

CEDAW SHADOW REPORT - JOINT SUBMISSION 2024

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WOREC

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ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
ARTs	Assisted Reproductive Technologies
BLAs	Bilateral Agreements
BLMA	Bilateral Migration Agreements
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEFM	Child Early and Force Marriage
COVID-19	Corona Virus Disease of 2019
CSOs	Civil Society Organizations
DoFE	Department of Foreign Employment
DRRM	Disaster Risk Reduction and Management
FCHVs	Female Community Health Volunteers
FMWs	Female Migrant Workers
FSGMN	Federation of Sexual and Gender Minorities Nepal
GBV	Gender Based Violence
GBVIMS	Gender Based Violence Information Management System
GCC	Gulf Cooperation Council
GESI	Gender Equality and Social Inclusion
GoN	Government of Nepal
HIV	Human Immunodeficiency Virus
HRTMCC	Human Rights Treaty Monitoring Committee
IPV	Intimate Partner Violence
LGBTIQ+	Lesbian, Gay, Bi-sexual, Transgender, Intersex, Queer and more
MoF	Ministry of Finance
MoHA	Ministry of Home Affairs
MoHP	Ministry of Health and Population
MoWCSC	Ministry of Women Children and Senior Citizen
MRCs	Migrant Resource Centers
NDHS	National Demographic Health Survey

NGOs	Non-Governmental Organizations
NHRC	National Human Rights Commission
NLFS	Nepal Labor Force Survey
NPR	Nepali Rupees
NWC	National Women Commission
OCMC	One-stop Crisis Management Centers
PDOT	Pre-departure Orientation Training
RMW	Returnee Migrant Women
SC	Supreme Court
SDGs	Sustainable Development Goals
SGBV	Sexual and Gender Based Violence
SMRH Act	Safe Motherhood and Reproductive Health Act
SRHR	Sexual and Reproductive Health and Rights
UN	United Nations
UNSCR	United Nations Security Council Resolutions
USD	United State Dollars
VAWG	Violence Against Women and Girls
VDCs	Village Development Committees
WASH	Water, Sanitation and Hygiene
WCOs	Women and Children Offices
WFP	World Food Programme
WHO	World Health Organization
WHRD	Women Human Rights Defenders
WOREC	Women's Rehabilitation Centre

Background

Women's Rehabilitation Centre (WOREC) is a campaign-based organization which functions adopting rights-based approach with the evidence of women's rights and social justice as a prerequisite for peace, social justice and sustainable development. Since its inception, it has established as a leading national organization working to prevent violence against women, ensure economic, socio-cultural well-being of women and other marginalized groups by promoting their access to rights and social justice. Currently, it has been implementing four themes:

1. Human Rights and Social Justice
2. Ecological Justice and Women's leadership
3. Quality Care and
4. Learning and Knowledge Management.

All the themes are substantial for creating enabling environment for a just society and social transformation on ending discriminatory social structure guided by the deeply rooted multi-layered patriarchal system. It establishes wide networks from grassroots, national, regional and global arena through vivid alliances and membership.

Nepal had ratified CEDAW without any reservation in 1991. CEDAW ,in its Article 18, obliges the state parties to submit the first report within one year of its ratification or accession, and periodic reports in every four years or anytime at the request of the committee. Nepal Government has submitted its 7th periodic report in 2023. This shadow report thus aims to provide recommendations to Nepal government on fulfilling its obligation, particularly in the List of Issues and questions related to the observance of 7th periodic report of Nepal Government at CEDAW committee.

This shadow report is prepared in collaboration with more than 100 of NGOs/ CBOs from all seven provinces of Nepal, in line with the government's recent periodic report focusing on VAW, FMWs, WHRDs, online GBV and women's health. WOREC, as a member of Human Rights Treaty Monitoring Coordination Centre (HRTMCC) in Nepal, has prepared this report. The report focuses on five major issues namely Violence Against Women and Girls (VAWG), Female Migrant Workers (FMWs), Women Human Rights Defenders (WHRD), Gender Based Violence (GBV) and Women's Health. Some of the processes and documents reviewed for writing this report include:

- Review of Nepal Government's periodic reports and List of Issues
- Review of primary data collected at WOREC's database and desk review,
- Evaluation of CEDAW Committee's initial observation and past recommendation,
- Assessment of government reports, policies, programs, strategies and plan of action, as well as the constitution, and other laws and regulations,
- Feedback and inputs received from national and provincial consultations on CEDAW shadow reporting,

Women's rights and gender equality during COVID-19 and post-recovery

Introduction

The COVID-19 pandemic caused a nationwide lockdown twice in 2020 and 2021 in Nepal. There were over 1 million cases of COVID-19, resulting in over 12,000 deaths¹. Additionally, the pandemic caused compounding disaster, limited availability of basic items, access constraints and increased protection concerns.

