

# NHRI Report

2025

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Submission by  
National Human  
Rights  
Commission of  
Nepal (NHRCN)  
and National  
Women  
Commission  
(NWC) to  
Committee on the  
Elimination of  
Discrimination  
against Women

## **1. Introduction**

The seventh periodic report was submitted by the Government of Nepal to the CEDAW Committee. The NHRCN and the NWC are the Independent Constitutional Human Rights Institutions of Nepal.

Being based on the report submitted by the government and the List of Issues identified by the pre working group session of the CEDAW Committee on 26 February, 2024 and with an intense consultation with the government and civil society organizations, NHRCN and NWC have submitted this joint report.

### **1.1. Methodology of Study**

Review of existing national legislations and other arrangements including National plans, policies, commitments, programs, activities and initiatives of Nepal regarding women seeking conformity with the CEDAW and other relevant international standards was conducted.

Primary as well as secondary data were collected as per the necessity. The facts collected are verified through interaction with the various stakeholders including women rights activists, law enforcement officials and youths through consultation and validation meetings. Seven provincial workshops were conducted before finalizing and validating it with experts of human rights in National Level.

## **ARTICLE 1: NON-DISCRIMINATION**

1. Nepalese Laws fail to fully address discrimination against women lacking provisions on direct and indirect, multiple and intersecting forms of discrimination in both private and public spheres. A distinct legal provision with a comprehensive definition of discrimination is essential to ensure justice for women facing severe discrimination.
2. But the Section 214 of the Civil Code provides that the widow may effect separation by taking her partition share. If she remarries, the property she has obtained shall pass on to her son or daughter, if no children, she may retain property herself

**The Commissions recommend that the *Committee* call for GoN to:**

- Promulgate a comprehensive anti-discrimination legislation and amend national criminal and civil codes to incorporate separate chapters that include a broader definition of discrimination against women.

## **ARTICLE 2: OBLIGATION TO ELIMINATE DISCRIMINATION**

3. Despite the commendable efforts by the Government of Nepal (GoN) to institute programs aimed at offering financial assistance to various marginalized groups, there remains a critical gap in support for women belonging to other marginalized communities who often face intersecting and multiple forms of discrimination. The GoN established the Single Women Protection Fund. Regrettably, the implementation of the Single Women Protection Fund has been hindered by the absence of necessary amendments to its operational policies.
4. Prior to federalizing, the GoN used to allocate budget for marginalized women through the Women and Children Offices which are brought under local levels. There are challenges now to achieve the targets set for women development and gender equality due to lack of a separate office in the district level dedicated to women's issues.
5. Despite the governments' efforts and the legal prohibition of entrenched harmful practices such as child marriage, Chhaupadi, and dowry, continue to persist. Child marriage and dowry are particularly prevalent among rural women and girls and those from Madhesi communities. The prevalence of son preference, deeply ingrained in the patriarchal culture, continues to be a significant concern nationwide. Nepal Police registers the complaints against harmful traditional practices, such as witchcraft allegations, untouchability, *Chhaupadi*, child marriage and dowry increasing annually.
6. Moreover, the implementation of gender-sensitive and anti-discriminatory laws reveals substantial gaps, and there exists a troubling contradiction in legal provisions concerning bigamous and polygamous marriages. These challenges exacerbate the vulnerability of women and girls, hindering their access to education, reproductive rights, and essential health services. Providing legal aid to the women facing multiple forms of discrimination especially the women with disability is still challenging.
7. The Supreme Court issued a directive order to arrange to increase the statute of limitations for cases of sexual violence in order to ensure justice to the victims. NHRCN and NWC made recommendation in 2021 to increase the statute of limitation. Following this, in July,

2022, the Parliament increased the statute of limitations and the statute of limitations is two years for adult women and two years since attaining the age of majority for minors and up to 3 years of filing the case of rape and sexual violence in case of the children from the date of completion of 18 years.

**The Commissions recommend to:**

- Ensure protection of victims of SGBV from stigma societal rejection during seeking justice;
- Ensure the effective implementation of these laws that victims of harmful practices can effectively register cases without fear of retribution or stigmatization.
- Remove statute of limitations on case registration on sexual violence by consulting the experts and National Human Rights Institutions;
- Ensure that the government urgently mobilize the single women protection fund by amending necessary Guidelines to safeguard the rights of widows.

