

NEPAL **Nepal**

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Purpose of Study

The present study on the impact of the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) has been conducted for the York University, Center for Feminist Research, who has been working in co-operation with the United Nations Division for the Advancement of Women (UN-DAW) and International Women's Rights Action Watch (IWRAP).

The paper attempts to record the historical development and context relating to the ratification process of CEDAW and examines implementation of government obligations under the *Convention* through legislation, policy and programs, and by courts, government institutions and parliament. The report aims at creating tools for the government and non-governmental organizations (NGOs) to enable them to effectively address the issues pertaining to implementation, reporting and monitoring of CEDAW in the Nepalese context. Since the World Conference on Women in Beijing, politicians and governments have talked of women's rights and made promises for their upliftment. Very few of those promises have actually been translated into reality, leaving most of other promises just—promises. The study assumes special importance also in light of such gaps between commitments in favor of women's rights and honest implementation of programs and policies to realize those commitments.

The study has been done mainly with interviews with concerned governmental and non-governmental organizations working in relation to CEDAW and publications related to women's development. Different statistics and articles published in different journals and

seminar papers have also been used as secondary sources of information.

The study has given us power to negotiate with the concerned mechanism as it is the first of its kind and no other study has been conducted up to now to see how CEDAW has been used in the country. It has tried to record the historical events from the ratification process up to now, when the government is on the point of presenting their initial report.

NGOs are using this study in preparing a Shadow Report on the initial report of the government on CEDAW along with the draft baseline report on facilitating the fulfillment of State obligation towards women's equality (a project initiated by IWRAP-Asia Pacific).

Executive Summary

Right after the restoration of the multi-party democracy system in Nepal on 22 April 1991, the then interim government ratified CEDAW without any reservation. The members of the interim government came to the office with an activist background with the idealism of democracy ruled law, protection of human rights and a political system based on multi-party pluralism. The govern-

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ment was all too willing to ratify CEDAW, as ICCPR was ratified only on May 14, 1991 with the pressure of a few human rights organization to accede on it. During the ratification, many people commented that the government signed the instrument amid excitement and restlessness caused by the new found democracy hence its implementation would be weak and ineffective as it was done without establishing an infrastructure. In our interview, the then Law and Justice Minister said that ratifying the treaty at least will open avenues for human rights and women's rights organizations and the general people to pressure the government to continuously work in the direction of creating the infrastructure required for the effective implementation of CEDAW.

Despite some attempts to popularize CEDAW, the fact of the matter is that many people including those in the decision making and implementation authorities are unaware of the ratification and existence of the *Convention*. After ratification of CEDAW, it was not communicated in the public media including government media. Women rights NGOs became more aware of the *Convention* after a

CEDAW workshop organized by IWRAP Asia Pacific in 1993.

The Constitution of the Kingdom of Nepal promulgated after democracy guaranteed principles of basic human rights to every citizen including rights to equality and also provides that any law inconsistent with the provisions of the Constitution shall be void. The Constitution has also opened avenues for the widening the concept of locus standi in cases of public interest. Any treaty ratified by the Parliament in which the government is a party is enforceable as a national law. The then interim government which ratified CEDAW, enjoyed executive as well as the legislative authorities as there was no parliament. By ratifying CEDAW, the State is not only responsible for the elimination of all forms of discrimination against women as defined by Art. 1 of CEDAW, but also accountable to guarantee the rights specified in Art. 5-16 of CEDAW through policy and legal process, guaranteeing the basic human rights following the measures to ensure not only *de jure* right, but also *de facto* equality for the equality in result with substantive equality. A strong commitment seems to have been made in the Ninth Plan to review existing legislation on women and to enact appropriate laws in accordance with the international instruments.

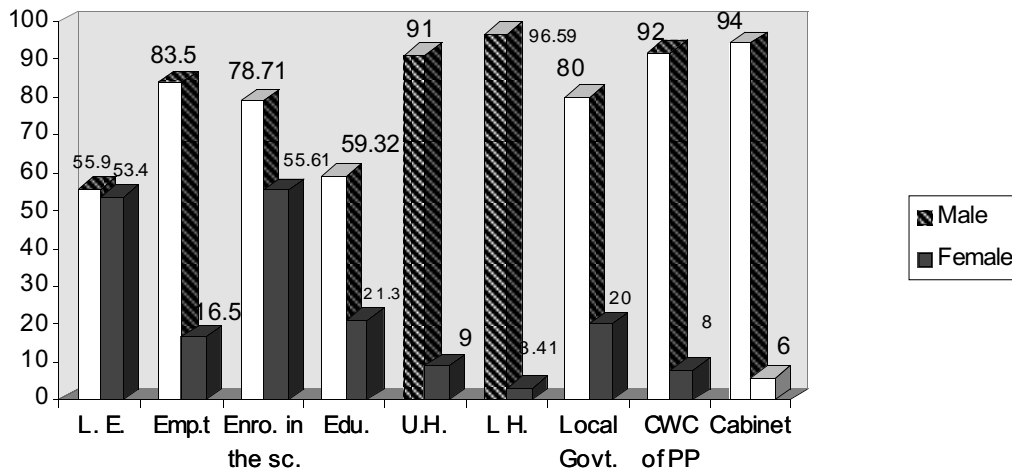
Ratifying CEDAW, the State has recognized the existence of discrimination and inequality, these commitments are somehow transferred in the latest national policies and plan of action prepared by Ministry of Women and Social Welfare but implementation of the promises have been very weak due to the social value system, inadequate monitoring and evaluation systems for programs, poor enforcement concerning women's rights.

Few initiatives to enact the special laws are taken which includes A compulsory five per cent of women candidates from each political party in the general election of lower house, three seats in the upper house and 20 per cent of seats reserved in the local government as CEDAW recognizes that different policies may be formulated and applied to women in order to realize substantive rather than formal gender equality. However, these are limited measures to advance the condition of

Status of Women in the Nation

	Male	Female
Life Expectancy	55.90 %	53.40 %
Employment	83.50 %	16.50 %
Enrollment in School	78.71 %	55.61 %
Education	59.32 %	21.33 %
Upper House	91.00 %	09.00 %
Lower House	96.59 %	03.41 %
Local Government	80.00 %	20.00 %
Central Working Committee of the Political Parties	91-94 %	6-9 %
Cabinet (from 1990-1998)	88-100 %	0-12 %

Source: Data Compiled by FWLD for the CEDAW Impact Study from various statistics.



women and more activities have to be conducted to incorporate CEDAW into domestic legislation.

Nepal has its own idiosyncratic Hindu legal system based on patriarchy, which reflects male supremacy. The Constitution itself says it's a Hindu Kingdom. Patriarchal values, deep rooted in the social attitude, are controlling the family system, hence women have not been able to practice their rights due to the social, cultural and religious value system. Irrespective of the constitutional provisions for gender equality, many laws governing marriage and family relations especially in regards to child custody, property, divorce and bigamy are discriminatory. Violence against women is a grave social problem. The laws of Nepal define the status of women in terms of their sex and marital status; which is directly restricted by Article 1 of CEDAW. This social and cultural status is reinforced by the executive, legislative and also by the judiciary while interpreting women's rights based on sex and marital status.

Several petitions are filed with the Supreme Court against a number of discriminatory legal provisions prevailing in our laws. After initiation of a few cases it was realized that challenging the laws based on provisions in CEDAW, might cause problems when taking up matters to the International level. Hence we also quoted the *Covenant on Civil and Political Rights* which also has an optional Protocol.

A leading case where a daughter is denied the right to inherit paternal property (a daughter has to be unmarried and must attain 35 years to inherit paternal property whereas a son is eligible to inherit paternal property right after his birth) under existing laws, was challenged in the Supreme Court in *Meera v. Ministry of Law and Justice*. The Court declared that the existing provision to inherit paternal property is conditional and a directive was issued to the government to introduce a Bill in the legislature within a year, reviewing laws related to property rights. At the same time, the Court also asked the government to take into consideration the patriarchal nature of the society, social structure, and fear of positive discrimination against men.

Similarly, many other cases on discrimination was also filed in the Court, in each case, the question of State obligation under the various international instruments, Treaty Act and the Constitution were raised. However, in none of these cases did the Court try to develop the jurisprudence of State obligation under international instruments in the domestic context. Hence there is a need of a clear definition of law with the principle of equality and non discrimination.

Despite the negative interpretation about the status of women in the society, the challenges against the existing laws had a positive impact as a result of which women are relatively more empowered. Because of the

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court decisions, the entire society was forced into rethinking the patriarchal structure, male supremacy, and the status of individual freedom of women. Women have begun to be vigilant about the issues and link them with the broader issue of equality.

As a result of judicial interventions in many cases, the government had to submit a Bill in the Parliament acknowledging in its Preamble itself that its objective was to amend the existing discriminatory laws and maintain balance in the society since Nepal was a signatory to the *Convention on Elimination of All forms of Discrimination Against Women*, and also as a decision of the court.

The Ministry of Women and Social Welfare is defined as the lead agent to follow up and take necessary actions to meet Nepal's commitments in all UN Conventions and Declarations related to women as specified in the initial report. The Ministry of Women and Social Welfare does not have any information about the meeting of the Commission on the Status of Women (CSW), CEDAW expert group meetings and the negotiations going on with the Optional Protocol as well. The

National Council for Women and Children Development held a formal meeting only once after it was formed in 1995. However, the Ministry has taken up the initiative to draft the Bill on inheritance rights, domestic violence, a national commission for women, and has also compiled a few discriminatory laws which are inconsistent with CEDAW. However, initiatives taken by the Ministry of Women is not taken seriously by the Government Agencies.

There is no co-ordination between the government agencies, especially among Foreign Ministry, Women Ministry, Law Ministry, Finance Ministry and the National Planning Commission, all of which have some obligations to adjust laws, policies and practices in

line with the standards of a ratified treaty. Until the government takes this initiative, the international standards cannot be enforced within the domestic legal system. Therefore, other strategies must be pursued to stimulate the political will to incorporate the international standards on gender equality within the country's municipal laws. This is vitally necessary if the process of standard-setting at the international level is to help to create universal ethics on equality and improve the status of women within countries.

The reporting process is the monitoring mechanism under CEDAW to make them accountable to for their obligations and it's the government's responsibility to prepare and submit the report. The Government agencies are confused as to which particular institution is responsible for the preparation of the initial report under the international instruments. Despite the confusion, the initial report on CEDAW was prepared by the National Planning Commission and submitted to the Foreign Ministry in May, 1997, which had been due since 1992. This did not reach the UN for one-and-a-half years. Hence, proper education about State obligations and reporting mechanism has to be launched right after the ratification of any international instrument of such category.

The suggestions made by the NGOs have not been incorporated by the Government in the report especially the ones regarding intervention in cases involving violence against women about which the Convention does not have a specific Article. The report mostly highlights the existing and past initiatives taken by the government and NGOs and fails to include the real scenario of women even after it has been made obligatory on the state to eliminate all forms of discrimination against women with an approach of substantive equality looking into the *de jure* and *de facto* equality.

During the study, it also came out that the Beijing Platform for Action was more popular with the Government and the people rather than CEDAW due to the media focus. For example, National Plan of Action prepared by the Ministry of Women does specify that the plan is based on the guidelines of

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Beijing Platform, where as it does not say to bring the CEDAW into national reality. However, the policy of adopting special provisions regarding international instruments in domestic legislation has generally been followed by the state for providing women their rights.

Ironically, programs for the implementation of such policies are not adequate. As a result, there is no improvement in the situation of women's human rights and the international commitments made by the country in this regard have remained mere commitments with less achievement. The challenge, therefore, is to recognize the need of stable and accountable government, who are aware about their commitment nationally, internationally with the political commitment and to have strong NGO monitoring.

Background of CEDAW

Recognizing the need for a comprehensive statement of women's entitlements to equality in a form that would be legally binding on State parties, CEDAW was adopted by the United Nations on 18th December 1979. The adoption of the *Convention*, the culmination of decades of international efforts to protect and promote the rights of the world's women, was opened for signature by state parties in 1980 and came into force in September 1981. It was an outcome of the initiatives taken within the United Nations Commission on the Status of Women, the body established within the United Nations system in 1947 to consider and make policy recommendations to improve the condition of women. In the ten years between 1949 and 1959, the Commission prepared a number of treaties, including the Declaration of Elimination of all forms of Discrimination Against Women.

Because the Declaration was not a treaty it did not create binding obligations on States, despite exerting tremendous moral and political pressure on them. In 1972, the Commission on the Status of Women considered the possibility of preparing a treaty, which would provide binding force to the Declaration. Preparation of such a treaty was encouraged by the World Plan of Action adopted by the 1975 World Conference of the United

Nations International Women's Year that called for "a convention on the elimination of discrimination against women, with effective procedures for its implementation." Its preamble recalled that the elimination of discrimination against women and the promotion of equality between women and men were the central principles of the United Nations, enjoying binding obligations under the Charter and other international instruments. The treaty holds the states accountable for denial of women's rights, whoever the offender.¹

Specific Features²

(based on the training materials on CEDAW prepared by IWRAW-AP)

The *Convention* is a comprehensive Bill of rights for women. It has integrated various concerns hitherto expressed in ad hoc manner in various declarations.

The *Convention* is based on the principle of equality between men and women. Hence it extends the coverage of human rights to women.

It mandates these rights through the legislative process, meaning that there is an avenue for holding the State accountable for guaranteeing the rights.

It recognizes that despite the granting of legal rights to women in many countries, discrimination persists, and women's access to legal rights are curtailed by the denial of rights to economic and social development. To avoid a similar eventuality, the *Convention* bridges the traditional divisions between civil and political and socio-economic rights, mandating both legal and development policy measures to guarantee the rights of women.

It recognizes that unequal treatment to women is socially constructed and accepts the existence of discrimination

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against women as a matter of fact. The *Convention* starts with the definition of discrimination. Article (1) 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 men and women, of status, on the basis of equality of men and women, of human rights and fundamental freedom in the political, economic, social, cultural, civil, or any other field.

The *Convention* draws the distinction between *de jure* and *de facto* rights, recognizing not only current discrimination but also past discrimination. It also introduces the concept of corrective measures to overcome the effect of past discrimination that leaves women handicapped vis-a-vis men. For example, if a development initiative is offered to women on the same footing as men in line with the principle of equal rights or equal opportunity, it might still turn out that men benefit more than women, because men have more experience, confidence or simply because the environment is male dominated and is more conducive to male participation. This is the effect of past discrimination. Article 4 provides for measures through which affirmative action and women centered development policy measures can be legitimized to ensure *de facto* equality for women. The *Convention* goes beyond the law and obligates governments to implement extra legal measures. The provisions under Article 4 can be used to obligate governments to implement policy and program interventions, even to the extent of reverse discriminations in order to enable women to access the rights guaranteed in the law.

It addresses the need to tackle power relations between women and men at all levels, from family to community, market and state.

It discards the distinction between the private and the public spheres, by recognizing violations of women in the private sphere i.e. home, as violations of women's human rights.

The *Convention* also recognizes the negative impact of social, customary and cultural practices which are based on the idea of the "inferiority or the superiority" of either sex or on stereotyped roles for women and men (Article 5). Articles 1 and 5 give the *Convention* the widest applicability, as together they can be interpreted to refer to almost any situation that adversely affects women.

Finally, the *Convention* carries with it the principle of State Obligation. Under this treaty the dynamics of relationship between the State and women is no longer that of the dependency of women on the goodwill or vagaries of the State, but one in which the state has responsibilities to women from which it cannot withdraw. Theoretically, implementation of the *Convention* is binding on all State parties. There is also a monitoring mechanism. All State parties are duty-bound to submit periodic reports to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Nepal's International Commitments In Different Human Rights Instruments Incorporating Women's Rights

As a member of the United Nations, Nepal is a party to a large number of international legal instruments concerning women (listed in the Table 1) without any reservations and has also accepted the jurisdiction of the International Court of Justice in the application and interpretation of the instruments. Nepal is also a party to various labor conventions related to women such as the Convention on the Equal Remuneration (No. 100), Convention on the Discrimination (Employment and Occupation) (No. 111) and others.