Key issues and concerns

- A) Deterioration on Health and well-being:** There was lack of transportation to facilitate the movement of people requiring critical health services, including pregnant women and new mothers. Also, women experience the loss of regular income resulting in increased stress, lack of access to social security schemes, added household work and expenditure, depletion of savings, along with physical violence, resulting in increased mental health issues for both women and men with incidences of suicide on the rise. The Federation of Sexual and Gender Minorities Nepal (FSGMN) also reported suicides amongst the LGBTIQ+ community.² Additionally, there was social stigmatization of returnee male and female migrant workers, who were perceived as carriers of the Coronavirus.
- B) Increased burden of domestic and care work among women:** WOREC have documented the socio-economic impact of COVID-19 including increased household work and care burden on working women during lockdowns. Women's unpaid care work workload increased due to the lockdown, as all the family members stayed home and more so with the return of migrant family members, school closures and hospitals not prioritizing non-COVID-19 patients' admission and care³. During the lockdown more than 64% of sex workers were exploited⁴.
- C) Loss of employment and depletion on savings:** In 2020, 83% of women had lost their jobs⁵. Those hardest hit are women daily wage workers, women working in the entertainment sector, sex workers, transwomen, domestic workers, workers in brick kilns or those working as small entrepreneurs. Even health workers in Nepal were being ostracized, publicly humiliated, and threatened by landlords and neighbors who suspected them of being the carriers of the virus. This had severe implications for a large number of women who represent the healthcare

¹ The Kathmandu Post, All Covid restrictions lifted in Valley, 5 March 2022, Available at: <https://kathmandupost.com/valley/2022/03/05/all-covid-restrictions-lifted-in-valley>.

² Federation of Sexual and Gender Minorities, Nepal, Second wave of COVID-19 and its impact on LGBTIQ community, July 2021, p.7.

³ Women's Rehabilitation Center (WOREC), Research findings dissemination program of online survey on ' women's workload during COVID-19 19 Lockdown, 15 June 2020, Available at: https://www.worecnepal.org/uploads/publication/document/2144484226Women%20Workload%20survey%20PPT_June%202020.pdf.

⁴ ⁴ Situation Assessment report, FSW, SWASA Nepal published on 2020.

⁵ MoWCSC, CARE Nepal, UN Women and Save the Children, Report Summary: Rapid Gender Analysis on COVID 19 Nepal, 2020, p.vii.

industry as nurses (100% female) and other medical practitioners (44% female)⁶. The pandemic aggravated food insecurity among the already vulnerable groups, such as landless women, women-headed households with no savings, returnee women migrant workers and single women owing to loss of income.

D) Increase in domestic violence: Women who were already in abusive family relationships were trapped in homes with their perpetrators 24/7 in the house during the lockdown, exposing them to increased control and restriction on mobility by their abusers. WOREC has observed during the lockdown period 61% of reported cases were of domestic violence⁷. There was a 6% increase in suicides among women due to domestic violence during lockdowns⁸.

E) Lack of inclusion of women in decision making: Despite the *Disaster Risk Reduction Management Act 2074* (2017) includes mandatory provision to ensure the participation of women at all levels of institutional mechanisms, the national high-level committee formed by the government for COVID-19 response notably the High-level Coordination Committee to Prevent and Control COVID-19 and the Corona Crisis Management Centre were led by men and largely made up of male members. It did not include any women or representatives from other minority groups belonging to Dalits, Muslims, ethnicity or those belonging to gender and sexual minorities.

F) Lack of access to essential service: The quarantine assessments conducted by NHRC in all the provinces had similar concerns around protection of women and children, food security, Water, Sanitation and Hygiene (WASH), medical supplies and support, occupancy of spaces (e.g., schools), lack of understanding of standards and protocols developed by the government. There were also grievances around management of quarantines. While Female Community Health Volunteers (FCHVs) were found to be making important contributions in delivery of health services during COVID-19, they were not part of any formal decision-making bodies around policies and resources.

G) Assistance program were not gender sensitive: The Ministry of Finance (MoF) had issued the Plan of Action for Relief in response to sectors affected by COVID-19 pandemic. But the informal sector workers and women headed households lacked identity card. There were additional difficulties for pregnant women and with small children as the location of ward offices or distribution centers may be too far for them to reach or because of the lack of capacity by ward offices to manage overcrowding in the distribution centers. Also, due to the gaps in information dissemination single and elderly women who get social security allowances from the government, people who have small landholdings but are unable to earn an income from it

⁶ Himalayan Climate Initiative, South Asia Economic Policy Research COVID-19 and the New Normal for Women in the Economy in Nepal, 2021, p.18.