**ARTICLE 3: ADVANCEMENT OF WOMEN THROUGH INSTITUTIONS**

8. The Constitution of Nepal provides the NWC powers to establish provincial offices. Till the date none of the provincial offices are established. The law does not allow the Commission to give a binding decision after independent investigation of the complaint filed by the victims. Similarly, the total number of staffs approved by the government for NWC was 38 (12 gazetted positions, 12 non-gazetted positions and 14 support staffs).<sup>1</sup> Other thematic Commissions lack adequate resources.
9. The GESI Policy, 2020 has been adopted to institutionalize a gender responsive governance system in all the three tiers of government. The policy aims to remove discriminatory barriers to the socio-economic development of women; end gender-based violence; and ensure economic empowerment of women. NHRCN has also adopted its GESI policy to mainstream the gender in NHRCN.

**The Commissions recommend to:**

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<sup>1</sup> <https://nwc.gov.np/en/about/organization-structure/>.

- Arrange in law and practice providing the binding authority to the NWC recommendations; and review NWC organizational structure to provide adequate resources and budget for the effective and victim friendly functioning including to other thematic Commissions;
- Provide adequate human and financial resources to implement National Gender Equality Policy, 2020 and arrange regular and effective monitoring by Ministry of Women Children and Senior Citizens (MoWCSC).

#### **ARTICLE 4: SPECIAL MEASURE AND SUBSTANTIVE EQUALITY**

10. Very limited parts of multi discrimination and minority issues are addressed by the law and there is not a separate special opportunity act recognizing the needs of women and girls facing intersectional and multiple forms of discrimination. For instance, there is a law that reserves one seat in the local elections for Dalit women; the Social Security Act, 2018 provides social security allowance for Dalit and single women senior citizens above age 60.
11. The MoWCSC, in collaboration with non-governmental organizations, has been raising awareness about the existing laws providing special opportunities for women and girls aiming to ensure substantive equality. However, the Ministry does not have a separate mechanism to regularly monitor the special opportunities provided. "Special Provisions" in the Constitution are only limited to socially and culturally backward women.
12. Air pollution is one of the most pressing problems of Nepal. Many people die every year due to diseases caused by both indoor and outdoor air pollution contributing equally. Indoor air pollution is more prominent in rural settlements. Statistics suggest that 80% of cooking is done without ventilation leading to 7,500 deaths annually due to various indoor pollution induced diseases. Women and children who spend more time in kitchen are more exposed to indoor pollution.

#### **The Commissions recommend to:**

- Adopt a comprehensive federal law that regulates air emissions from various sources to protect public health and properly regulate emissions of hazardous air pollutants.

#### **ARTICLE 5: SEX ROLE AND STEREOTYPING**

13. The National Law penalizes and punishes children who enter marriages. If any person marries or causes another person below age 20 to marry faces up to three years of imprisonment and NRS. 30,000/- fine. Since child marriage is automatically void under the existing law, it is legally not possible to register marriage and claim a property right or access other rights as a married woman. Similarly, there is no law so far that clearly prohibits operations or other medical examinations on intersex children before they reach the age of legal consent.
14. There are no sufficient forensic experts in the police forensic lab. The lab lacks equipment and infrastructure. Despite NHRCN recommendation and Supreme Court's verdict to establish forensic labs in all provincial levels, such facilities exist only in Bagmati Province resulting inadequate investigation of SGBV cases. Capacity strengthening of OCMC is also necessary to address the GBV.
15. According to Nepal Police, there are 8,932 female police officers in Nepal. Out of 67,169 police officers, women comprise 10.21 per cent of the country's total police personnel. Although reservations have encouraged women and indigenous people to join the police service, there is no reservation specifically allotted for indigenous women.
16. The government on 22 September 2022, endorsed the NAP II on Women Peace and Security to ensure immediate support, reparations, justice, dedicated resources and services of counseling and medical care for conflict victims as a recognition to live their life with dignity.

**The Commissions recommend to:**

- Amend Section 173 of the National Criminal Code, 2018 which penalizes children who enter into marriages.
- Establish Forensic lab in all provincial hospitals in order to facilitate immediate and effective investigation on SGBV.

**ARTICLE 6: TRAFFICKING AND EXPLOITATION OF PROSTITUTION**

17. Nepal, facing domestic employment challenges, permits labor migration to 111 approved countries, excluding Iraq, Afghanistan, and Libya<sup>2</sup>. Many Nepalese youth seek work

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<sup>2</sup> Department of Foreign employment

abroad due to limited local opportunities and increasing foreign labor demand. In 2020, Nepal lifted a three-year ban on women working as domestic workers in Gulf countries, implementing seven conditions including protective laws, bilateral agreements, and guaranteed worker rights such as fair wages, 24-hour insurance, and social security.

