates are high in Nepal prior judicial order of separation is necessary in order to charge a man with the rape of his wife and the law otherwise relies on the common law presumption of consent within marriage. Existing criminal laws do not provide adequate legal remedies and punishments are often very lenient, with the accused being either warned or fined.
Why women are more vulnerable to HIV and AIDS

Women are biologically more vulnerable:

- As a receptive partner, women have a higher concentration of mucosal surface exposed during sexual intercourse.
- Semen has a higher concentration of HIV than vaginal fluid.
- Women thus run a bigger risk of acquiring HIV more so if the intercourse takes place at an age when the mucosal surface is tender or when it is damaged due to rituals and practices like infibulations, early marriages, etc.

Women are epidemiologically more vulnerable than men:

- They tend to marry or have sex with older men who may have had more sexual partners and hence be more likely to be infected
- Women frequently require blood transfusions during childbirth and abortions, as prevalence of anemia amongst pregnant women in developing countries is usually very high.

The inside-outside dichotomy socially confines women to the inside and has a bearing on her sexuality. This relates to her powerlessness to deal with the outside.

- Women's sexual assertiveness is an issue. Can a woman be sexually assertive?
- Can she suggest safe sex to her spouse or partner without fear of violence as the suggestion itself carries with it an indication of infidelity?
- Is she sexually safe from her so-called protectors?
- The inside-outside dichotomy has also led to the issues of lack of access and control over productive resources. The issues of survival are only increasing and are in fact transforming people from creators to survivors. HIV has been able to grow and survive in such situations where commercial sex remains at times the only viable option for survival.
Human Rights Instruments Relating to HIV and AIDS and VAW

Human rights originate from the fundamental principle that society in all its activities must respect the basic dignity of the human person. However, widespread abuse of human rights and fundamental freedoms associated with HIV and AIDS has emerged in all parts of the world in a form of pandemic and Nepal is not an exception to this. The sudden appearance of HIV and AIDS pandemic, its rapid spread and devastating impacts in various parts of the world has become a matter of great concern. Misconception regarding the HIV infection has an impact of violating the basic human rights of the infected and the affected ones. While the pandemic appears in the form of infection and illness in individuals, the repercussions are tremendous. Mortality and morbidity cause extra costs on health care, loss of productivity—including women’s labour contribution inside and outside the home, loss of investment in the training of skilled labor and professionals, loss of remittances and loss of tourist revenues. Moreover, HIV primarily affects the people belonging to such age group, which is most productive in society both socially and economically. Families, communities and nations lose their productive members and children lose their parents, leaving behind the elderly and the very young. In Nepal, as well, HIV and AIDS has already become a public health issue. Poverty, trafficking, migration and the secondary status of women

36 AIDS and South and Southwest Asia: A Development Challenge, UNDP P. 5
are recognized as predisposing factors in Nepal. Similarly, even the HIV infected people are not completely aware and have misconceptions regarding the disease. The lack of awareness reflects the country’s low rates of literacy, a shortage of appropriate AIDS education and message and strong cultural prohibitions against the public discussion of sex.

DECLARATION OF COMMITMENT OF THE U.N. GENERAL ASSEMBLY SPECIAL SESSION ON HIV and AIDS, JUNE 2001

Reducing Vulnerability

The vulnerable must be given priority in the response

Empowering women is essential for reducing vulnerability

62. By 2003, in order to complement prevention programmes that address activities which place individuals at risk of HIV infection, such as risky and unsafe sexual behaviour and injecting drug use, have in place in all countries strategies, policies and programmes that identify and begin to address those factors that make individuals particularly vulnerable to HIV infection, including underdevelopment, economic insecurity, poverty, lack of empowerment of women, lack of education, social exclusion, illiteracy, discrimination, lack of information and/or commodities for self-protection, all types of sexual exploitation of women, girls and boys, including for commercial reasons; such strategies, policies and programmes should address the gender dimension of the pandemic, specify the action that will be taken to address vulnerability and set targets for achievement;

63. By 2003, develop and/or strengthen strategies, policies and programmes, which recognizes the importance of the family in reducing vulnerability, inter alia, in educating and guiding children

and take account of cultural, religious and ethical factors, to reduce the vulnerability of children and young people by: ensuring access of both girls and boys to primary and secondary education, including HIV and AIDS in curricula for adolescents; ensuring safe and secure environments, especially for young girls; expanding good quality youth-friendly information and sexual health education and counseling service; strengthening reproductive and sexual health programmes and involving families and young people in planning, implementing and evaluating HIV and AIDS prevention and care programmes to possible extent.

64. By 2003, develop and/or strengthen national strategies, policies and programmes supported by regional and international initiatives, as appropriate, through a participatory approach, to promote and protect the health of those identifiable groups which currently have high or increasing rates of HIV infection or which public health information indicates are at greatest risk of and most vulnerable to new infection as indicated by such factors as the local history of the pandemic, poverty, sexual practices, drug using behaviour, livelihood, institutional location, disrupted social structures and population movements forced or otherwise…

(A) Human Rights of those Affected by HIV and AIDS

Human rights are inherent and inalienable to every individual. There cannot be different norms of human rights and standards for different categories of people. In addition, it is in the interest of all to protect the rights of those with HIV and AIDS. They render the government and the larger society accountable to the citizen. Every individual has a right to live with freedom and dignity. The state of well-being and safeguarding of human rights have been reaffirmed by a number of international treaties, conventions and agreements. Nepal also has signed and ratified a number of international human rights instruments. The idea was that these instruments would ensure that the
Nepalese people’s human rights would be safeguarded. However, safeguarding people’s rights, especially those living with HIV and AIDS has been far from reality.

<table>
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<tr>
<th>Some key human rights principles</th>
<th>HIV and AIDS related action</th>
<th>Relevant Human Rights instruments</th>
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<tr>
<td>The right to the highest attainable standards of physical and mental health.</td>
<td>Ensure that HIV prevention tools and services (such as treatment for STIs, provision of male and female condoms and voluntary counseling and testing) are available together with drugs for opportunistic infections, pain and suffering and anti-retrovirals. Ensure provision of the necessary health infrastructure and personnel.</td>
<td>Article 25 of the Universal Declaration of Human Rights. Article 12 of the international covenant of economic, social and cultural rights. Article 12 of the Convention on Elimination of all forms of Discrimination Against Women articles 24 and 25 of the convention on the right of the child.</td>
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<tr>
<td>The right to privacy</td>
<td>Ensure that counseling and testing are voluntary and that HIV test results are confidential; guarantee the rights of non-disclosure to the third parties.</td>
<td>Article 12 of the Universal Declaration on Human Rights. Article 17 of the International Convention on Civil and Political Rights. Article 37 of the Convention on the Rights of the Child.</td>
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Two prominent HIV and AIDS specific international agreements are the Declaration of Commitment passed at the United Nations General Assembly special session on HIV and AIDS.\(^{39}\)

The CEDAW has established that violence against women violates the principle of nondiscrimination and equality enumerated in the Convention, which states: “The term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”\(^{40}\) A state’s responsibility to protect women from nondiscrimination extends to ensuring “that public authorities and institutions shall act in conformity with this obligation,” and taking “all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.”\(^{41}\) CEDAW requires states to take “all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. Discriminatory marriage and divorce laws, unequal property and inheritance rights and the unequal treatment of women within the justice system violate the principle of nondiscrimination.”\(^{42}\)

| The Right to livelihood and living with dignity | Facilities safe mobility practices and ensure access to reliable information with regard to vulnerability to HIV and AIDS and trafficking, especially for women and children. | Article 23 and 25 of the Universal Declaration of Human Rights, ILO Convention 1997, articles of the migration for employment convention, Articles 36 and 39 of the Convention on the Rights of the Child. |

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40 The Committee on the Elimination of Discrimination against Women Article 5.
41 The Committee on the Elimination of Discrimination against Women 5.
42 The Committee on the Elimination of Discrimination against Women 5.
International human rights law recognizes state accountability for abuses by private actors and requires states to show due diligence in preventing and responding to human rights violations. The CEDAW Committee emphasized: “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.” In one case, the Inter-American Court of Human Rights has held that an illegal act which violates human rights and which is initially not directly imputable to a State can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention. The court determined that a state must take “reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.”

(B) Human Rights of Those Affected by VAW

Gender and HIV and AIDS

What sets HIV and AIDS apart from other pandemics is its strong link to sexuality and sexual activity. While women receive much less support and care and are more at risk to other diseases too, the sexual mode of transmission compounds the problem in the case of HIV and AIDS. Statistical evidence

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44 Velasquez Rodriguez case, Judgment of July 29, 1988. Inter-American Court of Human Rights (Series C), No. 4, Para 172.
45 For example, because it is the act of a private person or because the person responsible has not been identified.
47 There are no specific legislation either protecting or infringing upon the right of PLWHA. However, many, regional and international human rights instruments and even national constitution provides certain fundamental rights including the rights to equality and non-discrimination right to life, and liberty as well as privacy which are pertinent in the context of HIV and AIDS. In Nepal, these rights are considered inviolable except as provided by law. Despite such guarantees, discrimination of PLWHA in health care setting is not an uncommon experience. Breach of confidentiality about HIV status is another significant issue.
shows where heterosexual transmission dominates; women are at a greater risk of being infected by men. It is acknowledged that the virus spreads more easily from men to women than vice versa. Various sources give different estimates ranging from 1.5 to 4 times. The efficiency of the spread from men to women is due to various biological reasons. “All my jewellery were taken back by my in-laws to bear the cost of my husband’s treatment. After my husband’s death they were unwilling to spend a penny on me, as I am an HIV positive….. I’m looking for a job since I can’t stay in this care home for long. I do not know if it is possible for me to get a job as I’m not literate … but I have to look after my son.”

‘After my husband’s death, I was asked by my in-laws to vacate the house … I had to take a job in a school. It will be better if I get some support for my children’s education … it is not possible to stay in Nepal (for treatment) for a long duration. Yes, my sisters are helping me but that is not enough.

The socialization process teaches girls to be subservient since childhood. A female child begins to be discriminated even before she is born. Most girls start their lives with the disadvantage of being less welcome than boys. Boys are considered as an important source of security and girls as burdens. The burden of finding sufficient dowry for their marriage remains the prime cause of neglecting the female child. Health problems for women also start early in life. They receive less breast-feeding, are fed last and less nutritious food than their brothers. Women and girl patients are few compared to male patients received by health care workers. Education is denied as it is considered a wasteful expenditure on girls. They are made to assume domestic and child care responsibilities early, which hampers their intellectual and personality development. Physically impoverished by overwork and malnutrition girls are socialized into docility, blind obedience and total surrender to their male counterparts. This condition begins at home and is reinforced by society.