⁷ Women's Rehabilitation Center (WOREC), 624 Cases Of Violence Against Women And Girls Committed During Lockdown, 61% Violence Inside Home, 9 June 2020, Available at : <https://www.worecnepal.org/content/158/2020-06-09>.

⁸ Dilip Bhandari et.al., Online journal of global health, The mirage of domestic violence during COVID-19 pandemic in Nepal, July 16, 2022, Available at <https://jogh.org/2022/jogh-12-03049>, as acceded on 1 September 2024.

due to chronic diseases, people living with HIV/AIDS and with disabilities who are unable to go to the relief centers, gender and sexual minorities who are not aware of the selection criteria, not having identity card due to identity issues and existing backlashes, and returnee migrants workers who are currently not living in their district of origin could not receive the relief support. There is digital divide among men and women in Nepal. The phone ownership gap is higher among women in rural areas, where it is 25% and this figure is around 27% for women from poor economic background⁹.

Recommendations

(1) Improvement in the existing supportive mechanisms established during COVID-19:

Improve the facilities that ensure the safety, security, dignity and specific needs of vulnerable and excluded groups in compliance to international standard by linking existing referral service mechanisms with adequate resources (human and financial) in the current quarantine centers.

(2) Increase the access of general public to health service:

- The scope of telemedicine should be explored and extended. The medical practitioners including female healthcare workers should be trained to provide telemedicine services.
- The Nepal government shall conduct orientations to sensitize health workers on ensuring the safety and dignity of patients, as well as on the specific needs of women, girls, sexual minorities, elderly people, people with disability and patients of HIV/AIDS and other vulnerable groups.

(3) Ensure Mental health services are accessible:

- Increase access to psychosocial counselling across the country in all the municipalities and wards along with creating awareness and reducing stigma towards mental health counselling.
- Integrate mental health and psychosocial issues in training curriculums and school textbooks in partnership with government and non-government entities.

(4) Include SRHR in public health emergency response programs:

- Relief: The government should ensure women and girls have access to safe and comprehensive sexual and reproductive health services that are aligned with the Minimum Initial Service Package including dignity kits even without citizenship card.
- The supply chain of contraceptives and reproductive health services like abortion, pre-natal, post- natal services, maternity wards of hospitals, ambulance services must remain operational at all times during the crisis complying with safety guidelines.
- Protection from violence: The government shall recognize GBV services as essential services by rolling out the Comprehensive Essential Packages (health, legal, safe shelter psychosocial counselling, referral, and empowerment) and building the capacities of OCMCs and other service providers for providing services and meaningful support to the GBV survivors and others who are in need of such services by collaborating with various

⁹ Himalayan Climate Initiative, South Asia Economic Policy Research COVID-19 and the New Normal for Women in the Economy in Nepal, 2021, p.15.

stakeholders including community support groups and the private sector for providing such comprehensive essential packages.

(5) Ensure good governance:

- The government, development partners and NGOs working on disaster preparedness, response and recovery programs should incorporate social norms change, GESI and protection issues as integral components of their work by adapting the current district disaster response plans to address these issues also in health emergencies such as the COVID-19 pandemic.
- The government should strengthen gender-responsive budgeting in health, protection, education, agriculture, service (including tourism and hospitality), and manufacturing sectors to increase the access of the most marginalized and vulnerable women especially during humanitarian crisis response and recovery program.

(6) Ensure the meaningful and representation of Women leadership:

- The government authorities and mechanisms shall ensure the meaningful participation and equal leadership of women and marginalized social groups in disaster response, preparedness and risk reduction at all levels.
- The Nepal government shall allocate budget to enhance women, girls, and marginalized groups' access to and build their knowledge of digital technologies.

(7) Keep and update the Statistics in all humanitarian actions:

- Nepal government shall strengthen disaggregated data recording and analysis for all crisis situation to mainstream gender responsiveness in all humanitarian actions.

Women Human Rights Defenders (WHRD)

Introduction

WHRDs are the advocates for the rights of women and girls, challenging patriarchy and inequalities, and making those in power accountable to the violation of the rights. The Ministry of Home Affairs (MoHA) issued the *Order on Security and Protection of Human Rights Activists*, 2077 (2021) to enhance the safety and security of individuals advocating for human rights in line with prevailing laws of Nepal and the UN Declaration on Human Rights Defenders, 1998.