18. The Guidelines on the Identification of Human Trafficking and Transportation Victims have been drafted in 2020 to ensure the rights of victims, identifying victims of human trafficking and transportation, rehabilitating them, and helping them gain access to justice. The GoN established the Human Trafficking Victim Rehabilitation Fund to provide rehabilitation support to trafficking victims, including medical services, psychosocial counselling, legal aid and skills development training.
19. The government of Nepal has expedited its efforts to amend almost a dozen laws to make them compatible with the Palermo Protocol. The NHRCN is also reviewing the Human Trafficking and Transportation (Control) Act, 2008, including other relevant legislations. The government has taken initiatives to make amendment to the laws related to human trafficking and formulated an Action Plan for the implementation of the additional obligation created by the Palermo Protocol.
20. Nepal's domestic laws have not legalized sex work as an occupation; such action is taken as illegal and punishable by law. Reports of sex workers' organizations (informal organizations) show that they face daily harassment, ostracization and exclusion from social life; sexual abuse by people posing as clients.

**The Commissions recommend to:**

- Expedite dialogue with Gulf countries in an attempt to enter into Government to Government agreement with them that would ensure the safety of domestic workers instead of lifting the ban on foreign employment for domestic workers,
- Adopt victim-friendly investigation and prosecution measures in the law enforcement agencies to motivate the victims to lodge the cases of human trafficking.
- Allocate sufficient fund by the all three tires of government for the 'Rehabilitation Centers' and 'Safe House' to meet the minimum standard set and victim friendly environment;

## ARTICLE 7: POLITICAL AND PUBLIC LIFE

21. Despite Nepal's constitutional guarantee of 33% women's representation in legislative bodies and commitment to gender equality, major parties have sidelined women in direct elections. While female leadership in leadership positions slightly increased, their numbers in deputy roles decreased significantly. Women's representation remains notably low, with only 9% candidates in recent elections.
22. The Ministry of Federal Affairs and General Administration is conducting many capacity development programs for women elected to public office, to enhance their capacities and leadership skills. Furthermore, CSOs also provide trainings to enhance the capacity and leadership skills for public and government officials focusing on the importance of women's meaningful and equal participation in decision-making.

### The Commissions recommend to:

- Adopt practical measures to ensure representation of women in leadership positions in all levels.

## ARTICLE 9: NATIONALITY

23. The Constitution of Nepal Article 11(2b)<sup>3</sup> offers Nepali women provide the citizenship by descent to her children from her name, in practical women have to go to court for executing these rights. There is no provision for Nepali mothers to independently confer citizenship by descent to their children, like Nepali fathers. Article 11 (7) of the Constitution prohibits the children of Nepali women who gets married to foreign men from getting citizenship by descent. Similarly, when a Nepali woman marries a foreign man and if he wishes to acquire a matrimonial naturalized citizenship, there is no provision whereby Nepali women can confer their citizenship to their husbands.
24. The 2018 Citizenship Amendment Act reflects gender disparities in Nepal's citizenship laws. While foreign women married to Nepali men can immediately obtain naturalized citizenship after renouncing their original citizenship, no such provision exists for foreign

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<sup>3</sup> The Constitution of Nepal article 11 (2)

men married to Nepali women. Children of Nepali fathers receive citizenship by descent, but those of Nepali mothers' face restrictions, requiring maternal self-declaration and proof if the father is unknown, while children with foreign fathers only qualify for naturalized citizenship. The 2013 Ministry of Home Affairs circular mandated citizenship certificates through maternal lineage and caste choice, due to lack of training left many district officials unaware despite National Judicial Academy's efforts.

## **ARTICLE 10: WOMEN AND EDUCATION**

25. The Nepali government has implemented comprehensive educational frameworks including the SDG 4 National Framework and School Sector Development Plan (2016-2023) to ensure equal access to education. While the MoWCSC provides scholarships for talented female students and initiatives for girls' sanitation needs in schools, including separate hygienic toilets and sanitary pads in public schools, many schools still lack these essential facilities despite support from various sectors.
26. Nepal's Education Regulation promotes gender equality in teaching through quota systems, reserving 33% of seats within the 45% marginalized group allocation for women in education service exams. This has significantly increased female representation in schools, with women comprising 44.6% of primary school teachers by 2019. Supporting legislation like the Scholarship Act and Medical Education Act further advances women's education by providing dedicated scholarships, including in medicine.

### **The Commissions recommend to:**

- Ensure access to the separate hygienic toilets and sanitary pads for girls in public schools and take further steps to increase the number of female teachers in public schools.