Treaty Obligation

Being a multilateral treaty, the implementation aspect of the *Convention*—when and how to execute the provisions—depends entirely on the executive decision. A separate Treaty Act was passed by the interim government (1990-91) to regularize ratification of, and accession to, such conventions in line

Table 1

S. N.	International Instruments	Ratification or Accession Date
1	Slavery Convention, 1953	7 January 1963 (A)
2	Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institution and Practices similar to Slavery, 1956	7 January 1963 (A)
3	Convention on the Political Rights of Women, 1952	26 April 1966 (A)
4	Convention on the Prevention and the Punishment of Genocide, 1948	17 January 1969 (A)
5	International Covenant on the Elimination of All Forms of Racial Discrimination, 1965	30 January 1971 (A)
6	International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973	12 July 1977 (A)
7	International Convention Against Apartheid in Sports, 1985	1 March 1989 (R)
8	Convention on the Rights of the Child, 1989	14 September 1990 (R)
9	Convention on the Elimination of All Forms of Discrimination Against Women, 1979	22 April 1991 (R)
10	International Covenant on Economic, Social and Cultural Rights, 1966	14 May 1991 (A)
11	International Covenant on Civil and Political Rights, 1966	14 May 1991 (A)
12	Optional Protocol to the International Covenant on Civil and Political Rights, 1966	14 May 1991 (A)
13	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	14 May 1991 (A)
14	Convention on the Suppression of Immoral Trafficking and Protocol, 1949	25 December 1995 (A)
15	Second Optional Protocol to the International Convention on Civil and Political Rights/aiming at the Abolition of Death Penalty, 1989	4 June 1998

Source: Data collected for CEDAW Impact Study by FWLD.

with the spirit of Article 126 of the *Constitution of the Kingdom of Nepal*, 1990. Section 9 of the Treaty Act provides that any treaty once ratified, acceded to, accepted and approved by the Parliament, in which the Government is a party, shall be enforceable as a national law. So strong is the force of the treaty that in case of contradictions between a prevailing municipal law and the treaty, the prevailing law shall be declared void and the treaty provision is implemented as national law. The then interim government, which ratified CEDAW, enjoyed executive as well as the legislative authority—through an order of the Monarch and the Transitional Provisions in the Constitution—since there was no parliament for a full year after the restoration of multi party system in 2 April, 1990.

Historical Context of the Ratification of CEDAW in Nepal

Catapulted to a position of power by the historic 1990 popular movement, the interim government—led by the Nepali Congress and comprising of the Left Front, the Royal appointees and the independents—that took office in April 1990 was out in favor of State commitments on issues related to human rights and democracy. While in the same upbeat mood, the Ministry of Law and Justice initiated and submitted the proposal for the ratification of CEDAW to the Cabinet and was decided by the Cabinet on 10th December 1990 (2047.8.24), Nepal on April 22, 1991 ratified the treaty. Five days after the ratification, on April 27, the instrument of ratification was deposited before the Secretary General of the United Nations.

a. Motivation of the government to ratify CEDAW

A similar attitude toward other multilateral treaties was not prevalent despite a generally positive outlook of the Government towards international instruments protecting the rights of the citizens. The accession to the *International Covenant on Civil and Political Rights* and its Optional Protocol 1966, and the ratification of *Convention Against*

Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 was made only on May 14, 1991 as per the Cabinet decision of 15 April, 1991 (2048.1.2). The basic visible difference between the ratification of CEDAW and ICCPR was that while in the case of the former the Government was all too willing, in case of the latter, a few human rights organizations had to lobby and pressure the Government to accede to the multilateral treaty.

The members of the interim government of 1990-91 came to the office with an activist background. The government came into being at the end of the 30-year party-less dictatorship and was led by political leaders who fought for democracy and provided leadership to the popular movement. These leaders had as their main *mantra* the idealism of democracy, rule of law, protection of human rights and a political system based on multi-party pluralism.

The role of the then Law and Justice minister in the ratification of CEDAW was praiseworthy, so was the role of the then Prime Minister, and one woman voice in the cabinet, Sahana Pradhan.

b. Ratification without infrastructure

When the *Convention* was being proposed for ratification, many believed the Government was signing the treaty amid excitement and restlessness caused by the new-found democracy. Signing the treaty, they thought, would have no practical impact and its implementation would be weak and ineffective if it was done without establishing the social and economic infrastructure and institutions to end discriminations of all forms. But the then Law, Justice and Parliamentary Affairs Minister had a different opinion. Himself a lawyer and a long time pro-democracy fighter, Nilambar Acharya conceded that the Government had been confronted with the idea of ratifying the treaty only after creating the basic infrastructure. “But what we thought was that if we waited for the infrastructure to be set up for the ratification of the treaty we could be faced with a situation where neither the infrastructure would be put on place nor would CEDAW be ratified,” Acharya then

said. The best thing to do would be to ratify the treaty “Because that would at least open avenues for human rights and women’s rights organizations and the general people to pressure the government to continuously work in the direction of creating the infrastructure for the effective implementation of CEDAW.”

Many in the higher echelons of the bureaucracy have since questioned the efficacy of the interim government’s decision to ratify the ambitious treaty. “It was a government led by pro-democracy fighters with strong ideological bond with human rights and democracy and the leaders signed the treaty merely out of their emotional attachment and commitments. They ratified the treaties without thinking about their implementation as a result of which those international commitments have not been complied with in practice despite the lapse of considerable time since the ratification.”

c. Ratification without reservation

His Majesty’s Government ratified CEDAW without any reservations whereas many Asian governments, including developed countries, ratified the *Convention* with a number of reservations.

d. Communication of the ratification

It was generally believed that at least the national radio and the State-owned newspapers announced the ratification of CEDAW in 1991. However, upon researching the government newspapers, no announcement of ratification of CEDAW could be discovered. On the other hand, accession to and ratification of ICCPR and other conventions were announced in the government media.

The Cabinet decision to ratify the *Convention* also said that enough propaganda and publicity should be carried out to familiarize the *Convention* to the general public. A notification about the ratification of CEDAW was published in *The Gazette* no. 2048.3.4 (June 1991) with an English text of the *Convention*.

Awareness about the *Convention* and Its Contents

Despite attempts to popularize CEDAW, the

fact of the matter is that many people including those in the decision-making and implementation authorities are unaware of the ratification of the *Convention*. A classic example of the same could be of a responsible officer at the Ministry of Women and Social Welfare who said that she came to know of the *Convention* only after joining the Ministry. Needless to say, the government has failed to link CEDAW as a policy guideline for all government activities related to women.

Women rights’ NGOs became more aware of the *Convention* after a CEDAW workshop organized by IWRAW-Asia Pacific and Manushi in 1993. That was when some women came to know the existence of the documents related to the *Convention* and its ratification by the Government. But in all humility, we must accept that many lawyers and judges are still unaware of even the existence, let alone contents, of the *Convention*.

However, few non-governmental organizations have been publicizing the CEDAW through articles, workshops, speeches, radio programs, newspapers, posters, cartoons and brochures.

Initial Report

a. Initiative to draft

The initiative to draft the initial report on the implementation of the *Convention* that was due since July 1992, started in December 1995. After attending the CRC monitoring meeting in Bangkok, the National Planning Commission and few NGOs were encouraged to draft the initial report on CRC and the same initiative resulted in the preparation of a report on CEDAW for the National Planning Commission. Mr. Gyanendra Shrestha, a section officer at the Planning Commission played an important role in taking initiatives in this regard.

There was little pressure from the NGOs as well to take initiative for the preparation of the report until they came to know of the mechanism in the convention that requires the States to submit the initial report and periodical reports to monitor the status of women.

The major voice for the submission of the

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initial report was raised by the Gender Watch Group and Forum for Women, Law and Development (FWLD) during a meeting with concerned government agencies including the NPC and the Ministry of Foreign Affairs when CEDAW Expert Member Ms Arora D'souja from Philippines was to visit Nepal. This meeting was organized during April 13-14, 1997 to pressurize the government to submit the initial report.³ Finally the NPC submitted the report on 15 May 1997 to the Ministry of Foreign Affairs.

b. Formation of the Committee

The NPC took the initiative to draft the initial report and formed a committee consisting of nine members represented by the Planning Commission, Ministry of Law and Justice and NGOs.⁴ However, during this study it came to the light that nobody knows which institution is responsible for the preparation of the initial and periodical reports in Nepal. Ministry of Women and Social Welfare was not even consulted during the preparation of the initial report.

c. NGO participation

Inhured International (a national NGO) took the initiative to provide input on the draft government report of the *Convention on Elimination of All Forms of Discrimination Against Women* for which two national workshops were held during July-August 1995 aimed at allowing intensive discussions on the subject and to facilitate widest possible representation of NGOs in the process. Inhured asked for the draft report prepared by the government on the subject to provide its inputs on it, which the Planning Commission made available to it.

d. Incorporation of the NGO contributions

Not many comments made by the NGOs have been incor-

porated by the Government into the report especially the ones regarding intervention in cases involving violence against women about which the *Convention* does not have a specific Article. The report fails to highlight violence against women even though general recommendation No. 19 has been made to bring the problem of violence against women within the jurisdiction of the CEDAW. The report mostly highlights the existing and past initiatives taken by the Government and NGOs and fails to include the real scenario of women even after it has been made obligatory on the State to eliminate all forms of discrimination against women with an approach of substantive equality. The initial report has also not been able to incorporate the policies and programs and the Plan of Action to implement CEDAW in the national context. Inhured International too had the impression that when the initial report on CRC was prepared and submitted; NGOs' comments were taken seriously in each Article, whereas in reality NGOs' report was not at all incorporated in the initial report.

e. Submission

The Initial Report was delayed for a further one and half years after it was submitted by the NPC to the Ministry of Foreign affairs. A reference to one sentence of the country report that Nepal placed during the Commemoration of Beijing, Sept. 9-10, 1998, prepared by the Ministry of Women and Social Welfare, may be worthwhile. The report said, "Nepal has submitted its initial report to Geneva". This is how the report was lost. It was identified when we requested the Division of Women's Advancement Committee to start reviewing the report and give priority to our country for the presentation as this is an initial report, which was due for six years. Division confirmed that they never received the report from Nepal. Later, as the FWLD followed up the issue it discovered that it actually had never been sent to New York. Finally the Secretary of Foreign Ministry office said it would be submitting it to New York in October 1998. Finally, the report was received by the United Nation Division for the Advancement of Women and Right after

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which Nepal was given the opportunity to present their initial report in June 1999.

Articles of the Convention

The broad structure of the *Convention* is as follows:

Articles 1–4 outline the general premises of eliminating discrimination and the nature of the general obligations undertaken by state parties, including the definition of discrimination (Article 1), policy/legal measures to be undertaken to eliminate discrimination (Article 2), guarantee of basic human rights and fundamental freedoms for women on an equal basis with men, and specifying the temporary special measures being considered discriminatory. (Article 4)

Articles 5–16 specify the different areas under which governments are obliged to eliminate discrimination through the measures described in Articles 1-4. These include: sex roles and stereotyping (Art. 5), prostitution (Art. 6), political and public life (Art. 7), participation at the international level (Art. 8), nationality (Art. 9), education (Art. 10), employment (Art. 11), health care and family planning (Art. 12), economic and social benefits (Art. 13), rural women (Art. 14), equality before the law (Art. 15), marriage and family law (Art. 16).

Articles 17–22 detail the establishment and functions of CEDAW and Articles 23-24 detail the administration of the convention.

State Obligation Under CEDAW and its Implementation

A. Eliminate Discrimination and Ensure Equality

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake (Article 2):

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means,

the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

(i) CEDAW (Gender Equality) Under the Constitution of the Kingdom of Nepal

The *Constitution of the Kingdom of Nepal, 1990*, enshrines as its underlying principles the basic human rights to every citizen and a guarantee of a system of justice in line with the concept of Rule of Law. The Constitution under the fundamental rights chapter recognizes various international and regional instruments including CEDAW. The fundamental rights guaranteed in the *Constitution* include among others, right to equality, right against exploitation, right to privacy etc. Protection and promotion of the human rights is a basic feature of the *Constitution*.⁵

The Constitution of the Kingdom of Nepal, 1990, enshrines as its underlying principles the basic human rights to every citizen and a guarantee of a system of justice in line with the concept of Rule of Law.

The *Constitution* also provides for an effective remedy and procedure of enforcement of rights in cases of infringements by the executive. The enforcement of rights can be realized through an order of the independent judiciary empowered with the extraordinary jurisdiction to protect such rights by issuing the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto. The *Constitution* also declares itself as the fundamental law of the land, providing that any law inconsistent with the provisions of the *Constitution* shall be void.

The extraordinary jurisdiction of the Supreme Court in the Constitution opens avenues for widening the concept of *locus standi* in cases of public interest, introducing a broader concept of judicial constitutional reform in Nepal.

Besides these rights, the Directive Principles of State Policy set guidelines for the State to “pursue a policy of making the female population participate, to a greater extent, in the task of national development by making special provisions for their education, health, employment” and by providing legal aid.⁶ It may be relevant in this

context to mention that the Supreme Court has also said in one of its judgments that even though the directive principles and policies of the State cannot be enforced by the Court, the Court may take it into consideration the directive principles and issue certain directives against the decisions of the government if the government decides against the directive principles and policies of the constitution.⁷

(ii) Responses in the Policy Formulations

Even though the policy for women development was initiated from the sixth plan of the HMG, the goal for gender equality has been outlined in detail in the Ninth Plan only. In the Eighth Plan which was intro-

duced after the restoration of multi party democracy in Nepal, few provisions were made for the upliftment of the women in line with Nepal’s commitments to international conventions.

*Women and Gender Equality Policy for Ninth Five Year Plan (1998-2002)*⁸

The Government seems to have realized that unless the women are brought into the mainstream of development by integrating gender and development into the sector-wise policies and programs of the country, equal rights of women will not be realized. Considering these issues, His Majesty’s Government of Nepal finalized the policy regarding women empowerment and gender equality for the ninth five-year plan (1998-2002).

The main goal of the plan is to achieve equality through empowerment of women in social, economic, political and legal fields and mainstreaming them into national development.

Mainstreaming:

1. Determination of clear-cut objectives and programs in the national and sectoral policies to mainstream women in the process of national development.

2. Review and revise the national accounting system to compute valuation of unpaid work of women in the calculation of national income.

3. Strengthen and extend the existing institutional capabilities for the effective implementation of women development programs. A strong co-ordination mechanism will be established with concerned line ministries and local level institutions.

A gender desegregation indicator will be developed for the monitoring and evaluation of women development related activities.

Gender Equality:

1. Review and revise all laws discriminating against women’s rights so that laws and regulations are in favor of women.

2. Introduce regulations that do not discriminate against women in any way and that they affirm full participation and equality of women.

State Policy set guidelines for the State to “pursue a policy of making the female population participate, to a greater extent, in the task of national development by making special provisions for their education, health, employment” and by providing legal aid.

3. Undertake measures to remove institutional obstacles that hinder women's participation.

4. In national development, reduce gender disparity, improve and reform legal and administrative policy, if necessary.

5. To prevent violence against women, government, non-government organizations as well as local level institutions will implement women development related activities for the protection of women's rights in an integrated approach.

6. An institutional set up will be established for organizing gender sensitization training for the policy makers and for implementers.

Empowerment:

1. In the process of planning and implementation of national development, the participation of women will be ensured from the grass root to central level according to the provisions in the present Constitution with the help of special legal provisions.

2. The valuable contribution of women in the agriculture sector, a long-term perspective plan of agriculture, agricultural training marketing and agricultural income generating activities will ensure maximum participation of grass root level women.

3. Access will be extended to ensure healthy life expectancy of women and increased level of quality of health care services and necessary services in a life cycle approach. Preventive as well as curative health care services, reproductive health and senior women health care services will be strengthened.

4. Emphasis will be given to raise the educational status of women through their access to formal and non-formal education. It will be improved by providing scholarships, provisions of female teacher and special measures in technical education too.

5. The participation of women in institutional development, the opportunities of employment in the various industry, tourism, forestry, communication, water resources, education, health, women entrepreneurship and management training, income generating activities, resources and institutional credit access will be intensified.

6. An appropriate agricultural technology

aimed at reducing workload and to improve productivity of women will be extended by increasing the access of women to the technology.

Thus, a strong commitment seems to have been made in the Ninth Plan to review existing legislation on women and to enact appropriate laws in accordance with the international instruments. This policy is also based on National Plan of Action prepared, in 1997 in line with the Beijing Summit Declaration of 1995, by the Ministry of Women and Social Welfare. However, the achievement of gender equality as specified in the Ninth Plan of HMG is yet to be observed.

The commitments made by the government in Beijing⁹ for the upliftment of women also clearly states that

The constitutional rights of equality are being widely exercised. Nonetheless, certain specific laws that infringe upon the constitutional provisions shall be identified and presented to the legislature for necessary amendments within the next two years. The Government will also prepare and present a Bill within one year to the legislature providing equal rights to women in relation to ancestral property. Additionally, legal provisions in relation to violence against women, including those related to trafficking, shall be reviewed and the enforcing agencies shall be strengthened. Legal as well as rehabilitation assistance to victims of violence shall be supported on a broader scale.