Women suffer from more nutritional deficiencies due to unequal food distribution within the household. Major nutritional deficiencies are iron-deficiency, related anemia and lack of Vitamin A and both play a role in
increasing the risk of contracting HIV and AIDS. Women with anemia are more likely to require blood transfusions, especially after delivery, raising the possibility of infection through transfusion. Vitamin A plays a vital role in upholding the immune system and in keeping mucous membranes in function.

As the pandemic progresses, younger populations are being increasingly infected. It is reported that 50-60 percent of HIV infection occurs in young people aged 15-24 and mainly in girls and young women. Young women are more vulnerable to the infection for various reasons. In many societies, a belief exists that having sexual relationship with a virgin girl would cure them of STIs including AIDS. It has also been observed that as awareness about AIDS increases men seek out younger women who are thought less likely to be infected. Young women are also less likely to be able to negotiate or have control over the circumstances in which sexual intercourse takes place.

Women also face a greater impact when some one else in the family is infected. In most societies, women are a primary care giver, which places an additional burden on them. In these instances where the partner has been infected earlier than the wife, women have the dual responsibility of caring for the sick and engaging in income generating activities. The girl child is pulled out of school before the boy to take care of household duties and fill in the gaps in food production. Stigmatization and discrimination against people living with HIV and AIDS (PLWHA) in Nepal is well known. Studies have pointed out the effects of these vary among people belonging to different economic and social strata. However, evidence shows that on an average women face greater discrimination than men in the Nepali family context. While in a lot of cases men were automatically entitled to care within the family, their wives, if infected, were not sure of the same support. In many cases the widows of infected men, even if not infected, were not allowed to stay in their marital homes.

CEDAW explicitly acknowledges social and cultural norms as the sources of many women’s rights abuses and obliges governments to take appropriate measures to address such abuses. It obliges states to “modify the social and
cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” 48 The ICCPR also provides that “everyone shall have the right to recognition everywhere as a person before the law.” 49 The U.N. Human Rights Committee, the body that monitors compliance with the ICCPR, has interpreted this to prohibit the treatment of women “as objects to be given together with the property of the deceased husband to his family,” 50 which clearly proscribes the practice of widow inheritance. The argument that some practices are cultural norms and hence impervious to alteration cannot justify a state’s failure to address discriminatory practices. The Human Rights Committee affirms, “States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights.” 51 The government has not done little or nothing to prohibit such widespread practices as widow inheritance and the payment of bride price, nor has it addressed customary law and practices that inhibit women’s full realization of their rights to property ownership.

Nepal, being a member state of the United Nations is obliged to abide by its declarations, treaties and conventions, however the reality gives a contradicting picture. The marital, sexual and reproductive rights of women are often overlooked, including control over her body and decision on sexual matters. Sex workers as well as trafficking returnees are publicly and privately discriminated. People have pre conceived notions about the trafficked, female sex workers and IDUs that they are HIV infected and are hence treated as anathema in the society.

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48 Article 5(a) of CEDAW
49 The International Convention on Civil and Political Rights, article 16, See also UDHR Art. 6.
51 Human Rights Committee, General Comment No. 28, Para 5.
52 Nepal has ratified, CEDAW, ICCPR, First Optional Protocol of ICCPR, ICESCR, UDHR, CRC etc.
HIV and AIDS have focused attention on various issues allied with it, such as human rights. Human rights stem from the fundamental principle that society in all its activities must respect the basic dignity of the human person. However, widespread abuse of human rights and fundamental freedoms as a result of the spread of HIV and AIDS has emerged in all parts of the world. Nepal is no exception. Misconceptions regarding HIV infection often result in violations of the basic human rights of infected and affected people. The social response to HIV has involved stigma (negative judgments and prejudice toward those infected and affected) and discrimination (unequal treatment of those infected and affected). Such violations increase the likelihood that HIV will spread, since people are less willing to seek counseling and advice if they are concerned that they may be at risk of HIV, to test for HIV or to admit their HIV-positive status and seek treatment and support.

Public health and human rights are thus complementary and not conflicting goals. The protection of public health should not be used as a pretext to justify punitive measures. Such measures may drive people most in need of prevention and care services underground, thereby blocking achievement of the desired goals of preventing new infections and ensuring care and support for people living with HIV and AIDS (PWHA). HIV and AIDS is not merely a medical problem, but require a broader, multifaceted response. Therefore, a consensus now exists that public policy is required to address not only medical or public health issues, but also the socioeconomic context, including issues pertaining to human dignity and elimination of stigma and discrimination.

As a traditional role prescribed by our society in Nepal and several other countries, women are the caregivers of the family. They are expected to take the responsibility of looking after and caring for ill family members, even if they are ill themselves. Thus, women bear the burden of AIDS case, both in the formal and informal sectors. Confronting stigma and discrimination and looking after the kids are horrendous situations many women in the world undergo.
Although women are at a higher risk and vulnerability, the risk among men cannot be overlooked. Looking at HIV from a gender perspective would mean addressing the needs and interests of both men and women and not just focus on women. Due to socially followed norms of risk taking behaviors or profession that would lead to risky behaviors such as consumption of alcohol, drugs, driving and mobility, men are also at risk of acquiring HIV. In addition, generally men tend to have more sex partners than women. It is a pitiful reality that there are no significant strategic programs for the male members, to combat HIV and AIDS.

Trafficked women who are forced into unsafe sex practices, if found HIV positive, are often left on their own to return home. Upon returning home, they are not likely to be accepted to begin with and, even if accepted, are stigmatized severely with no one to look after and care for them. Women are also often labeled as the carriers of HIV regardless of the mode of transmission. On the other hand, if her HIV status is not disclosed there will be a major risk of transmission.

In understanding HIV from a gender perspective it is important to know that HIV is not only driven by gender inequality but that HIV further entrenches gender inequality. Gender based violence is also a course as well as a consequence of HIV. Women who disclose their HIV status are physically, emotionally and verbally abused and harassed.
(A) Laws Relating to Violence Against Women

The vulnerability position of women in Nepal, especially because of the state-made laws and policies, has also been taken into account in this study. In addition to various traditional values and cultural taboos prevalent in different communities, there are a number of provisions, in both civil as well as in criminal laws, which are diverse in nature and multi-dimensional in effect so long as women’s sexuality in concerned. The existing laws, which have been influenced by the patriarchal value system, combined with the social, cultural and traditional values have been playing a crucial role in making women more vulnerable to the HIV infection. All laws relating to property, marriage, divorce and reproductive activities are discriminatory against women and directly and indirectly making them vulnerable to the infection of the deadly virus. Having been influenced by patriarchal value system, these laws control the sexuality of women only and discriminate women on the basis of their marital status. These laws confer greater sexual freedom to men, without looking into its impact on women. Moreover, due to lack of property rights, women are deprived of the health care facilities. They have to depend on

FWLD has already identified 173 legal provisions spread in 83 different laws that have discriminatory provisions. Adverse effects on women of the discriminatory provisions are manifold: economic dependency, domestic violence, lack of access to resources and exploitation. For detail see - An Update of Discriminatory Laws in Nepal and their Impact on women, FWLD, 2006.
their male counterparts for basic medications. Due to the social and cultural stigmatization, women do not feel comfortable to talk about their health problems, especially those related to their reproductive health.

There is no specific law on sexual harassment. Sexual advances and abuses against women are still continuing with impunity. This has rendered women incapable to say no to sex even if she knows her husband is infected with HIV. The law against rape provides minimal punishment if rape is committed against a female sexual worker in comparison to rape committed against other women. Similarly, the law provides minimal punishment for incest if the concerned woman is not chaste to her husband. Such laws have been subjected to mapping and appropriate recommendations are suggested for their reforms.

Despite the constitutional guarantee that prohibits discrimination among citizens on the grounds of religion, race, caste, tribe, or ideological conviction and provides equal protection under the law to all citizens, in practice there are some legal provisions that discriminate against persons suffering from infectious diseases, which may include HIV-infected persons. In order to prevent transmission of and to cure infectious diseases, the Infectious Disease Control Act confers powers to Government to issue any order on people or group of people. It also provides that infected persons may be kept separately in any place or hospital and their movements may be controlled.

The Interim Constitution of Nepal, 2063 confers the freedom to practice any profession or carry on any occupation, industry or trade, except in a situation in which the law imposes restrictions on an act that may be contrary to public health or morality. No law exists regarding voluntary sex work, whether performed in the street or in brothels; therefore, voluntary sex work has not been criminalized. Furthermore, in one case, the Supreme Court of Nepal

54 Article 13 of the interim Constitution of Nepal, 2063
55 Section 2(1) of the Infectious Diseases Control Act, 2020 (1963)
56 Section 2(3), Ibid.
57 Article 12 of interim constitution of Nepal 2063
expressed its view that prostitution is a type of profession and every person has the right to choose a profession.

Although the law has not expressly criminalized voluntary sex work, female sex workers (FSW) have been tortured and abused by police and quasi-judicial bodies. Police personnel commonly arrest FSW, accuse them of disturbing the peace or demonstrating obscenity and prosecute them under the Some Public (Offence and Punishment) Act.\textsuperscript{59} The law does not exactly use the words “homosexual”\textsuperscript{60} or “homosexuality” in any legislation; however, the Chapter on Bestiality in the Country Code states that acts of unnatural sex are prohibited, with the provision for punishment of up to one-year imprisonment.\textsuperscript{61} This law can be used to prosecute people engaging in homosexual acts.

Furthermore, the Chapter on Marriage in the Country Code\textsuperscript{62} and the Marriage Registration Act\textsuperscript{63} provide that marriage is to be solemnized only between a man and a woman. As a consequence, conjugal relationships and sexual intercourse are legally possible only between members of the opposite sex.

The Traffic in Human Beings (Control) Act\textsuperscript{64} prohibits the selling of people for any purpose, taking a person outside the territory of the country for the purpose of selling, or causing a woman to be engaged in prostitution by misleading her by threats or force or coercion or by any other means. Furthermore, a provision has also been made to punish anyone who incites or abets in the performance of such acts. However, this provision assumes that only women are the victims of sexual exploitation. As a consequence, violence related to sexual exploitation against men or homosexuals is undermined; whereas, in the course of interaction with the Blue Diamond

\textsuperscript{59} Section 2 of the Some Public (Offence and Punishment) Act, 2027 (1970).
\textsuperscript{60} In this document, homosexual means MSM and Lesbians both.
\textsuperscript{61} No. 1 and 4 of the Chapter on Bestiality in the Country Code, 2020 (1963).
\textsuperscript{62} No. 2 of the Chapter on Marriage in the Country Code, 2020 (1963).
\textsuperscript{63} Section 4 of the Marriage Registration Act, 2028 (1971).
\textsuperscript{64} Section 4 of the Traffic in Human Beings (Control) Act, 2043 (1986).
Society, it was found that MSMs were often victims of sexual exploitation by police personnel.