Key issues and concerns

WRHDs face following challenges in Nepal:

- (A) **High security risks and gender-based violence and social stigmatization:** WHRDs, face high-security risks while working both at the community as well as national levels. National Human Rights Commission in its Situation of Human Rights Defenders Study Report – 2022 has found that 63.1% of WHRDs¹⁰ reported traumatic situations, obstacles, and other problems from various sources, including society, public organizations/authorities, family members, and colleagues. Recent study by WOREC has found that, in both private and public sectors, including digital media, WHRDs irrespective of gender experience numerous issues such as social humiliation or the threat of humiliation, threats of false complaints, death, defamation, assaults, caste-based discrimination, character assassination and a general lack of trust¹¹. They also suffer from a lack of identity and recognition, legal and financial problems, physical problems, and cultural barriers. Also, when the violence against WHRD is not addressed at national level and the incidence is reported to UN mechanism, the WHRDs are more targeted increasing the risk of their psychosocial pressure and well-being and subjected to surveillance from State party.
- (B) **Shrinking of civic space:** In Nepal, WHRDs are facing obstacles due to the rapid shrinking of civic space caused by restrictive legal and administrative measures prescribed by the Nepalese government especially, limiting the rights to freedom of opinion, expression, association, and assembly. This has resulted in threats, arrests, imprisonment and prosecution of some WHRDs.
- (C) **Limited funding:** WHRDs face additional challenges due to limited funding, particularly at local and community levels, and restrictive, divisive donor policies which are not flexible and short termed and does not reflect the agendas of WHRDs.
- (D) **Increased digital surveillance:** The situation has worsened due to increase in digital platforms during the COVID-19 lockdowns, which has led to heightened digital surveillance by the Nepal government.

Recommendations

¹⁰ National Human Rights Commission, Situation of Human Rights Defenders Study Report – 2022 Synopsis report, 2022.

¹¹ WOREC raped study report on situational analysis on Women Human Rights Defenders, 2024 (unpublished).

(1) Legislative reform:

- Nepal government should amend laws that restrict the rights to assembly and expression, and collaborate with civil society to develop national laws for the protection of human rights defenders.
- Nepal government should promptly implement the Order on Security and Protection of Human Rights Activists.

(2) The government should recognize WHRDs by providing ID cards.

(3) Nepal government should ensure and strengthen the capacity and independence of the NHRC and other constitutional rights bodies including National Women Commission to protect and promote the rights of WHRDs.

(4) Nepal government should promptly and effectively implement recommendations from the Universal Periodic Review and Treaty Bodies concluding observations.

(5) Nepal government should introduce or strengthen online and data privacy legislation in consultation with WHRDs, with built-in review mechanisms to address misuse of data and protect against digital surveillance and facial recognition abuses.

(6) Nepal government should refrain from criminalizing and stigmatizing WHRDs, including those working on the rights of landless, sex workers and those in entertainment sectors.

(7) Nepal government should establish both online and offline gender-sensitive protection mechanisms, promoting better documentation of violations, and increasing resources for immediate protection and rescue from physical and psychological attacks. The government at the local levels should prioritize the availability and access to safe houses to relocation for WHRDs and all women.

(8) The Nepal government should implement specific measures to guarantee the safety of WHRDs and their families, including adequate state response to human rights violations, support mechanisms such as safe houses and counselling services, and relocation if needed.

(9) The government should allocate budget at local levels to empower and strengthen WHRD networks through skills development programs, legal awareness, and community mobilization to safeguard women's rights at community level.

(10) Nepal government should conduct public awareness campaigns and sensitization programs for government officials, law enforcement agencies, and the general public to highlight the crucial role of WHRDs and the challenges they face while also communicating positive narratives about WHRDs in the media.

(11) The government should foster collaboration with civil society organizations at all levels, through the establishment of regular dialogue, feedback and consultation mechanisms with WHRDs.

Women migrant domestic worker

Introduction

In the previous Fiscal Year (FY) 2022/23, more than 771,000 people travelled for foreign employment¹².

Key issues and concerns

(A) Feminization of migration: Women migrant workers made up about 8 percent of migrant workers in 2021/22.¹³ This figure of labor permit issuance published by DoFE are less likely to truly represent the magnitude of women's migration for work as the cross-border migration to India is not recorded. Majority of Nepali women migrants are concentrated in the GCC countries and Malaysia. More than half of the women migrant workers in the GCC countries, Malaysia and India are engaged in 'elementary occupations'¹⁴.