However, these commitments made by the government are yet to be translated into reality.

(iii) Use of CEDAW in the Courts:

The basic principle of modern jurisprudence says that

“The constitutional rights of equality are being widely exercised. Nonetheless, certain specific laws that infringe upon the Constitutional provisions shall be identified and presented to the legislature for necessary amendments within the next two years.”

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only an efficient and independent judiciary can protect and enforce the fundamental rights of the citizens. Lawyers, activists and NGOs have filed several petitions with the Supreme Court against a number of discriminatory legal provisions prevailing in our laws. Challenges have been based on CEDAW and Article 11 of the *Constitution*, and there have been cases in which the court issued directives to the government to prepare Bills with necessary changes in the existing laws. This has been considered a positive step taken by the judiciary in the Initial Report of the government submitted to the United Nations. After a few cases we realized that if we just challenge the laws based on provisions in CEDAW, we might have problems when taking the matters to the UN level. Hence, we also quoted the *Covenant on Civil and Political Rights*, which also has an optional Protocol. Since Nepal has ratified them all, we felt it would be a more effective instrument to use in the international level.

The Supreme Court has interpreted women's rights issues in the cases mentioned below:

Discrimination against women means any distinction, exclusion or restriction made on the basis of sex which has effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms.

A daughter is denied equal inheritance rights under existing laws of Nepal. This provision was challenged in the Supreme Court in *Meera Dhungana vs. Ministry of Law and Justice*.¹⁰ The Court declared that the existing provision to inherit paternal property is conditional upon the daughter remaining unmarried until the age of 35 and a directive was issued to the government to introduce in the legislature a Bill within a year reviewing laws related to property rights. At the same time, the Court also asked the Government to take into consideration the patriarchal nature of the society, social structure, and fear of positive discrimination against men.

In this case, when we mentioned Articles 15 and 16 of

CEDAW in our argument, the Government attorneys replied: "Art. 16 of the *Convention* provides same rights for the spouse in respect of ownership, enjoyment and disposition of the property and Art 15 guarantees equality with men only in the context of administering property. Hence the existing law is not inconsistent with CEDAW." Another argument made in this case was that Nepalese women have two statuses in the society. One is before marriage and the other after marriage. Before marriage women can inherit parental property once she attains the age of 35 years and after marriage she can get a share of her husband's property. Hence, it cannot be said to be a discriminatory provision, the government lawyers argued.

Article 1 of CEDAW clearly specifies that discrimination against women means any distinction, exclusion or restriction made on the basis of sex which has effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Whereas in this case, the discrimination was the acceptance that women have two statuses and providing, all along, for laws based on the basis of marital status. And while interpreting the CEDAW article 2, 3, 4 and 5 should also be looked into.

In Chanda Bajracharya for *Misha Khala v. Parliament Secretariat et al*¹¹ and *Sapana Pradhan for FWLD v. Ministry of Law and Justice*¹² discriminatory legal provisions of the penal law, adoption law, succession (legacy), discrimination on punishment, divorce and remarriage were challenged.

Arguments were made by the applicants that the above mentioned laws were gender-based and discriminatory laws and therefore against CEDAW, *Civil and Political Right Covenant* and Sec. 9(1) of Treaty Act as well as the provisions of the *Constitution of the Kingdom of Nepal*.

In the above cases, the Court said that it could not be denied that there is a great influence of Hindu Jurisprudence in our legal system, evident from the fact that Article 4

of the *Constitution* declares Nepal as a Hindu Kingdom and that we are devotees of Hindu religion. Above all, our religious codes play vital role in determining such matters that are mainly influenced by family and social behavior, culture, tradition, activity and conduct.

The Court further said that while taking any steps towards changing the traditions, it is very important to consider the impact of the changes in our society and whether our society can adapt to such changes. The Court reasoned that if anything not in conformity with the culture and tradition took place, it would ultimately disturb the entire society.

Similarly, in the second case (*Sapana Pradhan Malla for pro public v. H.M.G*)¹³ Section 26 (1) of the *Land Act*, 1963 was challenged. The provision denies rights to the daughter and daughter-in-law to be chosen as a tenant by the landlord. The Special Bench of the Supreme Court interpreted the foregoing provision as not discriminatory on following grounds:

1. The tenancy right does not devolve to other family after the death of a tenant. Since a daughter goes to her husband's house after her marriage, the policy does not discriminate against her.

2. The devolution of the tenancy right to a daughter may have adverse impact on the interest of the landowner.

The justification behind not allowing the devolution of the tenancy right to a daughter-in-law was that a daughter-in-law gets the right in property from her husband. The Court further directed the government to present an appropriate Bill in the Parliament by taking into consideration the anomalies thereof. In this case also the court justified that the daughter is not a family member, as after marriage she becomes the family member of her husband.

*Benjamin Peter v Department of the Immigration*¹⁴: The issue in the case was that a foreign woman married to a Nepalese man could either acquire citizenship of Nepal or extend the period of visa until the nuptial relationship continued and for three months after such relationship discontinued. However, similar right was not given to the hus-

bands of Nepali women. When this provision was challenged, the court said that the provision is not only contrary to Art. 11 of the Constitution but also contrary to various international covenants on human rights that have been ratified by Nepal. However, the court argued Article 11 of the Constitution is a general provision and the provision in Part 2 of the Constitution, relating to citizenship, is a specific one. Therefore, the claim that the special provision does not comply with the general provision is not a matter that can be agreed upon. These are matters of universal principles. The court did not take into consideration Art 9 of CEDAW that ensures women with the same right as men to acquire, change, or retain their nationality. This provision was once again challenged in *Meera Gurung v. Department of Immigration*¹⁵ in which the Supreme Court passed a positive judgment declaring the visa laws ultra vires. Subsequently, a new immigration rule has been enacted providing for equal provisions to foreign spouses of Nepali women in terms of acquiring visa.

In each case, the questions of state obligation under the various international instruments, Treaty Act and the *Constitution* were raised. However, in none of these cases did the court try to develop the jurisprudence of state obligation under international instruments in the domestic context. And during the arguments, the judges always insisted on what Nepali laws say, apparently not very keen to recognize the validity of the treaty under the national jurisdiction. It also came during this research that the court always asks lawyers and petitioners to make arguments on the basis of the domestic legislation rather than the international conventions of which Nepal is a party.¹⁶

Despite the negative interpretation about the status of women in the society, the chal-

The judges are not keen to recognize the validity of the treaty under the national jurisdiction. The court always asks lawyers to make arguments on the basis of the domestic legislation rather than the international conventions of which Nepal is a party.

lenges against the existing laws had a positive impact as a result of which women are relatively more empowered. Because of the court decisions in the inheritance right case, the entire society was forced into rethinking the patriarchal structure, male supremacy, and the status of individual freedom of women. Women have begun to be vigilant about the issues and link them with the broader issue of equality.¹⁷

As a result of judicial interventions, the government had to submit a Bill in the parliament acknowledging in its preamble itself that its objective was to amend the existing discriminatory laws and maintain balance in the society since Nepal was a signatory to the *Convention on Elimination of All forms of Discrimination Against Women* and because the *Constitution* provided for right to equality.

However, the question has been raised on whether a directive order for the submission of a Bill alone is sufficient to guarantee equal rights of women? If the Parliament does not pass the Bill what will be the consequence of the court order? Will the human rights of women be protected through judicial intervention in such an eventuality? How do we see the interpretation of the court that is more concerned about protecting patriarchal values than women's basic human right to equality and to live with dignity? Is the judiciary just shifting its burden to other government organs by not declaring the challenged provisions *ultra vires* and by issuing mere directive orders? Does the judiciary have any role in interpreting or implementing international conventions through the national courts?¹⁸

(iv) Executive Response

Some steps taken by the Government to fulfill its State obligation under the international instruments includes formation of the Ministry of Women and Social Welfare, institutional setup of Child and Women Development Council and establishment of Women Ministry. A strong National Plan of Action has been prepared by the Ministry of Women for the development of women based on Beijing Declaration.¹⁹ Under this Plan of Action few programs are already being imple-

mented which includes drafting the Family Court Bill, drafting the Domestic Violence Bill, a concept paper to establish the women commission and the eleventh amendment of the *Muluki Ain, 2020* (Country Code, 1963). The eleventh amendment of its *Muluki Ain 2020* was tabled in the Parliament. This amendment in the *Muluki Ain* aimed at providing property rights to women in the background of ratification of CEDAW and the Supreme Court's decision in many cases as specified in its preamble. Unfortunately, Parliament was dissolved in January 15, 1999 and the Bill has lapsed. It is also realised that the Bill drafted by Ministry of Women and Social Welfare has not been taken seriously by the government.

Amendment on immigration rules guaranteeing equal rights for obtaining visas for a spouse is also a positive act of the executive.

The Women and Children cell within the police which acts to investigate cases on abuse of women and children has been established in six district police offices.

Gender-sensitization training sessions for government officials are conducted by different ministries. (A detailed list of activities carried out by the WID focal point of different ministries including Ministry of Women and Social Welfare are mentioned in the Institutional Mechanism section.)

The Human Rights Commission Act 2053 (1996), enacted by the Parliament, grants the Commission the authority to monitor and implement human rights conferred by different international conventions including right to equality. But to date, the Prime Minister has repeatedly promised that the Human Rights Commission will be formed immediately while the commission has not been formed, effectively turning the law defunct.

(v) Legislative Response

Special Laws

The *Constitution* requires the State to make special provisions for women and children. It has also incorporated provisions for the reservation of minimum of five-percent candidacy for the Lower House and three seats in the upper House. Largely because of the provision, there are seven women members

in the Lower House out of 203 members, and six women in the Upper House which has a total of 60 members (Actually there are 205 seats in the lower house but due to the death of the two members of parliament we have only 203 members). It is also encouraging to note that for the first time in the political history, we have women occupying the positions of Deputy Prime Minister and Deputy Speaker of the House of Representatives. Similarly, to ensure better participation of women in the Local Government, 20 per cent of seat has been reserved for women in the Local Development Laws. Because of the provision, we have 39,000 women presently elected in the local bodies, that is Village Development Committees, District Development Committees and Municipalities. CEDAW and Constitutional Jurisprudence recognize that different policies may be formulated and applied even in respect to men and women in order to realize substantive rather than formal gender equality.

Similarly, an amendment to the Civil Service Act 1998 (first amendment) was made which forbid a woman to enter the Government service unless she attained the age of 40 years whereas a man could enter the service only until he is 35 years of age.²⁰ Amendments in labor laws (dealt with in employment chapter), amendments on *Land Acts* to provide tenancy right to the daughter and daughter-in-law are some of the positive steps taken by the parliament.²¹

However, these are limited measures to advance the condition of women and more activities have to be conducted to incorporate CEDAW into domestic legislation in a similar way that the government incorporated the *Convention on the Rights of the Child* in the domestic legislation enacting *Children Act 1992*.

Parliamentary response on the different Bills registered in the parliament

It was only in the Fifth Session of Parliament in 1993 that Government headed by the Nepali Congress tabled Country Code Amendment Bill 2050 BS (1993), proposing to incorporate certain provisions in Section 118 of the chapter on *Adalati Bandobasta*

(Court Procedures) to discourage crimes against women. The Bill proposed that an accused of rape and human trafficking should not be granted bail if *prima facie* evidence show his involvement in such crime (s).²² Although the Bill was passed by the Parliament, the provisions relating to women were not passed.

Similarly, during the same session, UML parliamentarian Mrs. Sahana Pradhan proposed changes to the rape laws and tabled a Private Bill. The Bill proposed to incorporate some new concepts. However, because NC parliamentarians objected to the Bill, it was not even allowed to be presented for discussion.

In the sixth session of Parliament (March 1994), the *Country Code* (Eleventh Amendment) Bill 2050 was tabled. This Bill proposed the following changes in various chapters of the *Code* to enhance the status of women and control crime against them:

- incorporation of a provision disallowing payment of compensation *in lieu* of imprisonment for the offence of bigamy.

- incorporation of mental torture as one of the causes of divorce, legalization of conditional abortion, allowing the widow to decide to live separate, increment of punishment for rape.

This Bill was under consideration of Foreign and Human Rights Committee of the House of Representatives when the House of Representative was dissolved on 27 Asadh 2051 (1994). The dissolution caused the end of the Bill.²³

Another Private Bill titled "Elimination of Discrimination Against Women Bill 2053" was submitted by Navraj Subedi, MP, in the 10th session of Parliament. Similarly, to legalize and regularize abortion, "Pregnancy Protection Bill 2053" was also introduced by Sunil Kumar Bhandari, Chairman of Family Planning Association and member of parliament. These Bills were not accepted for discussion in the Parliament. However, the Pregnancy Protection Bill has been again registered and under the consideration of Upper House.

The Bill-Country Code (11th amendment) Bill 2054 which was registered in the Parliament on 1997-7-31 incorporated various

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rights related to women including inheritance rights of daughter, rights of divorcee women, rights of widow etc. while it proposes amendments in many prevailing laws with discriminatory clauses such as discrimination on punishment for bestiality, and provisions on marriage and divorce. It also proposes legalization of conditional abortion and provides for punishment against child pedophilia since due to the lack of laws, many cases under child pedophilia have been initiated under the *Public Offences Act* only.

However, this Bill too had not been received well by many women activists, especially because of proposed amendments in the inheritance provisions. The Bill accepted women as the heir of the family allowing her the right to partition right after her birth. However, she has to return such inherited property after she gets married. The provision was against Article 1 of CEDAW which says “discrimination against women” means 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 and other field.

The Parliament did not discuss the Bill and finally as Parliament was dissolved on 15 January 1999, the legal status of the bill has lapsed. It has, hence, failed to fulfill its obligations under the international instruments. It is an obligation under the treaty to bring the laws, policies and practices of the country in line with the standards of the ratified treaty.

B. Suppression of trafficking in women and exploitation of prostitution

The State has an obligation to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Article 20 of the *Constitution* prohibits trafficking in human beings, slavery, serfdom or forced labor in any form. The *Human Trafficking (Control) Act* (1986) prohibits the act of selling human beings and taking a person out of Nepal to sell him or her. Under this law, the burden of proof falls on the defendant. The *Act* prescribes strict penalties for those involved in any aspect of human trafficking for prostitution. The statute prohibits sale and purchase of humans for any purpose. Acts like taking persons to foreign countries for the purpose of trafficking; enticing or alluring women into prostitution, or coercing them by undue influence, fraud, threat, or any other means; and pandering are all criminal offences punishable with five to twenty years of imprisonment.²⁴ Enforcement of the *Act* has been very weak, as only about 345 cases have been registered from 1992/93 to 1994/95.²⁵ Apart from prosecutions filed under this act, the government has no other program for checking the problem. The number of cases registered against girl traffickers is shown in the Table 2.

In order to effectively check and suppress trafficking in women and girls, Nepal became a State party to the *Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949), through a decision of the House of

Table 2: Cases Registered Against Girl Traffickers

Year	No. of Registered Cases	No. of Traffickers Involved	
		Male	Female
1990/91	104	-	-
1991/92	137	-	-
1992/93	117	261	62
1993/94	126	256	66
1994/95	102	165	69
1995/96	149	-	-

Source: Police Headquarters, Naxal, Kathmandu, Nepal, 1996.

Representatives in 25 December, 1995.

NGOs are trying to create awareness about the problem of girl trafficking through publications, seminars and action programs. NGOs working to create awareness about AIDS are active in this field especially after several prostitutes returning from the brothels in India were found to be carrying the HIV virus.

The media has also devoted a lot of time and space to highlight the problem. Feature films and telefilms have proved effective in relaying the message, though they reach only a limited segment of the population. Together with the NGOs, the police are stepping up their role in combating this crime. There is a special section within the police department to look after the trafficking issue. In September 1994, groups, consisting of campus students, social workers, girls who have returned from brothels in India, and the police, went to Sindhupalchowk district, northeast of Kathmandu in central Nepal, to create awareness among the inhabitants through pamphlets, talk programs and rallies with support from UNICEF. Many communities from this area have traditionally sent their daughters to work in India as prostitutes. The groups visited different areas of Nepal for three months as part of the awareness creation drive. UNICEF, in co-ordination with local NGOs, is preparing for a national-level campaign to promote awareness of the trafficking of girls from Nepal to India. Activities will include advocacy at the ministerial level to strengthen the laws regarding human trafficking, and working with the police for commitment to more effective enforcement of laws. The program intends to generate micro-level interventions in the districts most affected by girl child trafficking. Since poverty is one of the major causes that have forced girls into prostitution, a major focus will be on income-generating skills. Literacy will be another focus. In a study of some 400-500 Nepalese prostitutes in Bombay, the Women's Rehabilitation Center (WOREC), an NGO, found that most were illiterate. Nepalese journalists too have been provided information on child trafficking. Recently, a group of journalists were taken on a tour of the brothels of Bombay to acquaint them with the situa-

tion. There are many organizations such as ABC Nepal, WOREC, Maiti Nepal, ILRR, CWIN, INSEC etc. that have been working actively on the issue.²⁶ The Ministry of Women and Social Welfare has also prepared a national policy to combat trafficking of women and girl children which aims at the following:²⁷

Public awareness programs against girl trafficking and the flesh trade will be carried out on a large scale in various districts and villages, by establishing bilateral and multilateral co-operation with other countries, HMG will make efforts to control girl trafficking, necessary programs will be organized to provide compensation to children suffering from sexual exploitation and necessary steps will be adopted to solve problems on girl trafficking, AIDS and other sexual diseases, which are interrelated with each other.