The Chapter on Beating in the Country Code considers the act of mutilation, making bloody injuries or any other acts that create pain in the body, by using a weapon or any other means, as beating and has made provisions for punishment. 65 The Country Code defines rape as sexual intercourse with a woman without her consent or with a girl child below the age of sixteen years with or without her consent. 66 Furthermore, the Supreme Court interpreted forcible sexual intercourse by a husband with his wife as rape. 67

The Chapter on Intention to Rape in the Country Code defines “intention to rape” as touching any part of a woman 11 years of age or older, other than one’s own wife, with the intention of having sex and has made a provision for punishment. 68 The Interim Constitution of Nepal guarantees the fundamental right to equality, according to which all citizens are equal before the law and no one shall be denied equal protection under the law. 69 The state may, however, make special measures for persons who are inter alias, physically or mentally incapacitated or economically, socially or educationally backward. 70

The Disabled Persons Protection and Welfare Act define disability as being mentally or physically disabled or incapacitated. 71 The Act states that no disabled person shall be restricted from taking part in education, training, social or cultural programs; or from entering any organization, club, community, or attending any ceremony within Nepal on the basis of incapacity or disability. It guarantees the right of the incapacitated or disabled and provides that they shall not be discriminated against in appointment, promotion

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66 No. 1 of the Chapter on Rape in the Country Code, 2020 (1963).
70 Article 13 of the Interim Constitution of Nepal, 2063.
71 Section 2(9) of the Disabled Persons Protection and Welfare Act, 2039 (1982).
or transfer in government or other public services, and that they shall not be deprived of political, economic, social security, or employment rights.\footnote{72} The description of these provisions indicates that they provide protection against discrimination for people who are incapacitated as a result of AIDS-related illnesses; however, they do not appear to provide protection against discrimination for people who have symptomatic HIV infection.

The Interim Constitution of Nepal guarantees the right to non-discrimination and no one shall be denied equal protection under the law.\footnote{73} However, there is no specific provision in the law that protects against discrimination on the basis of HIV status. Furthermore, to receive an appointment in civil service or other government organizations or associations, one must submit a medical certificate of good health.\footnote{74} The Hotel Management and Liquor Sales and Distribution (Control) Act also prohibits hotel entrepreneurs from providing accommodation to a person suffering from an infectious disease or diseases.\footnote{75}

The Country Code considers unnatural sex an offence and provides for imprisonment of up to one year for such an act.\footnote{76} A similar provision is also included in the Draft Penal Code; if any person commits sexual relations, other than between a man and woman, that person shall be punished by imprisonment of up to three months, even if the relationship is consensual.\footnote{77}

The Some Public (Offence and Punishment) Act prohibits acts of violating the peace by using obscene words, language, gestures, or acts of demonstrating obscenity in public places.\footnote{78} Although the law does not intend to restrict sexual activities in private places and controls sex work in public places, police are nevertheless found to raid private homes and rooms, and FSWs are arrested

\footnotetext{72}{Section 5, Ibid.}
\footnotetext{73}{Article 13 of the interim Constitution of Nepal, 2063.}
\footnotetext{74}{Rule 58 of the Civil Service Regulation 2050 (1993), Rule 220 Local Self-governance Regulation, 2056 (1999), Rule 19 of the Health Series Regulation, 2055 (1998).}
\footnotetext{75}{Section 50(b) of the Hotel Management and Liquor Sales and Distribution (Control) Act, 2023 (1967).}
\footnotetext{76}{No. 1 and 4 of the Chapter on Bestiality in the Country Code, 2020 (1963)}
\footnotetext{77}{Section 221 of the Draft Penal Code 2059 (2002).}
\footnotetext{78}{Section 2 and 3 of the Some Public (Offence and Punishment) Act, 2027 (1970).}
in massage parlors, hotels, lodges and restaurants. FSWs are harassed and prosecuted by the police, with the justification that this action maintains the peace in public places. As a result, the police arbitrarily use the intention of lawmakers. No regulatory mechanism has been introduced to regulate sex work in order to control the further spread of HIV and AIDS.

According to the Traffic in Human Beings (Control) Act, selling of human beings for any purpose or taking them to a foreign country is prohibited and any act of that kind shall be deemed to be an offence. The Act prohibits any actions that might cause women to engage in prostitution through any kind of consideration, persuasion, enticement or coercion. The Chapter on Trafficking in Persons in the Country Code also provides for imprisonment of up to 20 years for enticing or persuading women, with the intention of selling them in a foreign land. Also, taking away children below 16 years of age without the consent of guardians is considered to be abduction. Any act of abduction or persuading for abduction is punishable with an imprisonment of up to 3 years. Although the law provides punishment for the person or broker who sells or takes a person to a foreign land for that purpose, there is no provision of punishment for the purchaser. In addition, the Children’s Act prohibits anyone to offer or surrender a child to any god or goddess through selling the child, offering incentives or exercising coercion or undue influence. It also prohibits a parent to surrender their child for such purposes. The Act furthermore provides punishment for the priest or panda, who performs such religious acts. The Act respects the rights of the child by prohibiting children to be made to engage in begging, making them sanyasi (ascetic) or involving them in an immoral profession.

The Chapter on Rape in the Country Code prohibits sexual intercourse with any women without her free will and consent. Since this provision of the

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79 Section 4 of the Traffic in Human Beings (Control) Act, 2043 (1980)  
80 No. 1 of the Chapter on Trafficking in Person in the Country Code, 2020 (1963)  
81 No. 2, Ibid.  
82 Section 14 of the Children’s Act, 2048 (1991)  
83 Section 13 and 16, Ibid.  
84 No. 1 of the Chapter on Rape in the Country Code reads, “Whoever does have sexual intercourse with any woman without her consent or with a girl child below the age of sixteen years with or without her consent, it amounts that the person has committed rape of such woman or girl child.”
Country Code incorporated the words “girl,” “widow,” and “other’s wife,” it was assumed that raping one’s wife is exempted. Advocate Meera Dhungana of FWLD\(^{85}\) filed a writ petition in the Supreme Court that challenged the said provision. The Court in its verdict interpreted any forceful sexual relationship within the conjugal life as rape and thus marital rape is punishable. Recently, the law has been amended to incorporate marital rape as a form of rape as per the court’s decision. The Traffic in Human Beings (Control) Act prohibits causing any women to forcefully engage in prostitution.\(^{86}\) The Chapter on Intention to Rape in the Country Code provides for punishment if a man touches a woman, other than his wife, on any part of her body, with an intention of having sexual intercourse.\(^{87}\) However, the law does not realize that sexual violence can take place against men as well. Furthermore, as homosexual activities have not been recognized yet in Nepal, the law does not address any sexual offenses against men or homosexuals.

Laws and policies that affirm and protect the rights of women are vital for winning the struggle against AIDS. Some countries have passed important legislation on issues such as domestic violence, equality in marriage, HIV-related discrimination and property and inheritance rights. Yet strategies to enforce these laws and finance their implementation are rarely in place. Women’s rights need to become women’s realities. National governments and the international community must:

- Ensure that laws whether statutory, de jure or customary protect women against violence and uphold their right to own and inherit property
- Invest in strategies to educate the police, the judiciary, social service providers, civil servants and community leaders about laws and their legal responsibilities
- Develop and fund programmes to improve legal aid services and other forms of support so that women can claim their rights

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86 Section 4(c) of the Traffic in Human Beings (Control) Act 2043 (1980).
87 No. 1 of the Chapter on Intention to Rape in the Country Code, 2020 (1963).
A legal audit was collaboratively conducted in June 2004, towards developing an improved legal framework that best contributes to control further spread of HIV and AIDS and to protect the rights of the people infected and affected with HIV and AIDS. Mapping was done of the constitution of the Kingdom of Nepal, 1990. In total 280 Acts, 210 Regulations, 3 Executive orders, 7 policies, 3 guidelines and 2 draft laws to compare its consistency with standards contained in international guidelines. Out of possible maximum score of 100, the Nepalese legal system has scored 39.98. Based on the study, Nepal has drafted an HIV and AIDS (Treatment, prevention and control) Bill and also amendment proposals on existing laws which is now pending with high-level governments bodies.

Usually, the law has a role either to initiate or to respond to social charges. Sometimes, it leads to social change and sometimes it responds to social change. Like in every other sector, it plays a vital role in the response to HIV and AIDS by complementing and assisting education and public health measures in addition to prescribing patterns of behaviour.

Laws and policy reforms, which promote respect for the human rights of PLWHA and people who are vulnerable to infection, are a vital part of responding effectively to the pandemic. To control the increasing trend of HIV infection and to protect the rights of PLWHA and vulnerable groups, it is necessary to assess the existing laws and policies and the degree to which they promote or undermine respect for human rights in the context of HIV and AIDS.

(B) Laws relating to HIV and AIDS

The debate of public health verses Human Rights is not a contemporary issue. Human rights of PWHA have always been violated in the name of public health or rights of others. Segregation, discrimination and stigmatization...
against PWHA occur in the name of preventing further public infection. However, these are often cited reasons for the human rights restrictions in relation to HIV and AIDS. It cannot easily be diffused or spread from one person to another unless some particular act occurs. Unlike other communicable diseases, HIV transmission is directly attributable to human behavior patterns, such as unprotected sexual practice and intravenous drug usage through syringes.

The law can be a powerful tool for protecting women and girls and reducing their risk of HIV infection, yet the law is just one step. It is equally important to challenge social norms which undermine women’s rights and expand legal services for women. Greater efforts to make laws work for women – particularly in the areas of gender based violence and property and inheritance – could dramatically strengthen the AIDS response.

The Prison Act requires the segregation of sick prisoners from other prisoners. Also, the Hotel Management and Liquor Sales and Distribution (Control) Act requires that hotel rooms be accommodated by persons not suffering from any communicable or infectious disease. Since these Acts do not clarify which diseases are included within the definition of “disease” or “infectious diseases,” it is not clear whether persons suffering from HIV and AIDS could be segregated by order; however, it is possible that the law may be used for this purpose.

The interim Constitution of the Nepal grants the right to information to citizens, however, no law has been framed to inform the general public on sensitive matters of public health and on the process to obtain information.

The Curriculum Development Council, under the Ministry of Education, has the authority to prescribe and design curriculum for schools. The Council,

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89 Section 6(1)(e) of the Prison Act, 2019 (1962).
90 Section 5(1)(b) of the Hotel Management And Liquor Sales and Distribution (Control) Act, 2023 (1967).
91 Article 27 of the interim Constitution of Nepal 2063.
92 Rule 33(a) of the Education Regulation 2059 (2002).
pursuant to the National Policy on AIDS and STD Control, included educational and informative curricula on HIV and AIDS beginning from grade six.

There is no specific law with regard to the examination of blood or blood-related substances, tissues, organs, semen and ova. Furthermore, the Human Organs Transplantation (Control and Prohibition) Act, which is related to the transplantation of human organs from one body to another does not provide for mandatory screening of HIV before transplantation. However, on May 3, 1989 government issued an executive order requiring all donated blood to be tested for HIV before a transfusion.