## **ARTICLE 11: WOMEN AND EMPLOYMENT**

27. Women are the most powerful workforce and it includes around 80% of the total workforce in the tea plantation industry. But getting proper access to maternity protection and childcare facilities are widely neglected. Although female workers are entitled to maternity leave for 52 days with their daily wages for their first two births, they have poor access to other services including medical checkups and special allowances during pregnancy. Most

of the pregnant women are unable to work as they did before their pregnancy, fail to meet targets and are at risk of wage cuts. There is no provision of paternity leave in the tea industry.

28. The exploitation and abuse of Nepali Women Migrant Workers in destination countries become significant problem as some returnee women migrant workers experienced the extreme form of exploitation. There are a number of irregular woman migrant workers in Gulf countries and some woman migrant workers compel to run away from the employer because of labor exploitation.
29. Though the Foreign Employment Board provides compulsory three-day pre-departure orientation training to migrant workers on safety precautions, information and the labour laws of the destination country, women migrant workers are being victimized of violence and other problems. Gender-sensitive orientation trainings for returnee migrant workers have not been arranged yet. Reintegration efforts are not sufficient. Nepal has yet to ratify the Domestic Workers Convention, 2011 (No. 189) of the ILO.

#### **The Commissions recommend to:**

- Ratify the Domestic Workers Convention, 2011 (No. 189).

#### **ARTICLE 12: HEALTH**

30. Though the right to health is a fundamental right, there is limited access to sexual and reproductive healthcare services, including family planning and safe abortion services, especially in rural villages. Further, there is a limited technical and financial capacity for addressing challenges related to maternal mortality, family planning, and sexual and reproductive health of Rural and Madhesi women.<sup>4</sup> The comprehensive sexuality education is limited in the modules of the school curricula<sup>5</sup> and not in reach of sexual and gender minority groups.
31. The provision on abortion under the Right to Safe Motherhood and Reproductive Health Act, 2018 is inconsistent with the provision under the National Criminal Code, 2018. While both the laws legalize abortion in certain conditions and criminalize it in other conditions

<sup>4</sup> MoHP and UNFPA, *Nepal's Journey in Fulfilling the ICPD Commitments: The Roadmap towards ICPD30*

<sup>5</sup> Ibid

specified under the law, few contradictory provisions create confusion among health workers and law enforcement bodies when determining which law to apply. The Act has not fully decriminalized abortion in all cases yet.

32. There is an entrenched culture of son preference in the male-dominated society of Nepal.

Despite the law in place criminalizing sex determination and feticide, sex-selective abortion is high in Nepal. In 2021, there were 112 baby boys born for every 100 baby girls born, up from 107 baby boys born for every 100 baby girls in 2011 indicating a growing preference for sons in Nepal.<sup>6</sup>

### **The Commissions recommend to:**

- Ensure comprehensive sexual and reproductive education including to the out-of-school children and strengthen healthcare systems to provide quality, accessible, affordable, and effective sexual and reproductive health services.
- Amend Section 15 of the Right to Safe Motherhood and Reproductive Health Act, 2018 and Section 189 of the National Criminal Code, 2017 to make them in line with each other.

## **ARTICLE 14: RURAL WOMEN**

### **Climate change and disaster risk reduction**

33. In view of the growing threats of Climate Change, Nepal has incorporated separate Chapter on Climate Change with the participation of women experts at the high-level, National Council. Nepal has launched its first NAP on November 2023. The NAP outlines adaptation programs to enhance resilience to climate change through GESI-responsive livelihood programs. But Nepal has been ranked among the hardest-hit countries by climate change. A big challenge has been created due to landslide and floods during seasonal and off-seasonal heavy rainfall.

## **ARTICLE 16: MARRIAGE AND FAMILY LIFE**

34. The Section 74 (1) of the National Civil Code, 2017 states that if a woman gives birth to a child, she is considered automatically married to the father of that child. The “automatic

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<sup>6</sup> Census 2021

marriage” between a woman and a man upon bearing a child together – without taking into consideration the consent of both parties has yet to be repealed or amended. However, the Act to Amend Some Nepal Acts Relating to the National Code, 2018 states that if a woman bears a child after having intercourse with a man who is married to another person, they are not considered automatically married as if it is prohibited polygamous marriage.

35. Nepal’s existing laws do not protect the rights of women in unregistered marriages and the dissolution of polygamous marriages and child marriages. Since child marriages are automatically void under the law, it is quite challenging to ensure that children born during these marriages access their rights (e.g. property rights) upon the termination of their parents’ marriage.
36. The unilateral divorce (three talaq custom) is in practice in Muslim communities even though Nepali law does not recognize it as a legal divorce. The National law makes it mandatory for spouses to file divorce applications in the district court. The concerned communities need awareness about Nepal's legal paths on marriage dissolution.