(B) Ban on foreign employment for women domestic migrant worker has increased the vulnerability of women migrant domestic worker: These restrictions on movement have increased the risk of trafficking and exploitation¹⁵, especially for women, as they are seen more likely to migrate for domestic work. After various efforts from civil society organizations, networks, and women human rights advocates, on 29 September 2020, the Parliamentary Committee on Commerce, Labor, and Consumer Welfare asked the GoN to relax the ban on domestic workers migrating to the GCC, Malaysia, and Lebanon. However, seven pre-conditions were set, among which many of them seem challenging to fulfil.

(C) Recruitment malpractices: According to data on cases registered at Migrant Resource Centers (MRCs), cheating by recruitment agencies and agents and contract substitution were the most common types of fraud experienced by women migrant workers (and aspiring migrant workers) between 2019/20 and 2021/22¹⁶. Also, there are challenges in implementing "free visa, free ticket" policy¹⁷ due to the difficulties in monitoring the value of transactions between the worker and the recruitment agency.

¹² My republica, Sabita Khadka, Over 771,000 Nepali youths sought foreign employment in FY 2022/23, 27July 2023, available at: <https://myrepublica.nagariknetwork.com/news/over-771-000-youths-sought-foreign-employment-in-fy-2022-23/>.

¹³ Arjun Kharel, Center for the Study of Labour and Mobility (CESLAM), Women migrant worker from Nepal Key Statistics, availabel at : <https://www.ceslam.org/uploads/backup/women-migrant-workers-from-nepal-key-statistics.pdf>, p.3.

¹⁴ Ibid, p.13.

¹⁵ International Labor Organization (ILO), No easy exit: Migration bans affecting women from Nepal, 2015, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_428686.pdf.

¹⁶ Arjun Kharel, Center for the Study of Labour and Mobility (CESLAM), Women migrant worker from Nepal Key Statistics, p.18. Available at : <https://www.ceslam.org/uploads/backup/women-migrant-workers-from-nepal-key-statistics.pdf>.

¹⁷ Ibid, p.11.

(D) The Reintegration program is gender neutral: The Government of Nepal has issued the *Reintegration Program (Operation and Management) Directive, 2079 (2022)* for the returnee migrant workers. Meanwhile, the NLFS 2017/18 survey found that most migrant workers are unemployed, with 55 percent of the men and 82 percent of the RMWs unemployed¹⁸. The research studies have shown that most migrant workers lack access to the subsidized loan and employment schemes¹⁹ as only 15.7 percent of returnees were aware of any government program that provides funds to establish small/medium-scale enterprises. In the case of women returnees, an even smaller number, only 13.1 percent, knew about these schemes.

Recommendations

- (1) Nepal should explore new safe labour migration corridors for women migrant workers through enhanced labour diplomacy and revise the existing BLMA documents from a gender perspective with consideration of intersectionality. The Nepal government shall renew its commitment to negotiating BLAs and Memorandums of Understanding that specifically address the rights of migrant domestic workers. This includes pursuing the inclusion of migrant domestic workers' rights in instruments.
- (2) Nepal Government should ratify the relevant International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); ILO Convention C189 on Domestic Workers (2011); ILO Convention C190 on Violence and Harassment (190) as soon as possible. Alternatively, the government can put in place the protective measures set out by these international conventions.
- (3) Nepal government should ensure there is coherence and harmonization of existing laws governing labour, foreign labour migration, and trafficking to ensure that there are no contradictory provisions that have an adverse human rights impact on migrant workers.
- (4) Nepal government should ensure the dignified and safe return of migrant workers regardless of their migration status.
- (5) **Strengthen the role of Local Government on providing services to aspirant and returnee migrant workers:**
 - Nepal government should restructure and revise the legislative framework to facilitate decentralization of migration services in order to improve equitable and inclusive access to justice, information, gender- responsive services regardless of migration status.
 - The local government should enhance the database management system of returnee migrant workers including information of the social and capital remittances and facilitate their sustainable social and economic reintegration.
- (6) Nepal government should develop a robust monitoring and reporting system to track the experiences of women migrant workers, ensuring their safety and well-being. This includes: Creating a centralized database to record cases of abuse, exploitation, and trafficking.

¹⁸ Ibid.

¹⁹ Ibid, p.17.

Regularly publishing reports and statistics on the status of women migrant workers. Ensuring transparent and accountable mechanisms for reporting violations.

- (7) The government must ensure strict enforcement of laws and regulations protecting women migrant workers by (i) Increasing inspections and oversight of recruitment agencies (ii) Prosecuting individuals and organizations involved in illegal recruitment and trafficking. (iii) Ensuring access to justice for women migrant workers who have experienced abuse or exploitation.
- (8) Nepal government in coordination and collaboration with civil society should conduct public awareness campaigns to inform potential or aspirant women migrant workers including their family members about their rights and the risks associated with migration and aftermath of return.
- (9) The Nepal government should provide training for government officials, recruiters, and employers on gender-sensitive practices.
- (10) Empowerment programs such as skill development training, income generation activities or programs shall be conducted for women migrant workers to improve their skills and financial status.