Under the Infectious Disease Control Act, Nepal Government may issue any order on people or group of people in order to prevent the spread of infectious diseases. The Immigration Regulation makes it mandatory for foreigners entering Nepal to submit an international medical certificate and if no such certificate is submitted or the person is suffering from an infectious disease, the visa of the said foreigner may be revoked.

Although there is no provision of mandatory testing for HIV and AIDS, mandatory test orders may be issued at any time to achieve the objectives under the Infectious Diseases Control Act. Likewise, Government issued an executive order that allows the Government to conduct compulsory testing of any person suspected of having HIV. In the order, it is clearly mentioned that the Ministry of Health should make arrangements for HIV testing of people involved in sexual mischief and of women returned from foreign countries after being involved in sex work and of drug addicts. Also, if any foreigner staying in a hotel is found to be sick, the hotel’s doctor should make arrangements to have the foreigner tested.

Nepalese law is silent with regard to the act of intentionally transmitting any infectious disease. If there had been any specific provisions related to HIV-

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94 Section 2(1) of the Infectious Diseases Control Act, 2020 (1963).
related criminal offences, it could have added to the stigma and discrimination against PWHA. There is no specific law that enables the distribution of sterilized needles and syringes in the community. However, no restriction has been imposed by any provision of the law on the act to distribute and keep clean syringes.

Through the Nepal Initiative, a few NGOs in Nepal were involved in distributing sterilized injecting equipment to drug users. However, through two separate letters issued by the Department of Drugs and Natural Calamities Management, Ministry of Home Affairs and the National Center for AIDS and STD Control, the government stopped the free distribution of sterilized syringes. A letter issued by the Ministry of Home Affairs stated that the consumption of drugs was a criminal offence as per the prevailing law and such a program of syringe exchanges and injection is also considered a crime under that law.97

Although the Narcotic Drugs (Control) Act completely prohibits the use of narcotic drugs and has made a provision of up to one-year imprisonment for drug use, it allows the addicted individual to be diverted from the criminal justice system. If any person or institution takes responsibility for the addict’s treatment at a treatment center for up to three months, the judicial authority may not punish the addicted person on the condition that they submit proof of treatment fortnightly from the treatment center.98 Also, the Social Welfare Act provides that Government may carry out special programs that help drug users live a dignified life.99

The Immigration Act confers powers to the Director General of the Department of Immigration to regulate, manage and control the entrance, presence and departure of foreigners in Nepal.100 According to the Regulation formulated under this Act, the Director General may revoke the visa of a foreigner who does not submit an international certificate providing his/her health status or

97 Letter issued by the National Center for AIDS and STD Control on Sept. 13, 2002.
98 Section 14(1)(a)(e) and (h) of the Narcotic Drug (Control) Act, 2033 (1976)
99 Section 4 of the Social Welfare Act, 2043 (1986)
100 Section 7 of the Immigration Act 2049 (1992)
who is suffering from an infectious or severe disease.\textsuperscript{101} Similarly, trekking permission may also be revoked.\textsuperscript{102} Moreover, any foreigner who commits an act in contravention to the Immigration Act or Immigration Rules may be denied entry into Nepal.\textsuperscript{103}

The Disabled Persons Protection and Welfare Act provides that incapacitated and disabled persons shall not be discriminated against in appointment, promotion, or transfer in government or other public services, and that they shall not be deprived of political, economic, social security, and employment rights. However, in order to recruit a candidate into the army, police and armed police, the candidate must be declared healthy after receiving health check-up carried out by the prescribed medical board or doctor. Any medical and physical disability is grounds for rejection.\textsuperscript{104} In case of any injury or loss sustained or incurred due to any consumable item or service, any consumer organization may file a case in a Court making a claim for compensation on behalf of such a consumer.\textsuperscript{105} This also covers pharmaceutical goods and services provided to consumers by medical professionals.

The National Human Rights Commission (NHRC) has a wide range of authority with regards to hearing personal complaints according to which the victim, or any person on the victim’s behalf, may file an application or complaint. The Commission may also investigate incidents of human rights violations on the basis of information it receives from any source or on its own discretion. The NHRC was established to protect, promote and raise awareness of human rights. The protection and promotion of human rights are the main duties of the commission.\textsuperscript{106}

The right to privacy is also one of the fundamental rights expressly recognized in the interim Constitution of Nepal. Under the Constitution, except as provided by the law, the privacy of person, house, property, documents,
correspondence or information of anyone is inviolable. PWHA are equally entitled to the right to privacy guaranteed by the Constitution.

The Code of Conduct for Journalists, with regards to unauthorized use and publicity of a person’s health and personal details, provides that journalists and communication media should not publish or transmit news, photographs or visuals so as to cause more pain to victims or disclose the name, address and identity of victims.

The Code of Ethics of the Nepal Medical Council provides that medical practitioners at the time of registration should read and agree to a declaration stating they will respect the confidentiality of patients’ information confided to them. It prohibits the use of a patient’s health information for any purpose other than scientific research and other prescribed purposes; and provides that while carrying out scientific research, personal details of the patient should not be disclosed. Confidentiality will not be deemed to have been violated, however, if the health information is disclosed with care without disclosing personal details.

The Code of Ethics of the Nepal Medical Council provides that except in cases of exceptions created by the laws of the country, no information pertaining to the privacy of patients shall be disclosed. The Code of Ethics also provides that even in cases in which information has to be given as per legal requirements, it must be given only after formally informing the concerned patient otherwise, such acts amount to unprofessional conduct and actions may be taken against the misconduct.

Nepalese law does not have any compulsory provision of in-camera hearing, suppression orders or the use of pseudonyms for PWHA during any process.

107 Article 28 of the interim Constitution of Nepal, 2063.
108 Section 4(6) and (7) of the Code of Conduct for Journalist, 2060 (2003)
110 No. 3.2 , Ibid.
111 Ibid.
112 No. 2.3.3 and 3.2 Ibid.
relating to public health. Similarly, no legal provision has been made to protect the identity of PWHA who are parties to general Court cases.

The Interim Constitution of Nepal guarantees the right to privacy of a person, home, property, documents, correspondence and information, except in cases provided in laws by the State. 113 However, the Constitution is silent as to the right to privacy regarding sexual behavior. The right to privacy of a person could be interpreted to include the right to privacy regarding sexual acts. However, since Nepalese laws criminalize “unnatural sex,” it cannot be assumed that the right to privacy covers sexual acts.

The law does not have any provision with regards to access to confidential services relating to sexual and reproductive matters. However, a provision has been made to maintain privacy with regard to health services. The Nepal Medical Council Regulation provides that, except for the matters that must be disclosed at the order of a Court according to law, facts disclosed in confidence must be kept secret. 114 The Code of Conduct of the Nepal Medical Council also provides for the privacy of patients and professional responsibility which prohibits doctors from disclosing any matters about his/her patients, except as prescribed by law. 115 The Health Professional Council Regulation provides that any information relating to the private life or health of a person, which has come to the notice of a health professional in connection with carrying out duties as a health professional, shall not be disclosed except in cases in which the law requires the disclosure of such information. 116

Similarly, the Nepal Nursing Council Regulation provides that any nurse or Assistant Nurse Midwife must keep secret the personal matters or facts about the health of their patients and they should not disclose a patient’s private matters to anybody, except as provided for by law. 117 These rules protect the right to privacy of the patient by stating that their health status must not be disclosed to anybody, except the authorized person. 118

113 Article 28 of the interim Constitution of Nepal, 2063.
114 Rule 22(1) of the Nepal Medical Council Regulation 2024 (1967).
118 Rule 22(a), Ibid.
The law does not prohibit consensual sexual acts between adult men and women in private. However such acts are prohibited if they are incestuous. Even though sexual acts between consenting adults outside the marital relationship are not expressly prohibited, such acts are grounds for divorce.

Although there is no legal provision specifically requiring HIV testing for appointment, promotion, training or other facilities for employees in government, there is a mandatory provision requiring the submission of a certificate of health stating that the employee is not suffering from a serious or contagious disease before receiving a public appointment, including the civil services. However, the employee may be appointed if the certified doctor recommends that the candidate can carry out their prescribed functions. In order to get new recruits in the Royal Nepalese Army, Nepal Police and Armed Police, the candidate must be declared healthy after receiving health check-up carried out by the prescribed medical board or doctor. Any medical and physical disability is grounds for rejection.

The law does not require proof of good health for employment in the private sector. However, there are reported cases in which employers in the private sector have refused employment to individuals known to be HIV-positive or required people to resign from their positions if the employer found out that they were HIV-positive.

The labor law which is applicable to the organized sector specifically requires that each establishment make arrangements for medical treatment with

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119 No. 1, 2, 3 and 4 of the Chapter on Incest in the Country Code, 2020 (1963)
120 No. 1 of the Chapter on Husband and Wife in the Country Code, 2020 (1963)
121 Rule 19 of the Civil Service Regulation, 2050 (1993).
125 Rules 8 and 9 of the Armed Police Regulation, 2060 (2003).
126 Consultation meeting on HIV and AIDS and Human Rights, Audit Tool, Oct. 21, 2003, organized by FWLD, Kathmandu.
minimum facilities within the workplace. According to the law, the management of an enterprise where 50 or more employees work at a time must arrange to have on staff a person having general medical knowledge; where 400 or more employees work at a time, the management must arrange to have a treatment center under the supervision of a trained and experienced health assistant, along with the necessary medicines and first-aid equipment and where 1,000 or more employees work at a time, the management must arrange to have a health center with a doctor and health assistant, along with the necessary medicines and first-aid equipment.127

The Labor Act provides that if an employer learns that an employee or worker is suffering from any occupational disease, this information must be forwarded to the Labor Office within seven days. On receipt of such information, the Labor Office may appoint an investigation officer to inquire about the disease.128 A similar provision has been made to the Labor Regulation Related to Tea Estates.129 However, none of these laws has clarified the type of compensation or benefits that must be provided in the case of suffering caused by an occupational disease. Furthermore, the employee is entitled to compensation only if an investigation officer states in the investigation report that compensation must be given.

The labor law provides for medical expenses as compensation to a worker or employee wounded by an accident while working in the enterprise and who must seek treatment.130 In addition, in case any worker or employee becomes physically disabled while working, this individual shall be paid compensation according to the percentage of disabilities.131

The law does not guarantee social security to PWHA who are too ill to work. However, the Civil Services Regulation,132 Nepal Health Services

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127 Rule 27 of the Labor Regulation, 2050 (1993)
128 Section 35 of the Labor Act, 2048, Rule 44 of the Labor Regulation, 2050 (1993)
131 As per the Rule 16 of the Labor Regulation, 1993, the Compensation provision only covers employees physical disabilities and doesn’t account to disabilities due to HIV or other infections.
132 Rule 58(9) of the Civil Services Regulation, 2053.
Regulation, Military Leave Rules, Police Regulation and Armed Police Regulation have made provisions for additional leave of up to one year in the case of serious illness. Besides this, the labor law provides for sick leave of up to 15 days a year to employees or workers with half payment and laws related to government services, including civil services, provide for sick leave of 12 days in a year with full payment.