It further says, the Government will promote employment opportunities for women according to their needs. Hence, skill-oriented training programs will be carried out and a co-ordination committee at the district level will function as the communication center to collect, co-ordinate and spread news regarding controls on girls trafficking and prostitution.

As per the mandate of HMG, the Ministry of Women and Social Welfare (MWSW) is the "focal point" for dealing with the issues of women and children.

The MWSW entered into an agreement with ILO-IPEC in November 1997, for a period of two years, with an objective of combating trafficking and sexual exploitation of children, preparing of a National Plan of Action, creating national and district level task forces, setting up of a rescue/re-integration fund, reviewing the law and its enforcement, co-ordination and networking with GOS, NGOs, donors and regional bodies/governments, recommending action programs through the National Task Force and working with GOS and NGOs on: Advocacy and awareness creation; Prevention, protection, rescue and re-integration. However, there is a need to evaluate the achievement of this project.

A National Task Force has been constituted under the chairmanship of Secretary of Ministry of Women and Social Welfare to pro-

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vide guidance to the program on combating trafficking and sexual exploitation of children.

Due to poverty in the hills, traffickers have found it easy to lure thousands of girls to India every year with tales of jobs and opportunities to act in films. An estimated 100,000-150,000 Nepalese girls and women are working in India as prostitutes. The girls are usually recruited from Sindhupalchowk, Nuwakot, Makwanpur, Kavre and Dhading districts in central Nepal, all very close to the capital city.²⁸

As soon as they reach the age of puberty, the girls are often sent to India even by their own parents or with their collusion. The wealth these girls bring back has only encouraged many parents to send their daughters to India. Poverty, lack of awareness and an old tradition have also fueled this trade. An unregulated, open border with India has been one of the major problems in checking girl child trafficking. Besides all these steps taken by the government and NGOs, problem of trafficking has not been controlled since it is an organized crime and a trans-

border problem. Hence, SAARC is trying to develop a regional convention to deal with this problem giving bilateral obligation to the state parties. Similarly ESCAP is also trying to develop a regional strategy to combat trafficking in women for which a two days workshop on 3rd and 4th November 1998 was held in Bangkok. The workshop adopted a draft plan of action in line with the Beijing platform for action and to establish and strengthen multi-sectoral national mechanisms such as national committees consisting of GOS, NGOs and other relevant entities of civil society. The workshop also agreed to focus on preventive measures through literacy, media etc.

However, questions can be raised on whether the State has taken any regional measures to suppress trafficking in women and girls? Have any agreements been reached between sending and receiving countries to co-ordinate legal and administrative measures in the region, particularly within SAARC? What are the constraints, if any? Have any specific programs been undertaken to provide women with alternative employment options instead of being drawn or pressured into trafficking or prostitution?

C. Nationality

Art. 9 of CEDAW guarantees equal rights to women to an independent nationality, regardless of the husband's nationality and equal rights regarding the nationality of their children.

A woman does not fall under the descent of the family in Nepal. Therefore, she alone has no right to give any identity to her children as a mother of the child. Citizenship can be acquired either through the father or through the husband only. She does not even have the right to register the birth of her child. This legal provision manifests the discriminatory status of a woman within the family and society in Nepal. A woman of foreign nationality who is married to a Nepali citizen and who has initiated proceedings for renunciation of her foreign citizenship may acquire Nepal's citizenship. However, a foreign man who has married a Nepali woman is not entitled to acquire Nepali citizenship by virtue of such marriage. She even has no right to give the citizen-

Table 3

Comparison Between the Election of House of Representatives of 2048 and 2051³¹

Party	Election 2048 (Candidates)				Election 2051 (Cand.)				Diff. (%)
	Female	Male	Total	Fe%	Female	Male	Total	Fe%	
NC	11	193	204	5.39	11	194	205	5.37	-0.03
UML	9	168	177	5.08	11	185	196	5.61	0.53
RPP	17	301	318	5.35	13	190	203	6.40	1.06
NSP	5	70	75	6.67	9	77	86	10.47	3.80
OTHERS	40	531	571	16.21	42	708	752	13.73	-2.48
Total	82	1263	1345	6.10	86	1354	1442	6.03	-0.07

ship to her children. Hence, the State obligation to grant women rights equal to that of men with respect to the nationality of her children are denied by the law. Law has forfeited any claims to be regarded Nepali women as a citizen of the country. A child found within Nepal, the whereabouts of whose parents are not known, is deemed to be a citizen of Nepal until the father of the child is traced. Thus, the mother is not given the same right as a father in regard to the citizenship of children. Many children who are born of a Nepali mother and a non-Nepali father in Nepal are facing complications arising out of this problem.

The children and spouse of married women are not entitled to citizenship as a right. The tacit assumption of this policy of exclusion is that a woman who marries a man who is a foreigner and their children will leave in his country of origin and become citizens of that country. The assumption is incorrect as evidenced by the many women who have decided to retain their lives with the country of their birth. They wish to live and work in their own country and allege that the inability to obtain citizenship for their children, and their husbands undermines their capacity to maintain a stable family unit. (*See Use of CEDAW in the Court for detailed information*)²⁹ The new constitution of 1999 has in fact limited the women's right curtailing the right confers by the *Constitution* of 2019 which said people born in Nepal or one of the parent residing in Nepal is entitled to acquire the citizenship of Nepal.

Nepalese women are very often asked for the permission of guardians when they apply for passport. Thus, questions can be raised on whether the State is granting women equal right as that of men in acquiring their nationality or in respect to the nationality of their children? or have they been compiling the State Obligation committed under the CRC? Indeed the committee of CEDAW has a general recommendations calling upon all the State Parties to bring these Nationality Laws with Article 9 of the convention. [CEDAW General Recommendation No. 21 (13th Session, 1994)] The nationality issue should be resolved with a rational policy, since citizenship is the very

basis of rights and at the very heart of policy formulation and implementation on the family.³⁰

D. Political and Public Life

State shall take all appropriate measures to eliminate discrimination against women in the political and public life in the country.

The *Constitution* has certain specific provisions for the protection and advancement of the interest of women in politics:

(i) Under Articles 113 and 114, any political party or organization desiring to secure recognition from the Election Commission for the purpose of election is required to put up women candidates constituting at least five percent of the total number of candidates contesting any general election to the House of Representatives.

(ii) Under Article 46(1)(B), at least three seats are reserved for women in the National Assembly, the upper chamber of Parliament. These members are elected by the House of Representatives on the basis of the system of proportional representation by means of the single transferable vote. In the general elec-

Table 4

Percentage of Women in Parliament

	Total Seats	Total No. of Women	% of Women	Total No. of Men	% of Men
House of Representatives	205	7	3.41%	198	96.59%
National Assembly	60	5	8.33%	55	91.67%

Presently we have six women in the Upper House, 15th Dec., 1998.

Nepal

tion held in November 1994, there were 86 women candidates from various political parties, of which seven from two main parties were elected. Altogether 1345 candidates contested for the 205 seats of the House of Representatives out of which only 82 candidates were women. In total 6.10 per cent of candidates were women (see Table 3). All political parties have simply tried to fulfill the minimum constitutional requirement of five per cent and none of them has really pon-

dered over the issues of women's participation. In the 2051 elections of the House of Representatives the total number of candidates was 1442. The number of female candidates was only 86, constituting 6.03 per cent of candidates. The participation of women is decreasing instead of increasing. In the 2051 elections the women candidacy of the Nepali Congress decreased by 0.03 per cent whereas Nepal Sadbhawana Party's women candidacy increased by 3.8 per cent (see Table 3).

A few women holding the office of the Deputy Prime Minister and leadership of political parties do not reflect the real, vulnerable position of women at large. Until now, we have only one woman deputy speaker—Ms. Lila Shrestha Subba—who was elected on 2055/1/23 (May 6, 1998) and resigned from her post on Oct. 10, 1998. The gradual visibility of female votes is, however, encouraging. Yet women's participation in the election as candidates, and also as directly elected members in the parliament is negligible. Representation of women in the Cabinet is marginal and women's issues are seldom voiced in the parliament.

Table 5

	Total Number of seats (men & women)	Total Number of Women Elected
DDC	1061	5 (0.47%)
Municipality	583	5 (0.85%)
VDC	42624	216 (0.50 %)

Source: Data collected from Election Commission for the CEDAW Impact study by FWLD.

Table 6

Representation of the Women in the Central Working Committee of the Political Party

Name of the Political Party	# of members of Central Working Committee	# of Women members	Percentage
Nepali Congress (NC)	31	3	9.67 %
Rastra Prajatantra Party (RPP)	35	3	8.57 %
Nepal Communist Party (UML)	34	3	8.82 %
Nepal Sadavawana Party (NSP)	31	2	6.45 %
Nepal Communist Party (ML)	35	3	8.57 %

Source: Data Collected by FWLD for CEDAW Impact study.

Local Government

Amendment of the *Local Self-Governance Act* with a 20 per cent reservation for women is a special measure adopted by the government to increase women's participation in the local government.

The following table shows the number and percentage of women and men elected to District Development Committees, Municipalities and Village Development Committees before the seats were reserved for women.

Right now there are approximately 39000 (as election has not been able to hold in all the VDC due to the Maoist problem in the country) women elected to District Development Committees and Village Development Committees after 20 per cent of the seats were reserved for women.

Besides the government's effort to amend the *Local Self Governance Act* as per the recommendation of Decentralization and Local Government Report to reserve the 20 per cent seats for women in the local bodies, the reservation of 5 per cent seats by the parties con-

testing the House of Representatives elections and three seats in the Upper House are positive steps in context of implementing the obligation under the Article 7 of CEDAW. But it is seen that there is a lack of strong political will to fulfill such obligations. The constitutional provision “for equal opportunities in politics and public life” does not necessarily provide equal access to such opportunities. There are institutional, social, cultural and attitudinal barriers vitiating all efforts towards gender equality. However, we have accepted that the number of women representatives in the local bodies is a positive impact of the special measure taken by the Government to increase the participation of women in politics and public life.

Women’s reserved seats in the municipalities and Village Development Committees pose a complex dilemma. This on the one hand, ignores the leadership potentials of women allowing them reservations merely in the membership of ward committees but otherwise women would not have been elected at all! Although women are becoming visible and their potentials are being recognized but women on their own, without a back up support from the government, political parties, social elite and the community can hardly contest direct elections.

In the age of democracy, decentralization and local level planning, local governments play important roles in the implementation of development programs, and delivering essential services. As equal partners of development, women’s participation and representation in the local government bodies is essential. Local governments constitute the first level of entry for future leaders in national politics but male leaders have generally dominated the bodies.

From the figure of reserved seats in local bodies, the total number of women representatives is quite significant but given the fact that women constitute half of the nation’s population, their representation is still grossly inadequate. Information about the representatives’ performance is not available. But some minor base studies and experience indicate that quantitative figures are not consistent with their qualitative performance.

For example, women representatives attend meetings but they do not participate in the deliberations and decisions. They are not encouraged to take initiatives in presenting the problems/demands of women. Though local government bodies are the training grounds for the future potential leaders, the atmosphere and attitude of the male representatives have been found to be not so very conducive.

An amendment introduced in the Civil Service Act in 1998 allows a woman to enter the government service until she attains 40 years of age whereas a man can enter the service only up to 35 years of age. Probationary period for male is fixed for a year whereas for women it is only six months. A special training for women candidate to increase women officials in the civil service are also conducted by the Ministry of Women and Social Welfare. Impact of this policy is yet to be seen.

E. International Representation (Article 8)

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

The initial report of CEDAW specifies that women have frequently become the Ministers and ambassadors, which indicates that women have opportunity to represent the country in international conference. Female leaders and officers have become team leaders as well as members of government delegations representing the country. Table 7 (on the next page) shows how women were represented in the government after the restoration of multi party system in Nepal.

There has never been a single women member in the planning commission. Up to now we have had only one woman ambassador (Brinda Shah, in India) and the government does not have any specific policy or programs to increase the number of women in such high posts through which they can make international representation.

F. Economic and Social Benefits

The state has an obligation under CEDAW to

Nepal

Table 7

Date of formation and reshuffle in council of Ministry	Prime Minister	Total number of Ministers	No. of Women Ministers	Name of Ministry and Minister	Percentage
2047/1/6	K.P. Bhattarai	11	1	Industry & Commerce, M. Sahana Pradhan	9.09%
2048/2/15	G.P. Koirala	15	1	Agriculture & Forest, M. Sailaja Acharya	6.67%
2048/3/21	G.P. Koirala	17	1	Agriculture & Forest M. Sailaja Acharya	5.88%
2048/9/15	G.P. Koirala	24	1	Agriculture, M. Sailaja Acharya	4.17%
2049/4/12	G.P. Koirala	23	x	-	
2050/1/14	G.P. Koirala	22	x	-	
2050/3/13	G.P. Koirala	20	x	-	
2051/8/14	M.M. Adhakari	15	x	-	
2052/2/12	M.M. Adhikari	14	x	-	
2052/3/30	M. M. Adhikari	13	x	-	
2052/5/27	S.B. Deuba	5	x	-	
2052/6/6	S.B. Deuba	26	x	-	
2052/8/27	S.B. Deuba	44	1	Women & Social Welfare (MWSW), Leela Koirala	2.27%
2053/2/4	S.B. Deuba	48	1	MWSW, Leela Koirala	2.08%
2053/4/16	S.B. Deuba	47	1	MWSW, Leela Koirala	2.12%
2053/7/1	S.B. Deuba	48	1	MWSW, Leela Koirala	2.08%
2053/8/11	S.B. Deuba	47	1	MWSW, Leela Koirala	2.12%
2053/8/21	S.B. Deuba	46	1	MWSW, Leela Koirala	2.17%
2053/8/26	S.B. Deuba	45	1	MWSW, Leela Koirala	2.22%
2053/9/2	S.B. Deuba	43	1	MWSW, Leela Koirala	2.32%
2053/9/24	S.B. Deuba	47	1	MWSW, Leela Koirala	2.12%
2053/11/29	L.B. Chand	8	1	Forest, M. Sahana Pradhan	12.50%
2053/12/11	L.B. Chand	34	2	MWSW, Sahana Pradhan Pop. & Envn. M. Bidhya Bhandari	5.88%
2054/2/29	L.B. Chand	36	2	MWSW, Sahana Pradhan Pop. & Envn. M. Bidhya Bhandari	5.55%
2054/5/13	L.B. Chand	37	2	MWSW, Sahana Pradhan Pop. & Envn. M. Bidhya Bhandari	5.40%
2054/6/10	L.B. Chand	32	2	MWSW, Sahana Pradhan Pop. & Envn. M. Bidhya Bhandari	6.25%
2054/6/21	S.B. Thapa	6	x	-	
2054/6/27	S.B. Thapa	23	x	-	
2054/8/18	S.B. Thapa	47	1	Min. of State, MWSW, Meena Pandey	2.12%
2054/9/25	S.B. Thapa	42	1	Min. of State, MWSW, Meena Pandey	2.38%
2055/1/2	G.P. Koirala	3	1	Water Res., D.P.M Sailaja Acharya	33.33%
2055/1/8	G.P. Koirala	27	3	Water Res., D.P.M Sailaja Acharya Min. of State, MWSW, Meena Pandey, Ass. Minister, MWSW, Kamala Pant	11.11%
2055/1/11	G.P. Koirala	26	3.	Water Res., D.P.M Sailaja Acharya Min. of State, MWSW, Meena Pandey, Ass. Minister, MWSW, Kamala Pant	11.53%
2055/5/10	G.P. Koirala	32	2	Water Res., D.P.M Sailaja Acharya	6.25%
2055/8	G.P. Koirala	31	2	Min. of State, MWSW, Meena Pandey Water Res., D.P.M Sailaja Acharya	6.45%
2055/8/29	G.P. Koirala	18	2	Min. of State, MWSW, Meena Pandey Water Res., D.P.M Sailaja Acharya	11.11%
2055/9/10	G.P. Koirala	11	x	Min. of State, MWSW, Meena Pandey	0%

Source: Data collected by FWLD for the CEDAW Impact Study.

ensure equal rights to men and women in other areas of economic and social benefits. Nepal does not provide any welfare benefits to its citizens, either men or women.