Health

Women's health in Nepal faces significant challenges, including inadequate access to healthcare, high maternal mortality rates, limited sexual and reproductive health services, and gender-based health disparities. Despite some progress, substantial gaps remain in ensuring equitable and comprehensive health services for all women.

Key issues and concerns

- (A) **The existing health policies do not incorporate SRHR as an essential service:** Though there are half dozens of legislations in Nepal to regulate health services. Yet, these laws do not ensure SRHR services as essential services, including humanitarian situations describing the critical aspects to protect and promote SRHR for women, girls and other marginalized communities.
- (B) Abortion has been conditionally legal in Nepal since 2002 and was revised in *Safe Motherhood and Reproductive Health Rights Act, 2075* (2018). Despite this, there is the problem of abortion denial i.e., from service agencies as more than 45%²⁰ women were returned from hospital and service centers. Meanwhile, the *Labor Act, 2074* (2017) provide that if a female worker in a state of seven months pregnancy or more than seven months gives birth to a deceased child or suffers a miscarriage, the provision relating to maternity leave shall apply. Therefore, this provision deliberately excludes maternity leave for the women who have abortions.
- (C) *Safe Motherhood and Reproductive Health Rights Act, 2075* (2018) and the *National Criminal Code, 2074* (2017) have criminalized sex-selective abortion yet it is prevalent due to patriarchal attitudes and beliefs among women on son preference²¹.
- (D) According to Nepal Demographic Health Survey, 2022, there are higher unmet needs for family planning services among Dalits (26%) and Muslim women (25%) aged 15-49.
- (E) The President Women Upliftment Program started in 30 districts from the fiscal year 2018/19, also provides aerial rescue services for pregnant and lactating women in remote areas. However, implementation of these initiatives remains unclear and questionable.
- (F) There are about 50,000 FCHVs actively working in Nepal. FCHVs have a major role in promoting safe motherhood, child health, and family planning. But they are not included in decision making process within local government.
- (G) The prevalence of infertility among Nepali married couples ranges between 12 and 15 percent²² and it disproportionately affects women. However, services related to infertility have not been recognized as SRHR issues in Nepal. The use of ART such as surrogacy on treatment of infertility are highly debated in Nepal.

²⁰ 13. Puri MC, et al., Denial of legal abortion in Nepal, 21 Mar 2023, doi: 10.1371/journal.pone.0282886. PMID: 36943824; PMCID: PMC10030013.

²¹ 2. Center for Research on Environment, Health and Population Activities (CREHPA), Socio-Cultural Factors Underlying Son Preference and the Practice of Gender- Biased Sex Selection: A study in selected communities of Nepal, 2023.

²² Sobita Gautam, The Kathmandu Post, Mind the legal gap, 6 August 2022, available at: <https://kathmandupost.com/columns/2022/08/06/mind-the-legal-gap>.

(H) The Nepal Demographic and Health Survey, 2022 depicts that overall, 14% of girls aged 15-19 have become pregnant, including 10% who have given live birth. 2% have had a pregnancy loss, and 4% are currently pregnant. The percentage of women aged 15-19 who have become pregnant rises with age, from 1% at age 15 to 32% by 19.

(I) Many healthcare facilities are reported to lack the infrastructure to support person with disabilities. Likewise, people belonging to LGBTQ+ communities also face difficulties accessing healthcare services as there is still stigmatization on these communities in society.

Recommendations

1. The Nepal government should remove abortion and sex selective abortion from the criminal code and instead mention it in the civil code to ensure that all women have the right to safe abortion. Additionally, the GoN should revise and amend the *Safe Motherhood and Reproductive Health Act (SMRH) Act, 2075(2018)*.
2. Nepal government need to amend *Labor Act, 2074 (2017)* and provide leave to women if they undergo abortion.
3. Nepal government should extend comprehensive safe abortion services in all 77 districts of Nepal. Nepal government shall work in the recommendation of the WHO Abortion Clinical Guidelines, the *Safe Abortion Service Program Management Guideline, 2021* which has provisions related to expanding safe abortion services through self-managed abortion and telemedicine.
4. Nepal government should allocate sufficient budget and expand access to Sexual and Reproductive Health Rights (SRHR) services that are affordable, high quality, and free of stigma to reach underserved populations such as youths and adolescents even at local level and provincial level.
5. **Availability of ART services and their regulation:**
 - Nepal government should provide affordable and quality infertility treatment services to the couples using modern Assisted Reproductive Technologies (ARTs) techniques such as surrogacy regulated by laws.
 - Management of infertility should be included in the national policy guideline service standard for sexual and reproductive health and rights.
 - Nepal government should increase resources to address preventable factors that cause infertility.
6. GoN shall provide information on services related to sexual and reproductive health in local languages and disabled-friendly communication.
7. GoN shall include FCHV supervision and support structures at all levels, warrant in-depth study, including but not limited to FCHV incentives, retirement benefits, and supervisory methodologies.
8. **Inclusive health services:**
 - The government should provide guideline to healthcare to properly deal with patients from LGBTQ+ communities, including seeking consent.