In public services, employees are entitled to a pension after completing a certain period of service. Furthermore, in both the civil and health services, if the Government of Nepal formed Medical Board certifies that any employee is unable to work regularly due to a physical or mental disease, the employee may be given retirement adding up to seven years in his/her service period.

In case worker or employee is wounded in an accident while working in the enterprise and has to seek treatment, the management must pay full remuneration if treatment is carried out in the hospital and half remuneration if treatment is carried out at home. But, if the treatment takes more than a year, the employer is not liable to pay any remuneration.

Although sick leave and additional leave are provided to employees, there is no specific provision requiring social security to be made available to PWHA. In the case of the civil service, an employee can be retired after adding a service period of seven years. However, no provision has been made with

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133 Rule 50(9) of the Nepal Health Services Regulation 2053 (1996)
134 Rule 7 of the Military Leave Rules, 2029 (1972)
135 Rule 55 (4) of the Police Regulation, 2049.
136 Rule 104(7) of the Armed Police Regulation, 2060 (2002)
138 Rule 58(1) and (2) of the Civil Services Regulation, 2050 (1993), Rule 6 of the Military Leave Rules, 2029 (1972), and rule 55(1) of the Police Regulation 2049 (1992).
139 Twenty years of service period for Civil Service as per the Section 37 of the Civil Services Act 2049 (1992), 17-20 years of the service period as per the rule 3 of the Royal Army (Pension, Gratuity and other facilities) Regulation, 2033 (1976) and 16-20 years of the service period as per the Rule 101 of the Police Regulation 2049 (1992).
140 Section 34(a) of the Civil Service Act 2049; Section 44 of the Nepal Health Services Act, 2053 (1996).
141 Rule 15 of the Labor Regulation, 2050 (1993)
142 Rule 21 of the Labor Regulation 2050 (1993)
regards to civil employees who are not entitled to a pension even after adding the seven-year service period. Similarly, there is no specific provision of providing additional financial benefits to employees infected with HIV.

There is no specific provision in the law that provides access to general HIV and AIDS information and education for the occupational health and safety, such as counseling and advice to be given to health workers engaged in professional safety and health-related areas in case of wounds that may be caused through the medium of a needle or similar equipment.

No specific provision has been made in the law with regard to informing and educating workers traveling to destinations outside Nepal in connection with work about HIV and AIDS. On June 17, 2003, the Labour and Transport Department decided on the compulsory provision of pre-orientation for workers traveling for foreign employment and on the submission of an orientation certificate to the Labour Department in order to obtain permission for foreign employment. The purpose of the orientation is to pre-inform workers traveling for foreign employment about the social, cultural, political and other context of their destinations. However, it does not specifically require the Government to provide orientation or information on HIV and AIDS.

The Interim Constitution of Nepal guarantees the right to equality and freedom to choose a profession. However, the Infectious Disease Control Act provides that if any person is found infected or is likely to be infected with an infectious disease, Government can issue an order against these persons or group of people, which may exclude them from jobs on the basis of an HIV-positive status.

The Medicines Production Code specifically mentions that a person with an infectious disease should not be involved in the production of medicine. It

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144 Articles 12 and 13 of the interim Constitution of the Nepal, 2063.
146 Rule 8(c) of the Medicines production Code, 2047 (1985).
requires that a person involved in producing medicine take effective precautionary measures, such as putting on shoes, caps, masks, gloves and spectacles to cover various parts of the body. However, the Code is silent as to whether PWHA, having taken all necessary precautions, may be allowed to work. The law is also silent with regards to people engaged in acts of skin penetration, the police, sex workers or people engaged in essential services.

According to the Medicine Act a license must be obtained from the Department of Drug Management before establishing a drug business. A permission letter is required prior to the production of medicines and registration is also required prior to the sale and distribution of medicines. Licenses must be also obtained in order to import medicines from foreign countries and for the sale and distribution of such medicines. There is also the provision that medicines can be sold, distributed or imported only if they are safe, efficacious and maintain quality. In the event of a breach of these conditions, there is a provision for legal action against the producer and seller.

147 Ibid.
148 Section 7 of the Medicine Act, 2035 (1978)
149 Section 8, Ibid.
150 Preamble of the Medicine Act, 2035 (1978)
Existing Program on HIV and AIDS and VAW

It is clear that domestic violence, rape, trafficking, forced sex and conflict increase the vulnerability of women to HIV. Yet, neither the state nor the donor agencies or any organizations, which have been working on HIV and women’s rights issues, have placed any real emphasis and resources to address these issues. Similarly, the government strategy and policies on HIV and AIDS have not identified VAW as a key focus area, which exacerbates the vulnerability of women to HIV exponentially.

HIV and AIDS were first identified in Nepal in 1981. The war and its aftermath of poverty, malnourishment and dilapidated health services provided a conducive environment for the spread of the disease. By 2006, according to an estimated cumulative data of NCASC, a total of 7200 people had been infected with HIV and about 1100 Nepalese had died since the onset. UNAIDS has estimated that 80,000 Nepalese are living with HIV and AIDS.

The government’s initial response was courageous and constructive: officials combated widespread stigma and discrimination against people living with HIV and AIDS through a state-led, coordinated campaign incorporating all levels of society, including the government, the media, civil society, religious

groups and health providers. HIV prevalence has been falling since the mid-1990s and Government has gained regional and international recognition as a success story in the fight against HIV and AIDS.

As in most countries, domestic violence in Nepal cuts across all socio-economic, political and ethnic boundaries and is the result of historically persistent unequal power relations and restraints on women’s equality and sexual autonomy which have been inadequately addressed by the government. This background section provides a snapshot of the government’s response to HIV and AIDS and outlines the relevant political and legal framework within which domestic violence against Nepalese women occurs.

Despite this, Nepal remains one of the world’s poorest countries, ranked 150 out of 173 countries on UNDP’s Human Development Index for 2005. In 2005, the U.N. estimated that 32 percent of the Nepalese population was living in poverty. The disparity in resources between the central region and the rest of the country is stark, particularly in terms of food consumption and health care. Rural illiteracy rate was 33 percent compared to the urban rate of 13 percent. Insecurity due to rebel insurgency resulted in food shortages and economic stagnation in those areas. Inadequate remuneration for civil servants, corruption and a paucity of professional and technical skills has undermined public service delivery. Although the decentralization of government has improved rural service delivery, it is costly and actions to alleviate poverty have not been significant.

There has been considerable donor investment in poverty alleviation and improving economic performance particularly in education, agriculture, water, energy, transport and integrated development projects. Donor funding shifted from subsidizing specific projects to general budget support, while donor assistance to civil society groups has focused largely on political development, civic education and improvements to the justice sector.

In 1995, Nepal adopted a national policy for AIDS prevention with 12 key policy statements which includes, priority to HIV and AIDS and STD programmes, the need for a multi-sectoral and decentralized response, the
acknowledgement of NGO implemented programs, coordination, evaluation, service for people living with HIV and AIDS, a non-discriminatory approach and confidentiality for test result and blood safety. The National Center for AIDS and STD Control was formed within the department of health for the implementation of the AIDS prevention programme. Based on the national policy, a strategic plan for HIV and AIDS in Nepal, covering 1997 to 2001 was developed and adopted. There have been a number of changes in the field of HIV since the adoption of the strategic plan for 1997 to 2001 and hence, systematic development of National HIV and AIDS Strategy 2007-2012 that would guide the expanded response to the HIV and AIDS pandemic in Nepal. The guiding principles of the new strategy include multi-sectoral engagement, broad political commitment, civil society involvement, stigma reduction, prevention to care continuum and human rights approach.

**Access to treatment, care and support**

As mentioned above, the state of well being is guaranteed by a number of human rights declarations, treaties and conventions. A crucial part of well being from a rights perspective of those living with HIV is their access to treatment. This decade has seen a vast improvement of Anti-retroviral (ARV) drugs and affordability of them. These drugs have helped to improve the health, at the same time lengthen the life span of those living with HIV and AIDS. With efforts from multiple sectors, the price of ARVs has lowered dramatically. However, it still remains beyond affordability of Nepali people to follow the prescribed course. Also, there is a risk of developing resistance to the drug and adverse side effects if they are discontinued periodically. Further, advocates argue that it is unethical to deny access to treatment when it is available. Although the effect of ARV on people living with HIV is momentous, there is only a small percentage that can access and afford it. An estimated, 800,000 persons living with HIV and AIDS in the South Asia are in urgent need of anti-retroviral treatment of which less than 40,000 are currently receiving it (UNAIDS, 2003), on the other hand, there is an argument that efforts to step up access to treatment may dilute the focus on HIV prevention as it takes away resources from prevention efforts. They argue that the expenses allocated for one life can be used toward prevention
of a number of lives. However, the ideal solution is undeniably the combination of prevention, care and support and not just one or the other.

Due to the weak governing structure and prevailing violent conflict in the nation since 1996, the role of the government and political will to take the ARV forward has been poor. The government bodies are unable to complete the tasks they had been committed and the secured amount of global fund is also at the verge of being frozen. Although the national center for AIDS control and STD control has begun, ARV distribution to a small number, the issue of sustainability, is a major concern. Further, the government lacks clear guidelines regarding the treatment policies, priorities and adequate health provisions to tackle the complications it may lead to. Random changes in leadership positions further strengthen the existing challenges.

**HIV and AIDS and VAW programs through NGOs/INGOs/GOVs**

The government, civil society, bilateral and multilateral organizations and the INGOs contributing in district areas, have been working on HIV issues and its underlying causes. During the programme, a baseline survey was conducted to collect preliminary baseline data on the nature, extent and impact of violence. 29 key informant’s interviews were done. Interviews were also taken of the concerned persons, government informants, donor agency and NGOs, who are directly responsible for this area, at the central as well as district levels. The qualitative information were gathered by key informant’s interviews out of which 5 were from the government sectors, 19 were from NGOs and remaining from INGOs, respectively. Prevention and awareness are the key programs, a strategy focus consistent with the dynamic of the pandemic which shows growing HIV concentration in groups having specific risk behaviors of injecting drug use and unprotected sex, consequently, targeted prevention interventions are core stakeholder’s responses.

All respondent stated that they have been involved in the programme of reduction of HIV from the beginning of their establishment. Most of the NGOs did not have any programmes in the title Intersection Between VAW and HIV and AIDS, however some other NGOs were indirectly conducting a
few programmes. They indicated that they have been conducting advocacy and counseling awareness programme on HIV and AIDS, anti-trafficking, strengthening programmes for women, women rehabilitation programme, violence against women, anti-girls trafficking programme, behaviour change programme for HIV and AIDS highly risked persons, drop in center, shelter and food support programme and income generating programmes respectively.