However, certain service benefits are provided to government employees and to the employees of the formal private sector. Women are allowed paid maternity leave.

A needy widow above 60 years of age is eligible for allowances of NPR 100/- per month from the government. Senior citizens above 75 years get old age allowances.

We have yet to develop social benefit system including child care, care for the elderly, shelters for the victim of violence and other forms of welfare as per the directive principles of the Constitution of Nepal which lays down policies of making social security of orphan, helpless women, the aged, the disabled and incapacitated person ensuring their protection and welfare.

G. Women in Rural Areas

Appropriate measures to ensure application of the provisions of the Convention to women in rural areas, and their participation in and benefiting from rural development on an equal basis. (Article 14)

Women are estimated to be carrying out over 50 per cent of all agricultural work over and above their responsibilities related to fetching water, collecting fuel wood, preparing meals and taking care of the children. The average rural Nepali women works on average 15-18 hours every day of the week.

Government and NGO efforts towards ensuring basic services for rural women are still inadequate compared to their needs.

Public sector credit facilities for women have been expanding through few sectoral poverty alleviation programs. However, information and access on public sector credit facilities for women are inadequate.

The regular banking system with its requirements of collateral discriminates against women as in most cases they do not own assets, which can be used as collateral since women are discriminated against in inheritance right. Various social and cultural customs make it difficult for women to have easy access to banks and bank officials. Nor are

they familiar with the various procedures and requirements.³²

The level of poverty in the country means that the number of women eligible to borrow from regular banks is limited. In this respect NGO and other similar government programs that provide collateral free loans have assumed tremendous importance in providing credit to poor women.

H. Legal Rights

According women equality with men before the law, with identical legal capacity in civil matters, nullifying contracts and private instruments which could restrict the legal capacity of women, and according equal rights relating to freedom of movement, residence and domicile. (Article 15)

Despite constitutional guarantee of equality, discrimination is perceived in the laws pertaining to property. The *Country Code* restricts a daughter from sharing her paternal property. She is entitled to receive a share on parental property only if she remains unmarried till the age of 35. However, she has to return the paternal property if she is married, whereas a son is entitled to his paternal property right from his birth.

A woman's right to property is always limited. Her only real property is "daijo" (gifts from her maternal and paternal relatives in marriage) and "pewa" (gifts from her in-laws or self-acquired property before marriage). However, according to Sec. 5 (2) of Social Practice Reform Act 2033 BS women's "daijo" is limited to NPR 10,000 (less than \$ 200) and a set of jewelry she wears. The Chapter on Transaction does not recognize any transaction carried out by a wife without the consent of her husband in the family property. (*Sec. 9 of chapter of transaction*).

Section 26 (1) of the Land Act 2021 has been amended after the decision of the Supreme Court that grants tenancy right to an unmarried daughter completing 35 years of age. The amended law also allows the daughter-in-law to be a tenant. However, discrimination still persists as it says a woman has to be 35 years and remain unmarried to be eligible for tenancy.

The Bonus Act discriminates against son

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and daughter in the absence of a nominated person.

Even though article 2(g) of the *Convention* expects State Party to undertake to repeal all the national penal provisions which constitute discrimination against women the prevailing laws still have a penal provision discriminating women on the basis of sex. For example, if a woman is found guilty of having sex with an animal, she shall be punished with an imprisonment of one year and a fine of 500 rupees. In a similar offence, a man is imprisoned for six months and is imposed a fine of 200 rupees.

The law stipulates that if some one tricks a bachelor into marrying a widow or married woman, such widow or married woman and the person who arranges such marriage are liable to be punished with one year of imprisonment or a fine of five hundred rupees or both. The marriage shall be void in case it is with a married woman and voidable in case it is with a widow whereas if a man commits the same offence no penal provisions have been made.³³

In case of demanding and meeting demands

for Tilak (a form of dowry), NPR 12000 - 25000 fine or up to 30 days of imprisonment is provisioned. In the case of a dowry being demanded by the bridegroom's side, the punishment is a fine of NPR 12,000-25,000 or one year imprisonment or both. For the bride's side who oblige those making the demand, the imprisonment high is an apparent case of discriminatory provisions.

It is important to consider the way legal system in general functions to promote or hinder women's access to economic resources and control over personal life as a citizen. The legal system, which includes fundamental and political rights, succession and right to property, marriage and divorce, guardianship over children and maintenance etc., determines the legal status of women in society.

There is a lack of adequate legal aid and women are unaware about women's legal rights. Recently, the *Legal Aid Act* 1998 was passed, which has not been implemented yet. However, few NGOs and Nepal Bar Association, the umbrella organization of lawyers, have been providing legal aid to the indigent people.

The laws of Nepal define the status of women in terms of their sex and marital status; which is directly restricted by Article 1 of CEDAW. This social and cultural status is reinforced by the executive, legislative and also by the judiciary while interpreting women's rights based on sex and marital status. The law is also violating the fundamental right of equality guaranteed by the *Constitution* as well as violating Art. 2,3, 4, 5 and 15 of the CEDAW.

I. Marriage and Family Relations

Measures to eliminate discrimination of women in matters relating to marriage and family relations, ensuring the right to marriage, free choice and consent, equal rights and responsibilities, with action and legislation towards preventing child marriage. (Article 16)

Nepal has its own idiosyncratic Hindu legal system based on patriarchy, which reflects male supremacy. Patriarchal values, deep rooted in the social attitudes, is controlling the family system, hence even as by law male

Table 8: Record of Central Women Cell

Head Quarter				
S.N.	Cases	Registered 2053/54 1995	Registered 2052/53 1996	Registered 2053/54 1997
1.	Trafficking	150	133	107
2.	Rape	162	152	142
3.	Polygamy	173	155	96
4.	Abortion	83	76	68
5.	Child Marriage	11	7	5

Source: Central Women Cell, Police Head Quarter.
(Recorded total cases of Nepal)

and female have same rights to family relations ensuring right to marriage with free choice and consent, women in fact, have not been able to practice such rights due to the social, cultural and religious value system. Irrespective of the constitutional provisions for gender equality, a bulk of laws governing marriage and family relations specially in regards to child custody, divorce and bigamy is discriminatory and also violating Art. 1, 2, 3, 4 and 5 of CEDAW.

The right to birth registration is recognized under the name of the husband, and, in his absence, under that of the head of the family (Birth, Death and Personal Incident Registration Act 2033). Even though the *Children Act* lays down a provision that in case a father is not identified the name of mother and grandfather can be used for the official purpose³⁴ in practice, a single mother can not register the birth of her children. It is so despite a recent ruling of the Supreme Court in Annapurna Rana's case in which the Court recognized the legal status of the single mother.³⁵ Second, marriage denies the right of child custody to the mother.

A woman is discriminated under the *Adoption Law*, as the consent of the husband is required for a child to be adopted by her, whereas similar consent is not required if the husband is adopting a child. Similarly, if a couple has only one son, the son cannot be given for adoption. In case of an only daughter, the law is silent.

Child marriage is prohibited by the law and is also listed as a crime against the State. In social and cultural practice, it is a common problem of the country, however, it is considered as an individual's personal problem and therefore cases are rarely initiated. The report of the Police Department shows cases registered with the police for child marriages.³⁶

A widow under 30 years of age is not entitled to take her share and live separately as long as her husband's family provides her with food, shelter, clothing and expenses incurred in pursuing religious activities. Widow's property received from her husband or his family can be forfeited, if she is found to have been unfaithful to her husband.

A divorcee who does not have any source of income of her own is entitled to alimony only for five years or till the time she remarries, whichever occurs earlier. The rule applies if the cause for the divorce is her husband's marrying a second wife or denial of shelter and food or deserting her for a period of three or more than three years or causing or trying to cause such acts as may threaten her life or inflict a serious bodily injury on her or if her husband becomes impotent (Sec. 4 (a) of Chapter on Husband / Wife).

A wife is entitled to a share in her husband's property after attaining 35 years of age and completing 15 years of married life. If the husband fails to provide food and shelter or if her husband's family forces her out from the family; the wife can legally claim a share in the property. If a woman gets a share of her husband's property, the husband can marry a second wife without even divorcing the first.

Even to a rape victim, the law mentions that women shall be entitled to use the property of the ex husband (who in reality is her own husband, assuming the rapist as her present husband).

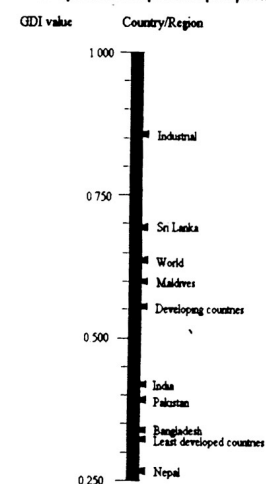
Section 9 of the chapter on marriage in the *Country Code* allows a man bigamy even if his first wife is living, if she

- becomes incurably insane;
- is issueless after ten years of marriage or if the children do not survive;
- turns blind;
- becomes crippled;
- is separated after taking the share of her husband's property.

However, the same rights do not apply to a wife under similar circumstances.

Although polygamy is illegal, Section 10 of the Chapter on Marriage recognizes the second marriage of a man, after a punishment of one to two months imprisonment and payment of a fine or NPR 1,000 to 2,000. Commitment to eliminate dis-

Gender-sensitive development in Nepal in a comparative perspective



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crimination women in matters relating to marriage and family relation has become dream for the women due to social and cultural practice of the country. Culturally a woman changes her family name after mar-

riage. Arranged marriage is commonly practiced in the community. Many times the consent of the girl is not taken by the parents for the marriage. Hence, there is a need to take measures to eliminate discrimination of women in matters relating to marriage and family relations.

Table 9

Sector	Higher level		Mid-level		Assistants		Helpers/ Messengers		Total	
	Male/Female	Male/Female	Male/Female	Male/Female	Male/Female	Male/Female	Male/Female	Male/Female	Male/Female	
Government	90.6	9.4	88.4	11.6	81.9	18.1	81.6	18.4	83.1	16.9
Autonomous	85.8	14.2	78.4	21.6	78.4	21.6	76.3	23.7	78.8	21.2
Public	91.9	8.1	94.4	7.6	80.4	19.6	95.3	4.7	84.8	14.0
Private	92.3	7.7	87.9	12.1	86.4	13.6	82.6	17.4	84.8	15.2
Total	88.1	11.9	84.4	15.6	81.0	19.0	86.3	13.7	83.5	16.5

Source : Employment of Women in the Formal Sector in Nepal, Opportunity and Constraints, New ERA, May 1994.

Table 10

Distribution of Employment by Type, Region and Gender

Employment Status	Paid Job	Income earning	Unpaid work
All Nepal	19.6	36.8	43.7
Male	32.1	44.0	23.9
Female	7.3	29.8	63.0
Rural	18.7	38.9	43.3
Male	30.6	44.9	24.4
Female	6.9	31.2	61.9
Urban	28.2	24.2	47.5
Male	46.4	34.3	19.2
Female	11.1	14.7	74.2

Source : Nepal Human Development Report, 1998, UNDP.

J. Sex Roles and Stereotyping

Measures to be taken to modify social and cultural patterns in order to eliminate prejudices and practices based on the idea of inferiority or superiority, or stereotyped roles, and to ensure an understanding of maternity as a social function, as well as a recognition of male and female responsibilities towards children.

The movement towards gender equality does not look impressive when judged in the regional and global context. Not only is gender inequality high in human capability in Nepal, it is higher even within the overall South Asian context (figure in below). The average global GDI is 2.3 times higher than Nepal's while the GDI for the developed countries is more than three times higher. Within South Asia itself, the GDI for Sri Lanka is 2.5 times that for Nepal while India's GDI value is 1.5 times higher.³⁶

In spite of some efforts by Government and NGOs, the conventional ideas about women's role and position remain the same. The prevailing idea is that women hold an inferior position at home and outside. Their primary role is to bear and rear children and to perform household work. Existing social and cultural patterns and practices are the main impediments in the way of women's upliftment. Therefore, the recognition of women's household work and maternity as social function and shared responsibility of men and women in the upbringing of children need special attention. However, few training on gender are being organized in each sector of the Government including in the police, after the Beijing Conference.

Various training institutions of the government such as the Academy of Women Training, Public Administration Training Center, Police Academy and various NGOs have included gender and WID concerns in their train-

ing programs. Gender training is in the process of becoming institutionalized. This will be an important means of changing attitudes toward women thereby changing the approaches of various policies, programs, projects and people.

K. Employment

Measures to guarantee equality to men and women in employment, and the prevention of discrimination on the grounds of marriage and maternity, with a periodic review and update of related protective legislation. (Article 11)

Nepal has also ratified a few ILO Conventions to prohibit discrimination on employment. The *Constitution* also guarantees the right to equality and it further says that no discrimination in regard to the remuneration shall be made between man and women for the same work.

The government has taken few steps to provide temporary special measures to be adapted to accelerate the process achieving *de facto* equality for men and women. For the purpose, a few legislation have been amended with the corrective approach to bring about gender equality in the work force amending the *Labor Act and Regulation* which now has provision for establishing child care centers in the organization where there are more than 50 women employees. The changed regulations also provide for breast feeding break and 52 days maternity leave. But most of the establishments that have to take this obligation are not employing more than 50 women, as they do not want to take the responsibilities under the labor legislation. Hence, there is a need to change the law mentioning that any enterprise that has more than 50 parents with children must have child care benefit. The government has not taken any steps to enforce this law, allowing industrial enterprises to by-pass the provision by employing less than 50 women or keeping the remaining women in contract or daily wage.³⁷

There is a direct discrimination in the law itself when it comes to recruitment in army, which is prohibited by the law. *Foreign Employment Act* asks for the guardians' approval if a woman wants to go to the foreign land

for employment and higher study.

Despite a major disparity on the daily wages of men and women in the informal sector, the government has not instituted any mechanism to monitor and change the situation. Women are also discriminated against in the employment, as the enterprise management generally tend to feel that women can not take their professional responsibilities efficiently owing to their family obligations. Maternity is not taken as a social responsibility. Hence awareness creation in this regards by NGOs and GOS is essential.

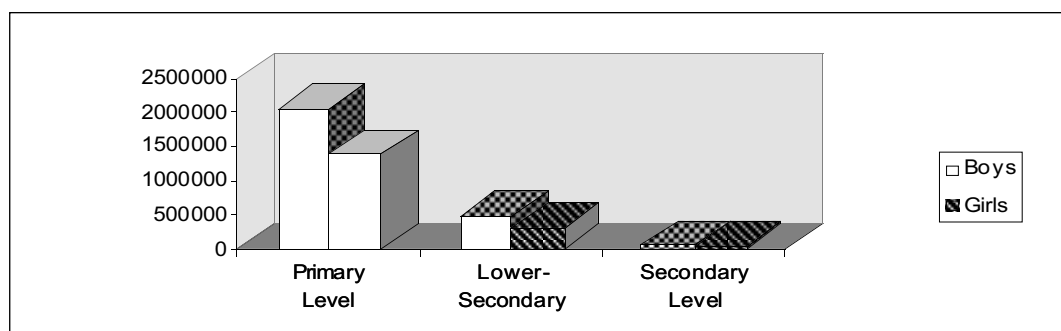
Table 9 shows that women are in minority in the employment and their position is rather weak in the formal sector workforce.³⁷

Women contribute a substantial portion of the country's labour force. The share of women in the total labour force was 45.5 per cent in 1991, a slight decline from 46.2 per cent in 1981. Women work longer hours than men. Women spent much more time than men on subsistence activities and domestic work. In these activities, the workload of women exceeds that of men by more than 25 per cent. The pattern of work participation

Table 11

Primary Level	Lower-secondary Level	Secondary Level
Girls: 1401346 (41%)	300807 (38%)	37746 (37%)
Boys: 2046261 (59%)	490695 (62%)	64288 (63%)

Source: Statistical Pocket Book, Nepal, 1997; Central Bureau of Statistics.



indicates a large proportion of women working as unpaid family workers. The proportion is 63 per cent for women and 24 per cent for men (see Table 10). This shows that women's share in income is severely limited by their status being unpaid workers. Interestingly, the proportion of unpaid workers is higher in the urban areas than in rural areas. Which means urbanization has adversely impacted on women's income earning opportunities.³⁸

Nepal Police force has a strength of approximately 42,000 of which only 700 are women³⁹ And Section 10 of Army Act 2016 bans the recruitment of women into the Royal Nepal Army.