- The government and health service shall provide training to health workers on the rights and needs of person with disabilities.
- The government should build disability-friendly physical infrastructures and also provide assistive devices.

Violence Against Women

Key issues and concerns

(A) There is increase in reporting of Gender Based Violence especially the domestic violence:

The data collected from various organization shows there is increase in reporting of violence against women.

- According to the Nepal Demographic and Health Survey (NDHS) 2022, about 23% of women aged 15-49 years have experienced physical violence, 7% have experienced sexual violence and 13% have experienced emotional violence in their lifetime. Alarmingly, about 27% of the women have experienced some form of Intimate Partner Violence (IPV) in their lifetime.
- According to WOREC, a total of 1813 cases of violence against women were reported in the fiscal year 2078/79; 6% of these cases involved rape, 13% involved social violence, and 6% involved personal violence.
- Online violence: According to cyber bureau of Nepal Police in the fiscal 2023/24, witnessed a dramatic rise in the number of cases involving women to 8,745 and those involving minors to 382.

(B) Inadequate polices to prevent and respond to gender-based violence:

- Domestic violence:
 - There is weakness in the implementation of laws and policies against domestic violence.
 - The definition of crime and determination of punishment is not adequate in domestic violence: It should include the crime perpetrated by ex-partner or the person who previously had family relationship with the victim/survivor. Also, the definition lacks the elements of coercion. The punishment in Section 13 is insufficient.
 - Law enforcement agencies lack the necessary sensitivity and training to handle domestic violence cases effectively. Police and other officials may be influenced by societal biases, leading to victim-blaming or reluctance to register cases. The Police department dealing with the cases of domestic violence is not counted as part of regular policing duties and their performance is unrecognized.
 - There is controversy in the use of mediation in the cases of domestic violence due to its mandatory referral by complaint receiving bodies. The local government has limited capacities on mediation techniques. Usually, women in many cases are “forced to compromise or accept informal monetary settlements, even for criminal offenses” committed against them, including grievous physical injury, thus limiting legal accountability, in contravention of the principles of due diligence.
- Child marriage:
 - The form of child marriages is changing while there is an increasing trend of marriage of own choice.

- Though the number of child marriage is high in Nepal, FIR registration is minimal. Likewise, only some cases of inter-caste child marriage are being punished as they are reported by the family members as a part of revenge or retaliation to the adolescents.
- The law is not able to determine the consequences of child marriage with child labour, statutory rape, human trafficking, domestic violence, dowry related torture, hostage taking, bride kidnapping, etc. while in practice the cases of “child marriage” are being registered under these varieties of cases besides child marriage.
- In lack of proper responding mechanisms, the survivors of child marriage are going through continuum of harm after child marriage.
- Rape and sexual harassment:
 - The *National Criminal Code 2074 (2017)* has criminalized the marital rape but the amount of punishment in such offence is less than the punishment in other forms of rape.
 - The *Sexual Harassment at Workplace (Prevention) Act 2071 (2015)* on the Section 14 has provided the authority to the Chief District Officer to receive and adjudicate the complaints at first instance, which is a quasi-judicial body. The cases of violence against women shall not be in any case administered outside the judicial system.

(C) Women survivors have limited access to Justice

- Though the Ministry of Finance has formulated a Guideline for a Gender-Responsive Budget for the province and local levels, but they are yet to establish a system to track gender-responsiveness in budget.
- There is contradiction in various funds such as GBV Relief Fund, Victim Relief Fund, The Single Women Fund. established by Nepal Government to support the victims/survivors of gender-based violence.
- The Ministry of Health and Population (MoHP) has set up OCMCs. GoN has established 21 safe houses, 10 rehabilitation centres for survivors of human trafficking and 2 long-term rehabilitation centres. OCMCs have also been established in all district-level government hospitals to support GBV victims.
- Though Nepal Police has established 232 Women, Children, and Senior Citizen Service Centre and more than 6,000 GBV Control Networks across the country, there is no proper physical infrastructure and deployment of a low number of women officers in the centres. The Office of the Attorney General has established victim-friendly rooms in district offices, which each include focal persons. The District Court Rules, 2018 provide a legal basis for continuous hearing cases related to GBV but it lacks in implementation.
- The total number of under-trial criminal cases related to violence against women are comparatively lower than the reported cases of violence. In many instances, women withdraw the case or in case of domestic violence there is mediation and diversion of the case from formal justice system.