<table>
<thead>
<tr>
<th>Institutions/Organizations</th>
<th>Violence Against Women</th>
<th>HIV and AIDS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Action Center</td>
<td>Strengthening program for women</td>
<td>Behaviour change programme, drop center in Bhaktapur</td>
</tr>
<tr>
<td>WOREC</td>
<td>Women rehabilitation program, program against women rights, violations, anti-trafficking programs, advocacy and empowerment program for women</td>
<td>WOREC has own HIV and AIDS policy</td>
</tr>
</tbody>
</table>
| Makwanpur Mahila Samuha    | (no specific programme) | • Center for Care and support to HIV and AIDS victims  
• Distributing institution programme, home visit programme to counseling strengthening programme for HIV women |
| GWP                        | Anti-girls trafficking program | • Behaviour change programmes  
• Drop in center  
Income generating programs to trafficked and high risk girls and women |
<table>
<thead>
<tr>
<th>Organization</th>
<th>Programme Description</th>
<th>Treatment/Advocacy (Care and Support)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nawakiran</td>
<td>(no specific programme)</td>
<td>Treatment/Advocacy (care and support)</td>
</tr>
</tbody>
</table>
| HSWO                  | (no specific programme)                                                                | - Condom distribution to drivers and conductors  
|                       |                                                                                        | - Dissemination of information of HIV and AIDS  
|                       |                                                                                        | - BPS program to migrant people  
|                       |                                                                                        | - Income generating program to HIV+ people |
| Shakti Samuha         | - Anti trafficking program  
|                       |                                                                                        | - Training, education and meeting and home visit program  
|                       |                                                                                        | - Education to senior citizens  
|                       |                                                                                        | Advocacy and counseling |
| Hamro Riya Club       | - Radio program on VAW  
|                       |                                                                                        | - Reproductive Health-Youth Discussion and Interview  
|                       |                                                                                        | Radio program on HIV and AIDS  
|                       |                                                                                        | Radio program with youth, interview on sexual matters |
| FEDO                  | - Awareness programme against VAW  
|                       |                                                                                        | - Strengthening training to women  
<p>|                       |                                                                                        | Awareness programme on HIV and AIDS |
| Women Cell Police     | - Awareness program (Publication, Information Dissemination)                            | (no specific programme) |
| Headquarter           |                                                                                        |                                      |
| Sneha Samaj           | (no specific programme)                                                                | Care and Support CenterSewing and training program to HIV+ women |</p>
<table>
<thead>
<tr>
<th>Organisation</th>
<th>Programme Details</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nangan</td>
<td>(no specific programme)</td>
<td>Advocacy/Networking</td>
</tr>
<tr>
<td>Home Ministry</td>
<td>(no specific programme)</td>
<td>Rehabilitation center for IDUs, Law enforcement and awareness program (essay competition, debate competition, speech competition, street drama, etc.) for IDUs.</td>
</tr>
<tr>
<td>Sparsha Nepal</td>
<td>Established support groups in various districts</td>
<td>It is directly related to HIV+ people, Care and support</td>
</tr>
<tr>
<td>Blue Diamond Society</td>
<td>(no specific programme)</td>
<td>Awareness programs on HIV and AIDS to homosexual people, Established caring center to HIV and AIDS victims.</td>
</tr>
<tr>
<td>Maiti Nepal</td>
<td>Income generating support program, Long term shelter and food program for the trafficked, migrant workers and sex workers</td>
<td>Care and support long term, Shelter and food support program.</td>
</tr>
<tr>
<td>Policy Project</td>
<td>Empowerment program to women, Capacity building program Advocacy</td>
<td>Advocacy on documentation and dissemination of violence against sex workers and HIV+ people.</td>
</tr>
<tr>
<td>NCASC</td>
<td>(no specific programme)</td>
<td>Awareness, dissemination and information collection, Data collections, Hot lines, services, VCT, Implementation of Govt. programmes.</td>
</tr>
<tr>
<td>Organization</td>
<td>Support to NGO and govt. organization</td>
<td>Support to NGO and govt. organization</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>UNAIDS</td>
<td>Support to NGO and govt. organization</td>
<td>Support to NGO and govt. organization</td>
</tr>
<tr>
<td>CARE Nepal</td>
<td>(no specific program)</td>
<td>Awareness, care, support and treatment, greater involvement of people living with HIV and AIDS</td>
</tr>
<tr>
<td>UNIFEM</td>
<td>Awareness specially migrated women, Support to NGO and govt. organization</td>
<td>Support to NGO and govt. organization</td>
</tr>
<tr>
<td>Tanbipriya Women and Child Rehabilitation Center</td>
<td>Counseling (no specific programme)</td>
<td>Running Tanbipriya Women and Child rehabilitation center, Nutrition Distribution, Education for affected and Affected couple’s child Treatment</td>
</tr>
<tr>
<td>Regional Red Cross Office(Nepalgunj)</td>
<td>Looking as a cross cutting issues(no specific programme)</td>
<td>Cure and support programme in surkhetPure education training</td>
</tr>
<tr>
<td>NSARC</td>
<td>Border based Programme Counseling (no specific programme)</td>
<td>Field Programme Counseling Border Based Programme VDC level Programme Care and support</td>
</tr>
<tr>
<td>Care Nepal</td>
<td>Care and support on migrant issue, Awareness on gender based issues</td>
<td>Established network, GIPA, awareness, prevention, care and support on migrant issues</td>
</tr>
<tr>
<td>Action Aid</td>
<td>Established women focus group network, awareness, rights and justice advocacy, trafficking domestic violence</td>
<td>Reduce stigma and Discrimination, awareness through district level leader</td>
</tr>
<tr>
<td>FWLD</td>
<td>(no specific programme)</td>
<td>HIV and AIDS and Legal, Ethical and Human Rights concerns, Nexus Between HIV and AIDS and Trafficking, Training Manual on HIV and AIDS and Human Rights, Draft Bill on HIV and AIDS (prevention, control and remedies) Legal audit on HIV and AIDS and Human Rights</td>
</tr>
</tbody>
</table>

The United Nations system provides strong support to the achievement of the prevention objective, with a special focus on young people. The UN system also performs a major role in social mobilization and advocacy, emphasizing civil society, capacity building, both at the central and district level. The local non-governmental organizations are key stakeholders in the prevention area. In particular, WOREC, Maiti Nepal and FWLD sustain ongoing awareness-rising and life skills education for young and risked people especially at community levels. Local NGOs are central mechanism for programme delivery and have largely been the implementing partners of bilateral and multilateral donors. Their distinctive contribution has been in prevention, education and services, like counseling.

During the study, almost all civil society organizations have found programs on gender equality and equity, but the programme supporting such statement is lacking. The programme implementation is guided and funded by various donor agencies. Therefore, unless gender issue is specifically mentioned in the program document, NGOs normally do not look at the issues from gender sensitive perspective. While many NGOs promote and implement gender specific program, their own personnel and other internal policy is silent on women and HIV and AIDS matters. INGOs on the other hand, have made effort to develop gender sensitive personnel policies and have clear strategy on gender issues. Despite this entire positive move, gender and HIV and AIDS have not been prominently addressed in their policies whereas
programme implementation has ample focus on gender issues. Quite a few NGOs are highly focused on advocacy whereas many NGOs are implementing various programmes for vulnerable groups and most at risked people.

Almost all the organizations opined that current policies are not adequate to create gender friendly environment particularly for women PLWHAs. The current policies are very broad and often difficult to put into practice. Many NGOs do not know the donor policy on gender and HIV and AIDS. Some NGOs however mentioned some donor or supporting organization would initiate a face to face discussion to clarify their policy and programme priorities. The effort is well appreciated by the NGOs. Almost all NGOs expressed the need of a clear gender policy with guidelines on how to translate the policy into actions.

While most of the NGOs monitor and evaluate programmes, there is a lack of specific gender indicators. There is a dearth of indicators related to position and status of women. Some NGOs have anecdotal evidence of stigma and discrimination faced by women PLWHAS.

Many NGOs thought that they have made a number of changes among the women beneficiaries they have worked with. They said that some of the notable changes are, economic benefits, entrepreneur skills, ability to stand and talk, leadership quality, increase role in household decisions making, etc. However, despite these changes, HIV positive women remain where they are, except for a few who have participated in a number of International seminars and workshops. There are mixed views about the involvement of NGOs in policy development process. Most of the civil society organizations were invited during National HIV and AIDS Strategy development process and in other forums, but felt that their inputs were not fully incorporated.

**Budget overview**

Almost all NGOs and INGOs invest their programmatic funding in the HIV and AIDS area. Female sex workers and clients have received major support
from NGOs and INGOs, thus ensuring the delivery of education and services. Out of 29 NGOs, a majority of them have been continuing their programmes on HIV prevention and care and support, but the programme on violence against women is discontinued. Some of the NGOs pointed that they have discontinued their programme due to the lack of budget as well as the awful conflicting situation of the country.

<table>
<thead>
<tr>
<th>NGOs</th>
<th>INGOs</th>
<th>Gov Sec.</th>
<th>In Total</th>
<th>HIV</th>
<th>VAW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shakti Samuha (Kathmandu)</td>
<td></td>
<td></td>
<td>1.5 million</td>
<td>5 lakhs (33%)</td>
<td>10 lakhs (66%)</td>
</tr>
<tr>
<td>FEDOKathmandu</td>
<td></td>
<td></td>
<td>7.4 million</td>
<td>2 million</td>
<td>5.4 million</td>
</tr>
<tr>
<td>Women Cell, Police headquarter</td>
<td>No Budget</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shneha Samaj</td>
<td></td>
<td></td>
<td>3 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>Nangan</td>
<td></td>
<td></td>
<td>1.8 million</td>
<td>40 million</td>
<td>30%</td>
</tr>
<tr>
<td>Maiti Nepal</td>
<td></td>
<td></td>
<td>2.5 million</td>
<td>20%</td>
<td>50%</td>
</tr>
<tr>
<td>NCASC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Action Center</td>
<td></td>
<td></td>
<td>3.5 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>Makwanpur Mahila Samuha</td>
<td></td>
<td></td>
<td>1 million</td>
<td>75%</td>
<td>25%</td>
</tr>
<tr>
<td>Nawakiran Hetauda</td>
<td></td>
<td></td>
<td>6 lakhs</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>NGOs</td>
<td>INGOs</td>
<td>Gov Sec.</td>
<td>In Total</td>
<td>HIV</td>
<td>VAW</td>
</tr>
<tr>
<td>--------------</td>
<td>-------</td>
<td>----------</td>
<td>---------------</td>
<td>-----</td>
<td>-------------</td>
</tr>
<tr>
<td>HSWO</td>
<td></td>
<td></td>
<td>10 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>GWP Hetauda</td>
<td></td>
<td></td>
<td>20 million</td>
<td>100%</td>
<td>Working in VAW &amp; HIV areas but no title</td>
</tr>
<tr>
<td>Hamro Riya Club</td>
<td></td>
<td></td>
<td>No budget for Radio Program</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NHRC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Home Ministry</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sparsha Nepal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blue Diamond Society</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy Project</td>
<td></td>
<td></td>
<td></td>
<td>No Budget</td>
<td></td>
</tr>
<tr>
<td>UNAIDS</td>
<td></td>
<td></td>
<td></td>
<td>No Budget</td>
<td></td>
</tr>
<tr>
<td>NSARC</td>
<td></td>
<td></td>
<td>5 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>Regional Red Cross Office</td>
<td></td>
<td></td>
<td>1.6 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td>(only 4 districts)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tanbipriya Women &amp; Child Rehabilitation Center</td>
<td></td>
<td></td>
<td>1.8 million</td>
<td>100%</td>
<td>No Budget</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(as per 5 months)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NGOs</td>
<td>INGOs</td>
<td>Gov Sec.</td>
<td>In Total</td>
<td>HIV</td>
<td>VAW</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------</td>
<td>----------</td>
<td>-------------------</td>
<td>------</td>
<td>------------------</td>
</tr>
<tr>
<td>Care Nepal</td>
<td></td>
<td></td>
<td>200 thousand Dollars (since 5 years)</td>
<td>100%</td>
<td>Working in the VAW &amp; HIV areas but no title</td>
</tr>
<tr>
<td>Action Aid</td>
<td></td>
<td></td>
<td>1 crore</td>
<td>85 lakhs</td>
<td>15 lakhs</td>
</tr>
<tr>
<td>FWLD</td>
<td></td>
<td></td>
<td>37 lakhs</td>
<td>89.34%</td>
<td>10.66%</td>
</tr>
</tbody>
</table>