A recent cabinet decision prohibiting employment of women in the Gulf countries is another example of the existing discrimination. In the name of protecting women against exploitation, their civil liberty has been curtailed, denying them right to equality, employment and mobility etc. Whereas the Government has not been taking initiatives to take action against unscrupulous labor agents, Kani Sherpa, a Nepali citizen recently committed suicide in the Gulf after suffering sexual and physical torture from her masters. In the name of protection from exploitation the state is denying right to same employment opportunities as guaranteed by Art 11 of CEDAW as well.⁴⁰

L. Education

Measures to assure women equality of access to all available opportunities in academic and physical education, under equal conditions. (Article 10)

Education is conceived as a means of empowering women. Education sector of Ne-

pal has adopted a number of actions such as Free Primary Education, stipends and scholarship programs for girls. Each primary school has at least one woman teacher adding up to over 4151 women teachers in all. Scholarships have been provided to girl child to reduce the drop out rate and to increase the number of girl child in the schools.⁴¹

Table 11 shows the enrollment record of the girl students in the year 1996.

The Table on the top of the next page clarifies that boys' enrollment rate is proportionately high in every level of education in light of the fact that women constitute 51 per cent of the population of country. The students dropping out during the primary level education are mainly female students. Similarly, the girls also constitute the bulk of students who repeat classes. The statistics of 1996 shows that only 37.3 per cent of total girl students enrolled in class one are promoted to class two. Some 38.8 per cent of girl students repeat classes and 23.4 per cent drop out. The dropping out percentage is much high in class one and class five as compared to other classes.⁴²

This being the situation of women's education in the country, different policies were expected to be formulated. Though there was no specific policy in the Eighth Plan addressing women education, the plan had some schemes and policies through which women could be benefited. These were:

- The national goal of making expanding primary education and increasing literacy rate to 67 per cent by the year 1998.
- Universities and campuses would gradually be expanded for higher education.
- Special emphasis would be given to promote women's participation in education.

Table 12: National Level Health Basic Indicators

Demographic Indicators	1996	1991	
Population Totals:	21126636	18491097	
Male:	10599478	9220974	
Female:	10527158	9270123	
Population Density:			
Sex Ratio (Male/100 Female):	143/Sq. Km./100.7	126/Sq. Km./ 99.5	
Age Group 0-14:	42.96%	42.7	
15-59:	51.51%	51.8	
60+ :	5.52%	5.8	
Crude Birth Rate:	36.9	41.2	
Crude Death Rate:	11.6	13.3	
Total Fertility Rate:	4.98	5.6	
Population Growth Rate:	2.08	2.66	
Male:	57	55	
Female:	56	53.5	
Health Indicators			
Infant Mortality Rate:	86.1	97	p/1000 live births
Child Mortality Rate (Under 5):	118		p/1000 live births
Maternal Mortality Rate:	539		p/100,000 l.b.
No. of Persons Per Hospital Bed:	6097*		
No. of Persons Per Doctors:	23631		
Contraceptive Prevalence Rate :	29	24	

Source : Nepal in Figures 1996, CBS, Nepal Family Health Survey, 1996, *Ninth Five Year Plan Approach Paper*,
*Derived by calculation

- Appointment of women teachers in primary schools.

- Expansion of informal education would be done through which programs such as girl child and education would be conducted to provide informal education for girls in the age group of 6-14 years.

Beside these initiatives, different programs for women's development were adapted in the Eighth Plan resulting in the recruitment of additional 4150 women teachers. Further-

more, provisions of scholarship inside the school and conducting of informal education outside the school has been done.

Keeping in the mind need to be focused on the education sector for the overall development of the women, the Ninth Plan (1998-2003) says that an effective policy to expand women's access to education would be enhanced so that the goal of gender participation in education can be achieved. Under the policy, the government has programs to pro-

Table 12: Ninth Five Year Plan Targets (1997-2001)

S.N.	Health Indicators	Targets by 2001
1.	Infants Mortality Rate (Per 1000 live births)	50
2.	Life Expectancy (Years) Male/Female	60/59
3.	Total Fertility Rate	4.1
4.	Maternal Mortality Rate (Per 100,000 births)	400
5.	Child Mortality Rate (Per 1000 live births)	70
6.	Crude Death Rate (Per 1000)	10
7.	Crude Birth Rate (Per 1000)	35

Source : *Ninth Plan Approach Paper*, NPC, HMG1997

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Table 14: Health Situation of Nepal

Major Indicator	1994/95 (%)	1995/96 (%)	1996/97 (%)
EPI (No. of children < 1 yr.) Immunized with			
BCG Coverage	84.5	97	100.0
DPT-3 Coverage	76.8	81	80.4
Polio-3 Coverage	77.6	83	80.6
Measles Coverage	78.2	87	87.8
Nutrition			
Total Growth Monitoring new Visits as % of <3 children	12.3	25.4	24.5
Proportion of malnourished children	25.8	28.5	27.6
ARI			
Incidence of ARI/1000<5 children	10.6	104.0	123.0
Annual Incidence of Pneumonia/1000 among < 5 children	46.9	41.6	48.2
Annual Incidence of severe Pneumonia/1000 among < 5 children	13.1	13	8.4
CDD			
Incidence of Diarrhea/1000 among < 5 children	147.0	131.0	154.0
%of some dehydration among total new cases	78.5	54.0	45.4
%of severe dehydration among total new cases	10.8	10.0	7.9
Case fertility rate		2.56	1.43
Safe Motherhood			
ANC 1st visit % of expected pregnancy	15.5	19.4	21.4
Average antenatal visit per ANC client	1.75	1.84	1.9
Delivery conducted by TBA as % of expected pregnancy		1.6	3.2
Delivery conducted by trained as % of expected pregnancy	3.1	4.0	6.0
Family Planning			
CPR (Continuing Use by Method as%of MWRA)	21.26	28.2	31.03
Condoms	1.25	1.1	1.46
Pills	1	1.3	1.76
Depo Provera	2.53	4.2	5.56
IUD	0.25	0.4	0.48
Norplant	0.32	0.5	0.67
Sterilization	15.91	20.6	21.11
Couple Years of Protection by method as % of MWRA			
Total Couple Years of Protection	23.15	24.7	28.04
Condoms	1.25	1.1	1.46
Pills	1.07	0.8	1.0
Depo Provera	3.21	3.4	4.3
IUD	0.76	0.72	0.7
Norplant	0.63	0.68	0.8
Sterilization	16.23	18.0	19.8
<i>Source : Policy, Planning, Foreign Aid and Monitoring Division, Ministry of Health, HMG, Health Information Bulletin, Vol. 10,(Kathmandu, Nepal : 1997)</i>			

vide scholarships and ladies hostel facilities for girl students. Similarly, appointing women teacher and rewarding the able female students are among the other features of the program.

Besides, the Ninth Plan also has a program to expand the literacy rate of women to 67 per cent from the current 25 per cent, increasing the number of women teachers in schools to 50 per cent and promoting women's participation in skill-oriented occupational training program to 50 per cent.

Nepal's gender disparity in education is the highest in South Asia. Female literacy as a percentage of male literacy in Nepal is 34 per cent whereas the South Asian average is well above at 59 per cent. Enrollment rate for girls in the educational sector is 55.6 per cent compared to 78.7 per cent for boys.⁴³

Despite the various measures of the government, fulfillment of equal rights in the field of education is constrained.

M. Health

Elimination of discrimination in health care by ensuring equal access to health services, with appropriate services provided for the pregnancy and post-natal periods.

Status of Nepalese women is low in the context of human life—social, economic, political, literacy and family decisions making. There exist discriminatory laws against women, ill suited to protect her from many types of unequal treatment and violence, including the household level. All these factors are directly or indirectly associated with the health status of women.

Life expectancy of women is 53.4 years whereas for men it is 55.9. Nepal is among one the few countries where life expectancy for women is lower than that of men. The maternal mortality rate in the country, at 875 per 1,00,000 women aged 15-49 years, is one of the highest in the world.⁴⁴

In the Eighth Five Year National Health Policy, the main emphasis was on facilitating the health needs of children under five years and married women of reproductive age. The care and services to women were targeted mostly as the instruments of population control. Thus, the needs of women in the health

sector were not reflected well in the Eight Five Year Plan. The Ninth Plan (1997-2003) targets at improving the status particularly of those whose health needs are not often met and those who are underprivileged, especially women, children and the rural population by strengthening promotional, preventive, curative and rehabilitative care services. The Ninth Plan also has programs in the areas of reproductive health of women, legal protection of pregnant women, safe motherhood programs, maternal health services, delivery services provided with the assistance of trained personnel and family planning services for population control.

Despite the fact that women face risks of death and illness from illegal and unsafe abortion as well as other repercussions such as child abandonment, infanticide and suicide due to unwanted pregnancies. Many women are imprisoned for life for committing infanticide, as women do not have access to abortion. A study conducted by Kripa (an NGO) has proved that Nepal has a high incident of maternal mortality from excessive fertility and septic abortion. Therefore, changes in the key areas of abortion and basic health services require the adoption of different approach in the law as well.

Health facilities for the victims of violence are also inadequate. General health care facilities for women of all age need to be increased.

Institutional Mechanism

A number of Government institutions are responsible for the implementation of women-related activities in Nepal. The major institutions can be identified as follows:

1)The Ministry of Women and Social Welfare, established in September 1995, has the goal of helping women enter the mainstream of national development through policies of gender equality and empowerment. It acts as the hub for all women's development activities in Nepal.

2)The National Council for Women and Children Development was established on 8 March 1995 with the Prime Minister as its chairperson. Ministries having Women and

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Development units, sections or divisions; for instance, the Ministry of Local Development, the Ministry of Agriculture, the Ministry of Labor, the Ministry of Education, the Water and Energy Commission Secretariat under the Ministry of Water Resources, and the National Planning Commission Secretariat.

3) Ministries which do not have “Women and Development” cells but which have projects/programs relating to women such as the Ministry of Health, the Ministry of Forestry, the Ministry of Tourism, the Ministry of Population and Environment, and the Ministry of Industry.

4) The Ministry of Women and Social Welfare has been defined as the lead agent to follow up and take necessary actions to meet Nepal’s commitments in all UN Conventions and Declarations related to women. It also works as the focal point for the national and international activities related to women and disseminates international Declarations and Conventions (as mentioned in page 38 of the Initial Report on CEDAW).

However, an interview with the officials at the Ministry of Women and Social Welfare in the course of preparation of this report disclosed that not much initiative has been taken by the Ministry to achieve its objectives as specified in the report regarding its international commitment.

The Ministry of Women does not have any information about the meeting of the Commission on the Status of Women (CSW), and the negotiations going on the Optional Protocol as well. National Council for Women and Children Development has held its formal meeting only once after it has been formed in 1995. It is also realized that initiatives taken by Ministry of Women and Social Welfare are not taken seriously by other government bodies.

(a) Ministry of Women and Social Welfare:

The Ministry of Women and Social Welfare has been established in September 1995 and acts as the hub for all women’s development activities in Nepal.

Future strategies of the Ministry of Women and Social Welfare include:⁴⁵

- Establishment of gender and development (GAD) training center to enhance the capability of officials of Ministries, National Planning Commission and other institutions in integrating gender perspective in the policies, plans and programs.
- Facilitating establishment of gender and development cells in relevant Ministries.
- Creation of awareness among planners, policy makers, implementers, intellectuals, local development authorities and politicians on gender and development issues.
- Promotion of positive discriminations in favor of women by increasing the number of women officers in the government and corporations through the provisions of coaching classes to prepare for the competition.
- Establishment of ‘National Credit Fund for Women’ to provide loan facilities to poorer women at concessional rates.
- Collection of gender desegregation data and conduct policy research.
- Assisting the national accounting authority for giving due weight of women’s unpaid household activities in the census.
- Taking necessary actions to meet HMG’s commitments to all UN Conventions and Declaration related to women.
- Providing vocational training to women.

The Ministry has also agreed in its policies and programs that it will take immediate steps for the policy and administrative reformation to eliminate gender discrimination propagating Beijing declaration, preparing the National Plan of Action under the Declaration and cooperating to prepare the initial report to the National Planning Commission as per the commitments made by the Government in the International Declaration and documents.

Accordingly, National Plan of Action has been prepared by the Ministry of Women and Social Welfare. Realizing that the public needs to be informed of the provisions of the International Conventions that have been ratified by Nepal, and delay on ratifying some important International Conventions on Women, the Ministry has decided to gener-

ate public awareness through media on CEDAW, create support for the ratification the *Convention on the Discrimination on Education, 1962, Convention on the Minimum Age, Approval and Registration of Marriage 1962 and Convention on the Nationality of Married Women, 1975.*

Some of the main Activities carried out by Ministry of Women and Social Welfare (MWSW) for the empowerment of the women in Nepal are the following.

Family Courts Bill:

MWSW has undertaken preparatory work for the establishment of Family Courts in Nepal. It is hoped that the establishment of the courts will facilitate speedy justice to the victimized women while also ensuring their privacy.

Bill against Domestic Violence:

Research has identified in Nepal that 77 per cent of violence against women and children occur at homes. Domestic violence is an endemic barrier for the advancement of women. MWSW has prepared a Bill on domestic violence against women and it is in the process of being finalized in order to presented the same to the parliament.

Besides the two important Bills:

Ministry of Women and Social Welfare has formed a taskforce to review all laws that are inconsistent with CEDAW.

The Property Rights Bill has already been tabled at the parliament and is in the process of receiving approval from both the Houses. However, the Bill, prepared by the Ministry of Women, was completely changed at the time of its submission to the parliament by the Ministry of Law.

Initiation for the establishment of National Commission on Women:

The Ministry of Women has taken on women as per the Beijing Declaration to have an institutional mechanism to design, promote the implementation of, execute, monitor, evaluate, advocate and mobilize support for policies that promote the advancement of women. A draft concept has already been prepared and accepted. It is in the process of finalization the draft bill to establish the commission on the status of women.

Co-ordination Committee:

Ministry of Women and Social Welfare has the mandate to supervise, monitor, and evaluate and co-ordinate women development activities of all sectors. The Ministry has formed a national level co-ordination committee on women and development headed by Minister for Women and Social Welfare. The main thrust of the committee is to co-ordinate women development programs that are being implemented by government agencies to avoid unnecessary duplication and to ensure effective monitoring and evaluation. Secretaries of the line ministries are members for this co-ordination committee.⁴⁶

Despite general ignorance even at fairly senior levels of the bureaucracy about international conventions related to the rights of the women, the following activities are being carrying out to realize the provisions of CEDAW in the country.

(b) Women Development Division under the Ministry of Local Development

The Women Development Division under the Ministry of Local Development is mandated to improve the social and economic status of low income and disadvantaged women, their families and the community through a combined package of development services. The Division also has an objective to conduct advocacy and sensitization on gender CRC and CEDAW among group members, their male partners, line agencies and VDCCs as well as DDCs. It aims at increasing awareness among rural women on reproductive health and gender issues, thus contributing towards the achievement of the population control and health objectives of the ninth five year plan. To achieve the objectives, Local Development Ministry has started the production credit for rural women (PCRW) scheme since 1982 which are running presently in 67 of the 75 districts in the country since 1982.⁴⁷

PCRW and micro credit project for women became effective since December 1993, both of which target the poorest segments of women households below the poverty level with per capita income less than NPR 2511 per annum. In addition, particular care has been given to ladles, female-headed house-

holds and, destitute and disadvantaged women programs are executed through women Development Division and Nepal Rastra Bank. The women development programs, although recognized as successful poverty alleviation programs, face a number of challenges. Various issues have come up in recent times—like the problem of household survey, redefinition of eligibility criteria, site expansion and increment of family coverage—requiring community development and line agency support, along with identification of training needs, preparation of training module, and development of monitoring and reporting system. Positive changes, however, have been observed in rural families. Significant improvements have been observed in the decision making role of group members within and outside of the household package of development services which have helped increase their self confidence and absorptive capacity and the ability to make demands.

Increased income and other exposure programs have contributed to the improvement of quality of life of women, children and community as a whole. PCRW has emerged as a much-observed and discussed approach to the developmental needs and concerns of rural women. It has followed an integrated approach by introducing rural women to the national banking system through its credit program, while placing a simultaneous focus on community development activities. PCRW has generated considerable international interest as a potential model for development.