- After the adoption of federalism, the district level office of Women and Children Offices which was under the Ministry of Women Children and Senior Citizen was an important focal institution for advancing women and children's rights at the local level across all of Nepal's districts has been dissolved.
- There is lack of education and training on gender justice and access to justice among judges and law enforcement officials.
- There is lack of information on collection of statistics regularly by government.

Recommendation

- (1) Nepal government shall amend the *Domestic Violence (Offence and Punishment) Act 2066* (2008) as follows:
 - *The Domestic Violence (Offence and Punishment) Act 2066* (2008), should define “coercion” within the definition of domestic violence.
 - Likewise, the “abuse by ex-partners or individuals with a prior or familial relationship” should be included in defining the domestic relationship.
 - The punishment on domestic violence shall be reviewed on the basis of the severity and occurrence of the crime.
 - The Act should be amended incorporating the CEDAW General Recommendations 33 on access to justice and 35 on gender-based violence which prohibits mediation and other forms of alternative dispute resolution (ADR) in cases of domestic violence. More specifically, the law shall prohibit mediation by local government (Judicial committee) in the cases of domestic violence.
- (2) The government of Nepal should draft new law to define “live in relationship” and its legal consequences
- (3) Nepal government should make integrated service available to victims/survivors of violence by:
 - Integrating the services to survivors of GBV such as GBV funds, safe houses, and social rehabilitation making Federal, Provincial, and Local governments accountable and recognizing it as rights of survivors.
 - Safe shelters should be set up to protect women victims of violence in all 77 districts in Nepal.
- (4) Funding for the survivor of gender-based violence: The government should ensure activation and functional of GBV elimination fund for victims/ survivors of domestic violence through which they can bear the expense of legal aid, medical check-up, medicines, safe shelter, psycho-counselling, and other essential services to them and their dependents. This fund should be also be able to fund the victims/ survivors on comprehensive assistance to aid to the recovery and empowerment.
 - The government of Nepal at all level to raise awareness on the availability of the funds and how survivors can access the funds.

- The Nepal Government should conduct a review to repeal legally inconsistent provisions in the regulations of the GBV Elimination Fund and the Single Women Protection Fund.

(5) The Nepal government should re-establish women and children office in federal and district level.

(6) Justice proceedings:

- The orders and instructions of the Supreme Court (SC) regarding making women-friendly laws should be implemented immediately.
- Fast-track court should be established at district level for speedy justice.

(7) Statistics: There is limited statistics available to ascertain the status of violence against women. The government should maintain a central statistic such as Gender Based Violence Information Management System (GBVIMS).

(8) The Nepal government should reform the legislation relating to child marriage and involve in the activities for prevention:

- A new comprehensive law on child marriage is to be enacted with conditional criminalization of child marriage. It should also promote on the prevention and the positive obligation of state on dealing with the case of child marriage.
- The criminal law should define the interrelationship of child marriage with other crime such as statutory rape, domestic violence, dowry related violence, etc.
- The existing civil laws are to be amended to protect the victims of child marriage by recognizing the marital status of couple, the legal status of their children, marriage or dissolution, divorce. Further, the issue relating to their property, citizenship should be specifically determined in the civil law of the country.
- The law should provide choice to the adolescents on deciding the conditional validity of child marriage on making them “void” and “voidable”.

Likewise, in the new national strategy to end child marriage in Nepal the government shall include following issues of prevention of child marriage, protection and promotion of rights of adolescents by taking following steps:

- The government should launch program on creating awareness and advocacy to address the root causes of child marriages such as (poverty, lack of guardianship - orphan, adolescents escaping from violence (physical, mental, sexual) at their home, supporting the economic condition, problem of dowry, social stigma on talking to boys or having relationship, (discouraging love marriage or inter caste marriage). An approach of men and boys engagement as a part of their responsibility and accountability to eradicate GBV needs to be endorsed.
- The government should develop adolescent targeted programs relating to the continuity of education, or reducing the school drop rate of girl child, promoting the reproductive and sexual health education among adolescents, providing income

generating skills and activities enhancing the employability of adolescents in the existing market, etc.

- The government in coordination with civil societies should develop programs to include boys to understand and build peer support on the idea of preventing all forms of child marriage in community.