The above data shows that almost all INGOs\NGOs\Govts has many program on HIV and AIDS and they are pouring their budget in the HIV and AIDS field. However, a few of the organizations have programmes on Violence Against Women on a meager budget. The United Nations system has been working in Nepal as a Secretariat. It does not have any specific programs on VAW and AIDS. During the study we didn’t find any program on intersection between VAW and HIV and AIDS in any Organizations.
Challenges and Recommendations

(A) Challenges

There are a number of challenges for the implementation of Nepal’s national HIV and AIDS strategy to stop the spreading of HIV and AIDS and National Plan of Action on Gender Equality and Women Empowerment to combat Violence Against Women. Both the Government policies are trying to address the issues in isolation, not recognizing VAW as a cause and consequence of HIV infections. The priority challenge is to build the institutional capacity for effective HIV and AIDS responses among key actors and establish issue of intersection between HIV and AIDS and VAW on Policy and Programs.

Stigma and discrimination against PLWHA and survivor of VAW

The public first became aware of AIDS as a transmitted disease, through the media. The public was however not properly informed about HIV not being a contagious disease that can be transmitted only through a limited mode. Due to incomplete information, the HIV-infected persons face discrimination and stigmatization by their own family members, society and the state. Even after dissemination of information about its limited modes of transmission, society still isolates HIV-infected persons. Survivors of VAW face similar consequences due to social perception that ironically holds responsible women rather than the abusive man.

Gender Biased Society

In spite of many efforts, the challenges towards setting up a gender equitable society have not been achieved yet. Women have been suppressed, tortured
and exploited in many forms. Of course, the sad stories referring to the violence of women’s human right does not confine within a particular society or nation. In fact, it does not limit its bounds geographically the problem of not having gender equity, it is all over the world. But South Asia region or more specifically, Nepal is facing the crucial problem regarding this issue. Women are in a disadvantaged position due to the gender gaps in every sector especially in education, employment, economic empowerment, and political participation.

**Inappropriate Strategy**

There is no strategy to entirely curb HIV. Despite efforts over a decade in Nepal has been no major turning point yet. Further, uncoordinated responses, worsening political conflict, poverty, political unwillingness, lack of education, strict religious practices further compound the effort. Even today there is a tendency to take HIV as a solitary problem rather than mainstreaming it into the broader developmental agenda. HIV needs to be analyzed within existing practice, belief and factors that lead to practicing risky behaviors and then the whole equation should be tackled complemented by care and support to those living with HIV. Also, many approaches even to date seem to come in a gender neutral package when it is already established that men and women have different needs and vulnerabilities attributable to physiological and social differences, and thus there is a strong need of gender sensitive approach to the epidemic. Those policies to control HIV and AIDS epidemic is not functioning properly at the implementation level. National level coordination and district and VDC level coordination committees are not functioning as per the expectation of the programme.

**Rampant Practice of Violence Against Women**

Violence against women continues to be common practice within household, society, market and state and is a widely ignored phenomenon that robs women of their health, well being and lives. In many places, violence against women and HIV risk are intertwined. Intimate partners perpetrate the most prevalent forms of violence against women. Violence against women is often associated with a heightened risk of HIV infection. Promising initiatives are underway to help reduce violence against women. As compared to women,
men are more actively involved in community-based workshops to challenge
gender stereotypes and reshape power relations. Comprehensive activities
are yet to be done to combat VAW effectively.

Inappropriate Laws

Laws and policies that affirm and protect the rights of women are vital for
winning the struggle against AIDS. Nepal has more than 100 legal provisions
that directly discriminate women and has no specific legislation to address HIV
and AIDS and VAW, like domestic violence and sexual exploitation. Though
Gender Equality Act has recently been enacted which eliminate few
discriminatory provisions and also criminalizes marital rape, strategies to enforce
these laws and finance their implementation are rarely in place. Women’s rights
provided by various legislations are yet to be exercised in reality.

Difficulty in conveying messages

It is difficult to convey the important message regarding HIV and AIDS and
VAW because of the Nepalese cultural and societal values. Social cultural
values and norms make it very difficult to educate the general population to
openly talk about sexual behaviours. A large section of the society even today
believes demonstrations of sexual activities is extremely obscene and may
negatively impact the younger generation. However, because presenting a
picture of a man and a woman is not an effective and accurate form of
conveying such vital information, it remains a challenge for policy makers to
educate the general population about this common mode of transmission.

Poor functioning of National coordination mechanism

National coordination mechanisms such as NCASC and MWCSW to
coordinate activities relating to address HIV and AIDS and VAW respectively,
lack adequate human resources and financial resources which impedes the
effective functioning of these mechanisms. There is a lack of gender unit in
NCASC and a lack of HIV unit in MWCSW and neither of these organizations
works in coordination and hence fails to recognize the intersection between
VAW and HIV and AIDS. There exists other organizations with a similar
approach who are working in solitary issues.
HIV policies only target people belonging to the economically lower echelons

HIV prevails everywhere. The pre-conceived notions about the prevalence of HIV in the economically lower echelon focus policies and programmes only to the said echelons. Many young girls and women from the higher class, who engage in sexual activities for a better life-style and entertainment, are not being covered as the transmitters of HIV.

Housewives not recognized as a vulnerable group

Nepal has a high prevalence of HIV amongst housewives. Among the 2427 HIV infected women, 63 percentage of them are infected through their husbands through violence and sexual abuse. VAW is one of the structural factors associated with HIV infection. Women are at higher risk of contracting HIV because of poverty, exploitation and domestic violence from families and partners that put them at risk. Migrating husbands, who often go abroad to earn better incomes, tend to have sexual intercourse with women and hence get infected and transmit the disease to their wives.

However, HIV and AIDS policies do not recognize housewives as a vulnerable group for HIV infections and there are no specific programmes for housewives living with HIV.

Lack of dissemination of information in the local language

HIV and AIDS related information has been discussed and disseminated in Nepali society through the media and other mediums for more than the last 15 years. However, during this period, people who were unable to understand the Nepali language and culture failed to receive and understand such information because policy makers wrongly focused their drafting efforts on demonstrating their intelligence rather than aiming for the target population to interpret the language. Although dissemination of information is one of the more important policy issues, it is an equally challenging objective to ensure that people at the grassroots level can understand the message.

(B) Recommendations

To promote the human rights of people living with HIV and AIDS and the survivors of violence against women, to establish the intersection between
VAW and HIV and AIDS and to address these issues effectively, following actions needs to be taken:

**Awareness on HIV and VAW**

A sensible change in attitude towards HIV and people living with AIDS is a demand of the era, especially in the developing countries. Nevertheless, experiences and success stories show that there is hope and the epidemic can be controlled if a multi-faceted approaches it taken. Even in the context of Nepal, the advocacy on the issue is on the rise, and people have begun to bring the issue to the forefront. The coming out of those living with HIV to advocate against the epidemic and safeguard the rights of the positive is a indeed very laudable, and we ought to support them. Therefore, it can be said that a collective, coordinated and promising response from all sectors can effectively control the crisis HIV has so brutally embedded among us.

**Information dissemination to be made in local languages**

The terminology used to describe sexual contact between men and women is not common throughout all parts of Nepal. Different words and phrases are being used to express the same information. Therefore, the terminology used to educate the people should be local in character so that the diverse populations of Nepal may receive and understand the correct information.

**Open-border policy with India needs to be reviewed**

Statistics show returning migrant husbands are infecting their wives who in turn are infecting their children. Moreover, chances of infection via the migrant workers coming from India are very high because Nepal has an open border with India where the HIV epidemic is rapidly spreading. Therefore, there is a need for policies regulating the border of the country. Additionally, migrant workers must be educated about HIV&AIDS and its various modes of transmission.

**Disseminate Clarity in the message**

The ABC approach has been adopted by the donors and the government has already failed to address the HIV issue. Moreover, morality perspective attached with ABC approach stigmatizes and discriminates women even more. Messages like “use condoms and be safe from HIV and AIDS” have had a negative impact on society. There should be a clear policy regarding the
dissemination of information and that the cultural context of the country should be taken into consideration before formulating policies. Correct information must be spread that condoms only protects against HIV transmission and other STDs and has nothing to do with the eradication of HIV and AIDS.

**People's understanding to be analyzed before disseminating the information**

In Nepal, where most of the people are illiterate, information regarding the virus and its modes of transmission should be clear and straight-forward so that everyone, whether literate or illiterate, can understand the message. Promiscuous propaganda cannot be promoted. Therefore, “one faithful partner” must be the primary message. The secondary message should encourage “using condoms” in case of multi-partner sexual practices.

**Media can play a vital role for social mobilization**

Even though media is taking initiatives to raise awareness by highlighting numerous HIV and AIDS related issues, there are many ethnic issues that cannot be tackled easily. Social mobilization, awareness and a change of social attitudes is required to address these ethnic concerns. The media can play a crucial role by continuing to raise awareness and shape societal attitudes.

**Need to enact specific legislations**

There is an urgent need to enact specific legislations related to HIV and AIDS. The law should be able to differentiate between an easily contagious disease and HIV infection, as there are innumerable people who have no aptitude to differentiate between diseases like tuberculosis and leprosy that can easily spread and HIV and AIDS. Similarly, laws to criminalize, penalize and compensate against VAW needs to be incorporated.