Because of all their efforts and impact, the women development program has been widely recognized as a successful program in reducing poverty and improving the quality of life of the targeted groups.

(c) Women Development Activities under Ministry of Labor:

The activities are being carried out by Women Development Division under Ministry of Labor especially in the areas of skill oriented training program which aim to provide skill oriented training to socially and economically backward rural women to increase their employment opportunities.

During the Eighth Five Year (1992-1997)

Plan, 750 women in 25 districts were targeted for providing skill-oriented training through mobile training facilities. The women so trained are encouraged to start self-employment schemes for which the commercial banks would provide loans. Under the Ministry of Labor, various programs related to the development of marginally backward and under privileged women of the rural areas have been implemented.

A special skill development program for Kamaiya women was launched in the three districts of Dang, Kalikot and Kanchanpur during the fiscal year 1996/1997 to uplift their socio-economic status.

The Ministry of Women and Social Welfare has also helped NGOs regarding the empowerment of women by providing them with skill training.

However most of the training programs are focused on literacy, informal education, kitchen gardening, mushroom farming, biscuit production etc. Especial training programs have been launched in the trafficking prone areas to encourage women to be employed.

An impact study conducted by the Labor Ministry shows that most of their trainees are in the age group between 16-25 years of age who get married after the training. However, most of the women who have received the training are using the skills they receive from the training.

Similarly, the Ministry of Labor is running a transit home called “Nari Kalyan Griha”, which is a temporary shelter for up to six months. During this period of stay in the shelter, various awareness and skill development training are provided.

(d) Women Development Activities under Ministry of Agriculture:

Ministry of Agriculture established Women Farmers Development Division in 1992 (2048, Srawan) with the objective of mainstreaming women farmers in agriculture development and recognizing, in the process, the need stated in the preamble of the CEDAW. The preamble reads: “The contribution of women to family welfare and the development of society needs to be more fully recognized,

with a change in the traditional roles of men and women to activate full equality.⁴⁸

One of the main functions of this division is to provide a conceptual framework to assist the Ministry in formulating appropriate strategies to incorporate gender perspective into policies, programs and projects for the development of women farmers. This is the only institution at the government level that focuses solely on women in agriculture.

The persistent lack of understanding and knowledge about the role of women as producers and providers of family subsistence at all levels was found to be the key conceptual constraint in promoting women's involvement in agriculture. There is a lack of hard data concerning women's activities. There are also social barriers to participate in certain activities, low wage rates for the equal work and lack of female representation at the policy making level.

The contribution of women in the agriculture sector is extremely significant in the country. However, proper attention has not been given to increase their participation in various production-oriented activities in the agriculture sector such as technology development and extension, training program etc., which need to be developed and be implemented in a wide range. There are programs such as entrepreneurship and subsistence farming targeted to poorer women of grassroots level, but the magnitude of the program is not enough.⁴⁹

(e) Activities under Education Ministry:

Despite constituting half of the country's population, women's participation in formal and non-formal education is still very low compared to men. Forty-two percent of the population is literate while the figure in case of women is only 28 per cent.

Aware of the not-so-encouraging situation, Ministry of Education has been implementing various programs under the Women Education Unit of Basic and Primary Education Project, and the Ministry itself.

The focus of the educational initiatives of the Ministry and the project has been on such areas as advocacy to make people aware of the importance of children's education and

to change the parents' negative attitude towards girls' education; recruitment of female teachers which has been found to be a major motivator to encourage parents to send their daughters to school; orientation and training of female teachers and community awareness. The policy to recruit female teachers resulted in appointments of 4151 women teachers, short of the targeted figure of 5100 but an impressive figure nevertheless.

Besides, the Government has initiated several types of scholarship schemes for women. Some of the notable scholarships include:

Primary girl students' scholarship, which includes a sum of NPR 250 per annum, distributed to about 31,766 girls in 65 of the 75 districts based on a fixed quota for each district. Additional 23,648 girls in the remaining 10 remote districts are awarded the same sum annually. Local school scholarship offered to secondary level girls from socially deprived community which includes a monthly scholarship ranging from NPR 60 to NPR 100. Around 10,000 students benefit from the scheme annually. Educational Upgrading Scholarship to girls who are financially weak, socially and educationally deprived who are offered hostel facilities until they complete SLC, after which they are expected to work as teachers. Campus level scholarship to girls from remote districts at the senior secondary level.⁵⁰

(f) Health Programs for Women under the Ministry of Health

Some 74 hospitals, 765 health posts and 2,588 sub health posts are involved in the delivery of basic health services. The contribution of maternity child health workers has been significant at the sub health posts. Besides them, a total of 11,589 trained traditional birth attendants and 42,427 female community health volunteers and several thousand mothers groups are involved in providing or making referrals for services.

Safe motherhood services have received increasing priority over the past several years with the traditional birth attendant program making a significant contribution. It provided 13,624 home deliveries, reducing the maternal mortality to 515 per 100,000. Learning

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materials have been developed to train different classes of workers.

Another area of emphasis in the health sector has been in the nutrition status of women in the country. In the backdrop of 70 per cent of the women suffering from anemia, an Anemia Control Program has been launched in 60 districts of the country, which focuses on distribution of iron tablets to pregnant and breast-feeding women. The target is to bring 10 per cent of all women in their child bearing age into the net that receives elemental iron supplements so that the percent of those suffering from anemia could be reduced to 55 per cent by the end of 1998.⁵¹

NGOs' Response to CEDAW

Few human rights organizations (INSEC, INHURED, FWLD, SAATHI, Sirjana Bikash Kendra, Pro Public) have been working on CEDAW effectively. Besides these many NGOs are working on women's issues for example: LACC, SUSS, BAR Associations, ABC Nepal, WOREC, CIWIN, Maiti Nepal etc. Most of the Human Rights Organizations are working in other human rights issues linked with the political issue. It is worth mentioning here that working within women's issues does not come under the working area of many human right organizations.

UNICEF has been playing a very important role in the advocacy works for CEDAW and CRC together in the national level. It has already launched advocacy programs for parliamentarians, local government bodies, journalists, lawyers, development workers and NGOs.

It has been found that many organizations are taking interest and initiatives to work with CEDAW as they have realized that CEDAW is an effective instrument to pressure the Government for the protection of women's human rights.

Under the CEDAW monitoring project of IWRAW, Asia Pacific, FWLD in coordination with New Era, Stri Shakti and Inhured International preparing the baseline report for facilitating the fulfillment of state obligation toward women's equality. FWLD is also monitoring government activities in relation to CEDAW.

(a) Use of CEDAW in Media

UNICEF ROSA has produced a cartoon titled Meena in electronic as well as in printing media, which has covered CEDAW related issues in many instances and has even tried to link different rights under CEDAW with many examples.

During this study FWLD monitored media coverage about the human rights situation of Nepal published from 8th–12th December 1998, which showed negligible coverage was given on women's human rights issue. Very few articles mentioned about the non-implementation and government being failure to take obligation under CEDAW.

Some articles are published in different journals; question of state obligation under CEDAW has been raised through television, radio and other new papers. However it has to be accepted that media coverage of CEDAW is negligible and inadequate to make people aware about the convention and to use it as an advocacy tool.

(b) Training on CEDAW

IWRAW ASIA PACIFIC has played a major role in training and advocating CEDAW in the nation and in the region as a whole. They have also held many trainers' training in collaboration with Manushi, Sathi and FWLD in Nepal. It has enabled Nepali activists to function as resource persons who can train people locally.⁵²

UNICEF Nepal is also playing a very effective role in training different target groups because of which many groups have been able to link local issue with the broader views of CEDAW and CRC. UNICEF is also providing funding support to different NGOs to work with the CEDAW and CRC. SNV, Nepal has also showed their interest to work with CEDAW.

Saathi has developed a grassroot level train-

It has been found that many organizations are taking interest and initiatives to work with CEDAW as they have realized that CEDAW is an effective instrument to pressure the Government for the protection of women's human rights.

ing manual and is being used for their current training. IWRAW, Asia Pacific has also developed a training manual that was used during the training in Nepal for lawyers as well. Due to the training provided by IWRAW, Asia Pacific, many activist journalists have been able to write articles linking local and national issues with CEDAW. Many lawyers, NGOs, activists have been able to use CEDAW in the court. UN agencies have also started organizing various training programs to educate their own staffs as well as project officers.

(c) Capabilities of the NGO to use CEDAW

Few NGOs are using it for the advocacy purpose. The recent activities of NGOs going to the public via the radio on the *Convention* on women's right is an effective way to communicate at the grassroot level as majority of the rural people have access to the radio as compared to television and illiterate people can also hear the information through radio rather than reading newspapers.

Lobbying with the Government to amend the discriminatory inheritance rights for four years has been a major activist role of NGOs in women's rights issue. CEDAW has become an effective tool for the advocacy for inheritance law amendment, lobbying, and providing justification for the amendments and drafting of a new Bill. Similarly CEDAW has been also been used against the trafficking in women and girls for commercial sexual exploitation's.

On 13th December, 1998, FWLD has taken initiative and announced through an advertisement in the national newspapers a proposal to establish a forum to share the works being done by GOS and NGOs in the area and to develop future strategies to work together for the *Convention's* effective implementation. Many positive responses have come within two days of its publication.

CEDAW has also become very useful to prepare the memorandum to create a realization on the part of the State its obligation towards women and to pressure the Government fulfill its obligations for example in case of birth registration of the child of unmarried mother.

CEDAW is used in the Court to initiate public interest litigation and in the other women's

rights related cases or cases related to violence against women as reference law for legal argument. Examples of such cases have been given in the use of CEDAW in the court chapter of this report.

CEDAW has also become policy guideline for the Government to develop policies of the Government and as an instrument for NGOs for the advocacy of women's rights. NGO has come together to prepare the Shadow Report in co-ordination with FWLD and IWRAW Asia Pacific is providing technical support for it. NGOs are able to monitor CEDAW activities, and the reporting process of the Government through which they have been able to pressure the Government. NGOs are providing the Government with the information and materials related to CEDAW. NGO networking with IWRAW Asia Pacific is also very useful, as IWRAW has been providing lot of information in this regard and linking our issue in the international level. Similarly, networking with other international organizations; for example: Equality Now based in New York is also very useful as various support has been received to raise the issue in the national and international level.

(d) Challenges and Future Strategies of NGO

There is a lack of awareness about the existence of CEDAW to many groups including Government, non-government and communities. Studies have shown that many judges of the District Court of Nepal were not aware about the CEDAW. There is a lack of education materials for non-formal education and training package for the grassroots workers. Hence, there is a great need of preparation of TOT package and advocacy material in national as well as local languages.

CEDAW should be used as a tool for advocacy. Limited programs for advocacy and other activities on CEDAW have been

Lobbying to amend the discriminatory inheritance rights for four years has been a major activist role of NGOs in women's right issues. CEDAW has become an effective tool for providing justification for the amendments and drafting of a new Bill.

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initiated which too are also at theoretical level only. Hence, we need to implement it in practice, at homes, at workplaces, at programs and every where for which we have to simplify CEDAW in national and local languages and take it to the family and community. Advocacy training should also be focused to the judiciary, executive and legislature. Similarly, training should be given to the doctors, lawyers, administrators, NGOs and local government.

NGOs feel that it is very difficult to get funding for CEDAW programs. Hence, there is a need to educate the funding agencies on its importance and effectiveness. Interaction with the international funding agencies and UN agencies for the implementation of CEDAW may be in order.

When we talk about CEDAW, it is perceived as an alien word, hence, we need to link it with the domestic issue (grassroots issue).

A gender sensitivity analyses should be conducted for all programs and projects. It should be required from all projects to specify gender sensitive monitoring and evaluation indicators along with advocacy for necessary remedial measures where necessary. There is a need to link CEDAW in the various gender sensitization training programs.

Education programs should emphasize on gender sensitivity at all levels; gender sensitivity of the teachers and teachers' training material; scholarship for girls and efforts for raising community awareness to break gender stereotyping and linkage of education with the job market.

Micro-credit projects should emphasize gender sensitivity through a social component that addresses the needs of not only women but of family members separately.

A coordinating body of different NGOs, to be formed so that they can monitor the implementation of CEDAW by different relevant actors, and also work together to pressurize the government to take obligations under CEDAW effectively.

Comparative study of CEDAW and national policy, law, culture, programs and practice to be conducted to identify the barriers, weakness of program and to develop future strategies for which a specific issues (one article

at a time) could be taken. (This project has already been initiated in Asia Pacific Region by IWRAW, Asia Pacific and Nepal is working on the inheritance right issue). This can be an effective tool for the advocacy and lobby to change the discrimination with the research findings.

As many existing laws have facial discriminatory provisions, there is a need to compile the discriminatory laws that are inconsistent with CEDAW, analyze it from the substantive approach defining principle of equality and discrimination and the preparation of a recommendation for the amendment.

There is a need to use CEDAW in the court to challenge the prevailing laws and also for the interpretation of violence against women, as a supporting law, using general recommendations of CEDAW for additional arguments. Legal strategies to be developed in the national jurisprudence.

We have to popularize through different media about the positive use of CEDAW in different countries and communicate the case decisions directly to the judges with the positive decisions.

International and other UN Organization should put a clause for the effective implementation of CEDAW in their bilateral agreements with the government.

Various levels of training of trainers, training and workshop on CEDAW should be organized by the NGO.

Advocacy groups should be formed in each district and in each VDC. If there are groups already existing, support the groups for advocacy on women's rights using CEDAW.

As media coverage is negligible, coordination to be made with the journalists for TV, radio, print media, movie coverage and programs.

Propose incorporation of CEDAW in the curriculum of law, and women and gender education in the University.

Prepare a comment on Initial Report with detailed research and identify the gaps and barriers (constraints). (This has been already started in Nepal.)

NGOs should monitor the activities and programs and implementation of CEDAW. NGO should also monitor the reporting process as

this is the effective mechanism we have to ask government to be accountable in their commitment.

NGOs should also work to lobby with the government for the support of the optional protocol of CEDAW.

There is a need of the networking among the NGOs working in CEDAW nationally as well as internationally and also through electronic media.

NGO should also use concluding remarks made by the CEDAW committee in the government report for future lobbying with the government.

There is a great challenge to change the social and cultural attitude hence proper advocacy program linking Art. 5 and other provision of CEDAW has to be launched.

Strategies to be developed to incorporate CEDAW in the Government policies and legislation.

Women's rights NGOs should also link their work with the Human Right Organization and should lobby with them to put CEDAW in their agenda. CEDAW should also be linked with other human rights instrument and bodies to have additional justification for human rights of women.

Conclusion

It is important to understand the nature and dynamics of the behavior of Government as a political entity, acting within the context of specific political, economic and social conditions and also the nature and dynamics of power prevailing in the country. No Government can afford to disregard the politically articulated wishes or position of powerful groups that might want to maintain traditional laws that are violating human rights of women. Whereas States are responsible to tune their domestic laws and practice in conformity with their obligations under international law to protect and promote human rights of women. The responsibility applies not only to laws enacted by formal legislative organs of the state but also to those attributed to religious and customary sources or sanction, regardless of the manner of their 'enactment' or articulation and/

or implementation. This responsibility is fully consistent with the principle of state sovereignty in international law.

It is high time that we recognize the denial of women's rights not only as violation of women's rights but as gross violation of human rights. States will in all probability contest not only their legal responsibility for such wrongs but also their accountability. Legal responsibility merely involves liability for breach of law, but accountability is a wider concept that requires a state to make an exculpatory explanation about an apparent violation.

Although Nepal has ratified a number of international instruments on the rights of women, implementation of the objectives and provisions in the conventions has been rather slow. Rural poverty, traditional social barriers and serious lack of realization about women's rights are major constraints in implementing the provisions to secure the rights of the women. Lack of proper coordination among the programs too has proved to be bottle-neck in the process of implementation of international conventions, along with the bureaucratic labyrinth that has acted as a major dampener.

The other constraints are: absence of Government Policies addressing gender related roles in development at the national level in general, and at the sectoral level in particular; lack of sector specific programs under the Five Year Development Plan, which explicitly target women to ensure their participation particularly in large-scale projects; a weak institutional set-up for planning, coordinating and monitoring activities related to WID; lack of gender disaggregated data; and a social and legal system which precludes women from owning and inheriting assets or properties except under special conditions. Unless these issues are resolved, and appropriate actions are taken, women's concerns remain peripheral, and gender considerations are unlikely to be integrated into the mainstream of development.

Although recently some policies of adopting special provisions of international instruments in domestic legislation has generally been followed by the state for providing

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women their rights, plans and programs for the implementation of such policies are inadequate and ineffective. This has resulted in no improvement in the situation of women's human right. As a result of this, the international commitments made by the country regarding women have remained just that—commitments. The challenge, therefore, seems to be to recognize the need for a truly accountable State—a State that is responsible for its actions, and inaction, nationally and internationally.

There is no co-ordination between the government agencies, especially among Foreign Ministry, Women Ministry, Law Ministry, Finance Ministry and the National Planning Commission, all of which have some obligations to adjust laws, policies and practices in line with the standards of ratified treaty. Until the Government takes this initiative, the international standards cannot be enforced in the domestic legal system. Therefore, other strategies must be pursued to stimulate political will to incorporate the international standards on gender equality within the country's municipal laws. This is vitally necessary if the process of standard setting at the international level is to help to create a universal ethics on equality and improve the legal status of women within countries.

The reporting process is the monitoring mechanism under CEDAW and its Government's responsibility to prepare and submit the report. The Government agencies are confused as to which particular institution is responsible to prepare the initial report under the international instruments. Despite the confusion, the initial report on CEDAW was prepared by the National Planning Commission and submitted to the Foreign Ministry in May, 1997, which did not reach the UN Advancement Committee for one and a half years. Hence, proper education about State obligations and reporting mechanism has to be launched right after the ratification of any international instrument of such category.⁵³

No effort has been made so far by the Nepalese side for the representation of Nepal in international committees on women as a member and in meetings of such bodies like the Commission on the Status of Women is

not participated by our government. Before CEDAW was ratified by Nepal, Ms. Kamal Rana, a former member of parliament, was elected in the Commission on the Status of Women for the term 1965-1967.

Nepal's Permanent Mission at the United Nation thinks they have many other priorities to work on, hence, women's issues do not rank high in the priority list. The Government says it does not have adequate budget to participate in the meetings in New York, and at other places. If the reason was only budgetary, then how could it afford to attend other treaty meetings which did not have women's right as the topic of discussion? While interviewing officers at the Ministry of Women, it came to light that they do not have any information about CSW or Optional Protocol. They also do not have information on the meeting schedules. The Ministry of Foreign Affairs does not send any information to them and they also do not look for the same.

There is no doubt that Nepal, especially after the restoration of democracy in 1990, has expressed its commitments at international levels for the development of women by ratifying various International Conventions. These commitments are somehow transformed in the national policies and plan of action but implementation of the promises have been very weak due mainly to the social value system and inadequate monitoring and evaluation systems for development programs, and, of course, poor enforcement of laws concerning women's rights.⁵⁴

After the restoration of democracy, women's rights groups have come forward with an organized effort to articulate their demands for equal rights in all spheres. However, no steps have been taken to incorporate the obligations under the convention into national legislation. Nor have we taken any systematic step to create widespread awareness or action programs to facilitate progressive implementation of the convention. A few programs to support the advancement of women have been introduced, in particular in education, agriculture, health and labor sectors. The totality of these programs, however, account for only a fraction of the national effort required to support and empower women and

girls to fight the daily discrimination they face in social, political, economic and cultural life.

There is no individual complaints procedure as CEDAW does not have an optional protocol as yet which means that individual women's complaints of discrimination and infringement of gender equality can not be brought before the relevant international forums. However, negotiations over optional protocol for CEDAW have been going on between State parties for three years. Therefore, it is also important for us to ensure that women's rights are brought into the mainstream of human rights by using the proceedings under other major human rights treaties. The government should also be aware about the optional protocol, stand on this mechanism should be clear and it should also participate in the negotiations.

Under the European Convention, all the state parties have accepted competence of European Commission and European Court to consider individual complaints. American Commission of Human Rights is also working actively in the American states. Such mechanism is yet to be developed in our region.

By ratifying the *Convention*, States are saying that they recognize the existence of discrimination and inequality, they recognize the need for State action. We, as women, have to develop criteria for State action and responsibility.

We have to learn to use the *Convention* as an advocacy tool to interpret equality. We have to learn to claim our rights by using the *Convention* to mobilize and develop constituencies of women at all levels, local and national, educate and raise awareness of the significance of the rights approach to development; develop skills to use human rights concepts and mechanisms; monitor the implementation of the *Convention*; define rights, interpreting needs, identifying obstacles and actions to be taken by the state; establish criteria for success and documenting impact of state action; make demands and engage in national level advocacy that will establish women's right to development and engage in international advocacy that will put pressure on governments.

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Endnote

¹IWRAW, Commonwealth Secretariat, *Assessing the Status of Women* (2nd ed., 1996), p.2.

²Diariam Shanthi, *The UN Convention on the Elimination of All Forms of Discrimination Against Women*, (IWRAW, Asia Pacific Kuala Lumpur, Malaysia, 1997) p.1-4

³FWLD and Saathi, *Workshop Report on Consultative meeting on the Implementation of CEDAW*. (Kathmandu, Nepal: April, 1997).

⁴National Planning Commission Secretariat, *CEDAW Initial Report, Nepal*, (Kathmandu, Nepal, May 1997), Preface Page

⁵Art 11-23, *Constitution of Kingdom of Nepal* (1990).

⁶Art 25(2), *Constitution of Kingdom of Nepal* (1990).

⁷"Yogi Narharinath v. Rt. Honorable Prime Minister G.P. Koirala et. al.", *Nepal Law Journal* (1996), pp 33-48.

⁸National Planning Commission, *Ninth Plan (1998-2002)*, (Kathmandu, Nepal: July 1998), pp 669-673.

⁹National Planning Commission Secretariat, *Country Report on the U.N. Forth World Conference on Women (Beijing)*, (Kathmandu, Nepal : August 1995), p. 31.

¹⁰"Meera Dhungana v. Ministry of Law and Justice et. al.," *Nepal Law Journal* (1994), pp 462-468.

¹¹"Dr. Chanda Bajracharya v. Parliament Secretariat et. al.," *Nepal Law Bulletin Special Issue*, (1996), pp 1-3.

¹²Writ No. 2824 decision made on 2053.4.3 (1995).

¹³"Sapana Pradhan Malla v HMG", *Nepal Law Journal* (1996), pp 105-111.

¹⁴*Nepal Law Journal*, 2048, Decision No. 4413, Vol. 11 page 479.

¹⁵"Meera Gurung v Immigration Department", *Nepal Law Journal* (1995), pp 68-75.

¹⁶Sapana Pradhan Malla, "The Response of Nepal to the International Effort to Combat

Abuse of Women and Children”, *Seventh SAARC Law Conference*, (Colombo, Sri Lanka, Oct. 1998), pp 48-55.

¹⁷Sapana Pradhan Malla, “Challenging Nepal’s Inheritance Law”, *WPRN Newsletter* (Vol. 1) (July-Oct, 1997) page 4`

¹⁸Supra Note 16.

¹⁹Ministry of Women and Social Welfare, *National Plan of Action for Gender Equality and Women Empowerment*, (Kathmandu, Nepal: Nov-Dec 1997).

²⁰Section 9, *Civil Service (First Amendment) Act* (1998).

²¹Section 26 *Land Act 2021*

²²Pro-Public: *A Survey on Political Rights and Discriminatory Legal Provisions Against Women*, (Kathmandu, Nepal: 1995), p. 28.

²³Ibid., p. 30.

²⁴Section 4, *Human Trafficking Act* (1986).

²⁵Sapana Pradhan Malla and Yubaraj Sangroula, *Report on Violence Against Women*, submitted to Unicef Nepal, Kathmandu, Nepal: 1997) page 36-40

²⁶Ibid.

²⁷Policy and Programs of Ministry of Women and Social Welfare, 1997 (2054), page 8-15

²⁸Supra Note 25.

²⁹Sapana Pradhan Malla, “Judicial Interpretation and Gender Discrimination”, *Nyayadoot*, Year 27, No. 95, vol.7, 1997 page 15.

³⁰Prof. Savitri Goonesekera, “Policy Planning for the Family in South Asia”, *Seventh SAARC Law Conference*, (Colombo, Sri Lanka, Oct, 1998), pp. 12-18.

³¹Supra Note 22, p. 10.

³²Women Development Division, Ministry of Local Development, *Women Development Program. Progress Report (1996/97)*, (Lalitpur, Nepal : Dec., 1997), p. 3.

³³Sec. 8 of Chapter on Marriage, *Country Code* (1963).

³⁴Section 42, *Children Act* (1992).

³⁵*Annapurna Rana Vs. Kathmandu District Court*, writ No. 2187, Decision date 1998-06-08.

³⁶Criminal Investigation Department, Nepal Police, *CID Magazine: Crime per cent Investigation* Vol. 3, 2054. p. 25.

³⁷Nepal Human Development Report, 1998,

pg. 45.

³⁸Section 42,40 and 32 of the *Labor Act* (1992).

³⁹New ERA, UNFPA, *Employment of Women in the Formal Sector in Nepal, Opportunities and Constraints* (Kathmandu, Nepal: May, 1994)

⁴⁰*Nepal Human Development Report*, 1998, UNDP, pg. 121.

⁴¹Ibid., pg. 156.

⁴²*The Kathmandu Post*, Dec. 9. 1998.

⁴³ Basic and Primary Education Project, *A Report on Women’s Education, Primary School Scholarship Program*, (Kathmandu, Nepal: 1997) pp 1-2.

⁴⁴Supra Note 9, pp 5-8.

⁴⁵Report of Gender Orientation of Management of Central Bureau of Statistics, Vol. 1, CBS, 1998

⁴⁶*Nepal Human Development Report*, 1998, UNDP, pg. 59-60.

⁴⁷*Policy and Programs of Ministry of Women and Social Welfare for women and Children Development*, Ministry of Women and Social Welfare, Nepal, 1997(2054), pp 1-7.

⁴⁸*Mainstreaming Gender Consideration into National Development, Final Report Project: Nep/92 WO1*, August, 1995. p. 2.

⁴⁹Supra Note 32, page 1-3

⁵⁰Gender sensitization issues in Agricultural Development, Proceedings of one day seminar 12 July 1995, page 12

⁵¹*Women in Resettlement Area (A case study of Nawalparasi District)*, HMG, Ministry of Agriculture, Women Farmer Development Division, Singh Durbar (Kathmandu, Nepal: June, 1994) page 44

⁵²Supra Note 9, p 6.

⁵³Supra Note 9, p 8.

⁵⁴Sunila Abeyskera, *International Women Rights Action Watch Asia Pacific: An Evaluation*, (Dec. 1996) p. 7.

⁵⁵Supra Note 16.

⁵⁶Sapana Pradhan Malla, “Women Development and CEDAW and Nepalese Law”, *Nyayadoot*, Year 28, Vol. 2, 1997 page 150

List of the People, Institution and NGOs interviewed:

His Excellency Mr. Nilamber Acharya, Nepa-

lese Ambassador to Sri Lanka (the then Minister of Law and Justice of the interim Government when CEDAW was ratified)

Hon. Sahana Pradhan, Chair Person, CPN (ML) (Minister of Industry in the interim government)

Honorable Justice of Supreme Court, Kedar Nath Upadhyaya.

Mr. Tirtha Man Shakya, Secretary, Ministry of Law and Justice.

Ms. Urmila Shrestha, Special Secretary, Ministry of Women and Social Welfare.

Ms. Anjana Shakya, Inhured International

Ms. Pramada Shaha, SATHI

Ms. Shanthi Diraiam, Director, IWRAW, Asia Pacific.

Mr. Gauri Pradhan, CWIN

Ms. Kamala Parajuli, INSEC

Mr. Gyanendra Shreshta, National Planning Commission

Mr. Mohan Bahadur Shrestha, Ministry of Foreign Affairs

Mr. Arjun Thapa, Under Secretary, Ministry of Law and Justice

Ms. Sulochana Shrestha, Women Section, Local Development Ministry

Mr. Sunil Lohani, Ministry of Agriculture

Ms. Durga Regmi, Ministry of Education

Ministry of Health

Ms. Renuka Manandhar, Under Secretary, Ministry of Labor

Planning Commission, Women Section

Mr. Daman Dhungana, Ex-speaker of the House of Representatives

Mr. Bhupendra Poudel, Under Secretary, Legal Section, Ministry of Women and Social Welfare (MWSW).

Ms. Kamal Rana, Ex-member of Parliament and ex-member of CSW.

Bibliography

A Survey on Political Rights and Discriminatory Legal Provisions Against Women, Prepared by Pro-public for Asia Foundation, 1994.

Abeyskera, Sunila, *International Women Rights Action Watch Asia Pacific, an evaluation*, 1996.

Accessing the status of women, a guide to re-

porting CEDAW, second edition, IWRAW, Commonwealth, 1996.

CEDAW Initial Report, Nepal, National Planning Commission, HMG, Kathmandu, 1997.

Child Act 2048 (1992).

Child Regulation 2051 (1994.)

CID Magazine: Crime per cent Investigation Vol. 3, Criminal Investigation Department, Nepal Police, Kathmandu, 2054 (1997).

Civil Service First (Amendment Act) 2055 (1998).

Cook, Rebecca J. ed., *Human Rights of Women (National and International Perspectives)*, University of Pennsylvania Press, Philadelphia, 1994.

Country Code 2020 (1963).

Country Code (Eleventh Amendment) 20254 (1997).

Country Report of Nepal on the UN Convention on the Rights of the Child, National Planning Commission, HMG, Kathmandu, 1997.

Dairiam, Shanthi, *UN Convention on the Elimination of All Forms of Discrimination Against Women*, a paper presented in TOT for the Lawyers, Organized by IWRAW Asia Pacific and FWLD, Nepal, 1997.

Employment of Women in the Formal Sector in Nepal, Opportunities and Constraints, New Era, UNFPA, May 1994.

Gender equality and women empowerment National Plan of Action, Ministry of women and social welfare with the co-operation of Canadian co-operation office Kathmandu (Nepal), 2054 (1997).

Human Rights Commission Act 2053 (1996).

Human Trafficking Act 2043 (1986).

Mainstreaming Gender Consideration into National Development, Final Report, UNIFEM Project: Nep/92 WO1, Kathmandu, 1995.

Mini Beijing Conference Report, Beyond Beijing Committee, 1997.

Nepal Human Development Report, 1998, published by Nepal South Asia Centre for UNDP, Nepal.

Ninth plan (2054 - 2059), National Planning Commission, HMG, Nepal, 2055 (1998).

Plan and Program of Ministry of Women and Social Welfare for Women Development,

Nepal

- Child Development and Social Welfare*, Ministry of Women and Social Welfare, Nepal, 2054 (1997).
- Pradhan-Malla Sapana, Women Development and CEDAW per cent Nepalese Law *Nyayadoot*, Year 28, Vol. 2, Nepal Bar Association, 1997.
- Pradhan-Malla, Sapana, the response of Nepal to the International Effort to Combat Abuse of Women and Children, *Seventh SAARC Law Conference*, Colombo, Sri Lanka, 1998.
- Pradhan-Malla Sapana, "Judicial Interpretation and Gender Discrimination" *Nyayadoot*, Year 27 No. 95, Vol. 7, English Special Issue, Nepal Bar Association, 1997.
- Pradhan-Malla Sapana, Challenging Nepal's Inheritance Law, *WPRN Newsletter*, Vol. 1 No. 1 July Oct. 1997.
- Prof. Savitri Goonesekera, Policy Planning for the family in South Asia, *Seventh SAARC Law Conference*, Colombo, Sri Lanka, 1998.
- Report of Gender Orientation of Management of Central Bureau of Statistics*, Vol. 1, Central Bureau of Statistics, Kathmandu, 1998.
- Shakya, Mr. Tirtha Man, Universal Declaration of Human Rights and Women Rights, *Law Bulletin*, Ministry of Law and Justice, Kathmandu, 1998.
- Statistical Book of Nepal 1997*, Central Bureau of Statistics, HMG, Kathmandu, 1997.
- The Draft Initial Report of HMG on the CEDAW*, Inhured International, Lalitpur (Nepal), 1995.
- Women Development Program Progress Report (Fiscal Year 1996/97)*, Women Development Division, Ministry of Local, Development, Lalitpur (Nepal), 1997.
- Women Educational Activities, Basic per cent Primary Education Project*, Women Education Unit, Ministry of Education, Kathmandu, 1998.
- Women in Nepal Some Statistical Facts*, Central Bureau of Statistics, HMG, Kathmandu, 1997.
- Women in Resettlement Area (A case study of Nawalparasi District)*, Women Farmer Development Division, Ministry of Agriculture, HMG, Kathmandu 2051, (1994).
- Workshop Report on Consultative Meeting on the Implementation of CEDAW*, Forum for Women, Law per cent Development (FWLD) and SAATHI, Kathmandu, 1997.