**(C) Specific recommendation to key stakeholders**

National governments and the international community must protect women from violence in the home, prosecute those responsible and create an environment in which women can protect themselves from HIV and AIDS. We urge the government, the donors and the regional and international organizations to undertake the following actions:
(I) To the Government of Nepal

Legal and Policy Reform

- Enact and enforce laws and regulations prohibiting discrimination against women to bring Nepalese practices into accord with international human rights and standards and constitutional provisions
- Amend or repeal all laws that violate women’s rights in marriage including discriminatory provisions under the all Acts
- Enact without delay the HIV and AIDS Draft Bill and the Sexual Offences (Miscellaneous Amendments) Draft Bill purposed by various NGOs
- Ensure equal inheritance rights for widows and widowers in succession
- Take all necessary legislative, administrative, social and economic measures to protect women from all forms of violence in the private and public spheres
- Ensure that laws protect women against violence and uphold their right to own and inherit property
- Invest in strategies to educate the police, the judiciary, social service providers, civil servants and community leaders about laws and their legal responsibilities
- Develop and fund programmes to improve legal aid services and other forms of support so that Women can claim their rights
- Invest more in trainings for women, especially those living with HIV, to be effective advocates and Leaders in the AIDS response
- Enact and enforce laws that prevent violence against women
- Develop strategies and approaches to ensure that those who uphold the law civil servants, police, judiciary, healthcare workers, social services, etc know how to apply it and to support survivors of violence
- Develop and fund community-based programmes to help change social norms that condone violence against women and perpetuate its acceptability. This includes educating women, men, boys and community leaders about the rights of women and the need to change menacing norms of masculinity
Expand women’s access to support services and economic resources so that they can escape and recover from abusive and health-threatening relationships

Ensure that national AIDS plans and policies integrate strategies to reduce violence against women and link violence prevention efforts with mainstream HIV prevention and treatment services

Ensure that legal systems uphold women’s property and inheritance rights through the establishment, reform and enforcement of laws, and harmonization of statutory and customary laws

Invest in training initiatives to educate civil servants, police and the courts on their responsibilities and fund legal aid services and groups, such as women’s legal networks, that can help women make land claims

Launch community education and awareness campaigns to promote greater understanding of women’s legal rights

Bring on board the traditional authorities and leaders who wield the power to interpret and adapt customary laws in ways that advance women’s rights

Develop laws and policies to protect the legal and constitutional rights of stigmatized communities, including those who are HIV positive or engaged in sex work, oppose laws that criminalize prostitution

Make policies which gives consistency between HIV and AIDS and violence against women control policies and approaches, use national strategic plan on HIV and AIDS in Nepal, which incorporates human rights principles

Adopt the definition of violence of the United Nations special rapporteur on violence against women to protect the rights of all trafficked sex workers and including those victim women who are in high-risk area through violence

Put in clear guidelines for voluntary HIV testing and counseling of the trafficked girls and women and for the ongoing care, support and reintegration of HIV-positive returnees
Make policies and strategies through Women Ministry and Health Ministry with the conception of VAW being a major cause of HIV infection in women

Ensure women’s participation on policy making level and develop a situation for GIPA

Launch gender and sexual education from the primary level

Guarantee the affected and infected women’s property, inheritance and citizenship rights

Ensure security and livelihood for children and women whose father died of HIV and AIDS

Programming

Assess border based prevention strategies to determine their effectiveness and to ensure that women’s right to mobility is not being breached

Develop appropriate plans for women, who are in high-risk area, transfer them into substitutes profession, where low risk, particularly in the area of sustainable livelihood

Support NGOs providing legal aid services to survivors and working to prosecute violence against women

Provide technical and financial support to develop techniques for family assessment, counseling intervention and follow-up of rescued girls

Document cases for use in advocacy work with the judiciary

Develop impact indicators and support NGOs in carrying out appropriate monitoring and evaluation

Launch volunteering counseling, nursing centers and programmes through affected women

Provide medicines and other necessary medical services for STIs in all medical centers of the country

Establish rehabilitation centers for affected and infected women and children with all necessary services
Institutional Reform

- Make domestic violence a central component of efforts to reduce women’s vulnerability to HIV and AIDS under the National Strategic Framework for HIV and AIDS Activities: 20007-2012, and other national HIV and AIDS programs

- Collect and disseminate comprehensive national statistics on domestic violence detailing the nature and degree of violence, rates of prosecution and conviction, and the nature of punishment applicable, in a timely and transparent manner

- Launch awareness campaigns informing the public about domestic violence and its intersection with HIV and AIDS, and the health risks of harmful traditional practices, as part of the HIV and AIDS national strategy

- Disseminate plain-language information on the laws concerning marriage and divorce

- Improve the distribution of male condoms. Improve distribution and access to female condoms. Increase awareness of HIV re-infection

- Support the administration of a short and affordable course of antiretroviral drugs following HIV exposure for survivors of rape and sexual coercion to reduce the risk of HIV infection

- Establish a clear and deliberate domestic violence policy within the justice system (police, local Bodies, and courts). Issue guidelines and provide training on appropriate responses to domestic violence. Disseminate information within the justice system on women’s rights under Nepalese and international laws

- Establish clear and explicit guidelines for police intervention in cases of domestic violence including standardized arrest policies for perpetrators and the separate categorization of domestic violence in police records. Train the police in appropriate investigative methodology applicable to cases of domestic violence; include techniques for interviewing victims, and methods for protecting victims and witnesses from harassment. Encourage the employment of female police officers. Increase the numbers of police medical examiners/police surgeons
Develop standardized protocols and provide training for medical personnel on the management of domestic violence victims focusing on relevant medico legal methodology and principles, the psychological impact of domestic violence on victims, and the legal significance of medical evidence in these cases. Establish strict procedures for reporting of domestic violence cases to the police. Encourage referrals to legal aid providers and shelters.

Provide support to NGOs that work on domestic violence. Establish domestic violence and HIV and AIDS campaigns specifically targeting men. Prioritize the provision of shelters for abused women and their dependent children with the assistance of NGOs working with survivors of domestic violence. Support programs that provide legal assistance and counseling services for women.

Support skills building, training, and employment programs for women. Further strengthen women’s equal property rights in accordance with objectives laid out in the Poverty Eradication Action Plan.

Establish a separate gender unit on NCASC and HIV and AIDS unit in MWCSW.

District AIDS Coordination Committee and District Level Women Development Branch Office should implement their HIV and AIDS and VAW related programmes in coordination with each other.

Ensure the participation of affected and infected women and the survivors of VAW on coordination committee of global fund under the Ministry of health.

(II) For Donors and Regional and International Organizations

Donors should encourage the government to address the specific needs of women at risk of HIV infection in broader HIV and AIDS programming and help to develop governmental and NGO programs to address violence against women and HIV and AIDS.

Donors should provide financial and technical assistance to civil society organizations especially established by HIV infected women or survivors of VAW, offering legal services and medical assistance to women; contribute to training law enforcement and judicial personnel; and
support the establishment of shelters, the acquisition of forensic equipment, and the employment of police surgeons

- Donors should target assistance to groups providing social and economic services to women and girls, particularly those that focus on job training and assistance with property and inheritance rights
- Donors should expand prevention options for women and girls, especially accelerated support for the development of micro-biocides and other female-controlled prevention technologies. Donors should support expanded treatment for women, including post-exposure prophylaxis for rape victims
- Donors should support media providing rights-based and health programming. Donors should fund preventative projects that aim to change the attitudes and behavior that perpetuate violence against women and women’s vulnerability to HIV infection, and encourage the development of an environment that protects and promotes women’s right to life free of violence
- NGOs and INGOs programs operating in country should examine the role of domestic violence in furthering the AIDS epidemic
- NGOs and INGOs should engage in widespread advocacy in internationally on the links between violence against women and HIV and AIDS and stress the incorporation of a rights-based approach in HIV and AIDS programming
- Donors should not promote the ABC model which has failed to stop the spreading of the infection, rather, it should promote model based on equality and right based approach covering treatment and care and support of the infected people

(III) For NGOs/Civil Societies

- NGOs working in the field of VAW or HIV and AIDS should look at the intersections and should link with each other’s issues to implement their program effectively
## Annex: Name List of Key Informants

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<tr>
<th>S.N.</th>
<th>Name</th>
<th>Designation</th>
<th>Office</th>
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<tbody>
<tr>
<td>1.</td>
<td>Parbati Thapa</td>
<td>S.P.</td>
<td>Women Cell, Police Headquarter, Naxal</td>
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<td>2.</td>
<td>Chandeswor Acharya</td>
<td>NARCOTIC</td>
<td>Home Ministry</td>
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<td>3.</td>
<td>Padma Mathema</td>
<td>Director</td>
<td>NHRC</td>
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<td>4.</td>
<td>Dr. Shyam Sundar Mishra</td>
<td>Director</td>
<td>NCASC</td>
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<td>5.</td>
<td>Raj Kumar Pokharel</td>
<td>Director</td>
<td>District Health Office</td>
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<td>6.</td>
<td>Jyoti Poudel</td>
<td>Treasurer</td>
<td>WOREC</td>
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<td>7.</td>
<td>Manisha Bista</td>
<td>President</td>
<td>Blue Diamond Society</td>
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<td>8.</td>
<td>Hari Prasad Awasti</td>
<td>President</td>
<td>Nangaan</td>
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<td>9.</td>
<td>Biswo Khadka</td>
<td>Director</td>
<td>Maiti Nepal</td>
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<td>10.</td>
<td>Agni Ohja</td>
<td>Treasurer</td>
<td>Sparsha Nepal</td>
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<td>11.</td>
<td>Shikha Sharma</td>
<td>Prog. Producer</td>
<td>Harmo Riya Club</td>
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<td>12.</td>
<td>Anupama Shrestha</td>
<td>President</td>
<td>Himalayan Social Welfare Center</td>
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<td>Durga Sob</td>
<td>President</td>
<td>FEDO</td>
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<td>14.</td>
<td>Namada Acharya</td>
<td>Prog. Coordinator</td>
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<td>15.</td>
<td>Bhojraj Pokharel</td>
<td>Country Director</td>
<td>Policy Project</td>
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<td>16.</td>
<td>Anu Tamang</td>
<td>President</td>
<td>Shakti Samuha</td>
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<td>18.</td>
<td>Basundhara Adhikari</td>
<td>Prog. Coordinator</td>
<td>Sneha Samaj</td>
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<td>19.</td>
<td>Rita Neupane</td>
<td>President</td>
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<td>20.</td>
<td>Ramesh Pandey</td>
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<td>21.</td>
<td>Krishna Shahi</td>
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<td>22.</td>
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<td>24.</td>
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<td>28.</td>
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<td>29.</td>
<td>Rup Narayan Shrestha</td>
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