



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States  
parties under article 18 of the Convention on the  
Elimination of All Forms of Discrimination  
against Women**

**Combined fourth and fifth periodic reports of States parties**

**Nepal<sup>\*</sup>, <sup>\*\*</sup>**

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\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes are available for consultation from the Secretariat.

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## Abbreviations and acronyms

|           |  |
|-----------|--|
| ABC Nepal | Agro-forestry, Basic Health and Cooperation in Nepal |
| ACAP      | Annapurna Conservation Area Project                  |
| ADB       | Asian Development Bank                               |
| BBC       | Beyond Beijing Committee                             |
| BCC       | Behavior Change Communication                        |
| BPFA      | Beijing Platform for Action                          |
| CAC       | Comprehensive abortion care                          |
| CBOs      | Community- based organizations                       |
| CBS       | Central Bureau of Statistics                         |
| CPA       | Comprehensive Peace Accord                           |
| CRCC      | CEDAW Reporting Coordination Committee               |
| CWIN      | Child Workers in Nepal Concern Center                |
| DACAW     | Decentralized Action for Children and Women          |
| DAO       | District Administration Office                       |
| DDC       | District Development Committee                       |
| DeO       | District Education Officer                           |
| DFID      | Department for International Development             |
| DHS       | Demographic health survey                            |
| DLGSP     | Decentralized Local Governance Support Program       |
| DoE       | Department of Education                              |
| DWD       | Department of Women Development                      |
| ECD       | Early childhood development                          |
| EFA       | Education for All                                    |
| FCHV      | Female Community Health Volunteers                   |
| FP/MCH    | Family planning and maternal child health            |
| FPTP      | First Past the Post                                  |
| FWLD      | Forum for Women, Law and Development                 |
| GBA       | Gender budget auditing                               |
| GDI       | Gender development index                             |
| GEI       | Gender empowerment index                             |
| GER       | Gross enrolment rate                                 |
| GFP       | Gender focal persons                                 |
| GNI       | Gross national income                                |

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|          |   |
|----------|---|
| Gos      | The Government organizations  |
| GPI      | Gender Parity Index   |
| GRB      | Gender responsive budget  |
| GRBC     | Gender Responsive Budget Committee  |
| HIV/AIDS | Human Immune Deficiency Virus/Acquired Immune Deficiency Syndrome                               |
| HRW      | Human Rights Watch  |
| IDPs     | Internally displaced persons  |
| IEC      | Information, education and communication  |
| ILO      | International Labour Organization   |
| INGO     | International non-governmental organization   |
| IOM      | International Organization for Migration  |
| JIT      | Beyond Trafficking: A Joint Initiative in the Millennium against Trafficking in Girls and Women |
| KSL      | Kathmandu School of Law   |
| LACC     | Legal Aid and Consultancy Center  |
| LDO      | Local development officer   |
| LDTA     | Local development training academy  |
| LGCDP    | Local Governance Community Development Program  |
| LSGA     | Local Self-Governance Act   |
| MCHW     | Maternal child health worker  |
| MDGs     | Millennium Development Goals  |
| MoES     | Ministry of Education and Sports  |
| MoEST    | Ministry of Environment, Science and Technology   |
| Mof      | Ministry of Finance   |
| MoFA     | Ministry of Foreign Affairs   |
| MoFSC    | Ministry of Forest and Soil Conservation  |
| MoHA     | Ministry of Home Affairs  |
| MoHP     | Ministry of Health and Population   |
| MoIC     | Ministry of Information and Communication   |
| MoLD     | Ministry of Local Development   |
| MoLJCAA  | Ministry of Law, Justice and Constituent Assembly Affairs                                       |
| MoLJPA   | Ministry of Law, Justice and Parliamentary Affairs  |
| MoLTM    | Ministry of Labour and Transport Management   |
| MoPR     | Ministry of Peace and Reconstruction  |
| MoWCSW   | Ministry of Women, Children and Social Welfare  |
| NCC      | National CEDAW Committee  |

|          |   |
|----------|---|
| NCIHL    | National Committee on International Humanitarian Law                    |
| NDC      | National Dalit Commission   |
| NDHS     | National Demographic Health Survey                                      |
| NFDIN    | Foundation for Development of Indigenous Nationality                    |
| NFE      | Non-formal education  |
| NFHS     | Nepal Family Health Survey  |
| NGOs     | Non-governmental organizations  |
| NHRC     | National Human Rights Commission  |
| NHSP     | National Health Sector Reforms Strategy                                 |
| NJA      | National Judicial Academy   |
| NMPDR    | National Maternal and Prenatal Death Review Committee                   |
| NNAGT    | National Network Against Girls Trafficking                              |
| NPA      | National Plan of Action   |
| NPC      | National Planning Commission  |
| NRT      | National Rapporteur on Trafficking against Women and Children           |
| NHRC     | National Human Rights Commission,                                       |
| NRTW     | National Rapporteur on Trafficking in Women                             |
| NWC      | National Women's Commission   |
| ONRT     | Office of the National Rapporteur on Trafficking                        |
| PAF      | Poverty Alleviation Fund  |
| PARHI    | Population and Reproductive Health Integrated                           |
| PCRW     | Production credit for rural women                                       |
| PDDP/LGP | Participatory District Development Program and Local Governance Program |
| PPC      | Pre-primary classes   |
| PR       | Proportional Representation   |
| RDBs     | Rural Development Banks   |
| RH       | Reproductive health   |
| SAARC    | South Asian Association for Regional Cooperation                        |
| SC       | The Supreme Court of Nepal  |
| SGBVP    | Sexual and Gender Based Violence Program                                |
| SMC      | School Management Committee   |
| SMNF     | Safe Motherhood Network Federation-Nepal                                |
| SMNHLTP  | Safe Motherhood and Neonatal Health Long Term Plan                      |
| SSR      | School sector reform  |
| UNDP     | United Nations Development Programme                                    |
| UNESCO   | United Nation Education, Social and Cultural Organization               |

|        |  |
|--------|--|
| UNFPA  | United Nations Population Fund                     |
| UNHCR  | United Nation High Commissioner for Refugees       |
| UNICEF | United Nations Children's Fund                     |
| UNIFEM | United Nations Development Fund for Women          |
| UPA    | Uterine Prolapse Alliance                          |
| USAID  | United States Agency for International Development |
| VDC    | Village Development Committee                      |
| VDCGP  | Village Development Committee Grant Program        |
| VDP    | Village Development Program                        |
| WATCH  | Women Acting Together for Change                   |
| WDD    | Women Development Division                         |
| WDO    | Women development officer                          |
| WDP    | Women Development Program                          |
| WHR    | Widows' human rights                               |

## Acknowledgement

It is my great pleasure to submit this Fourth and Fifth Combined Periodic Report under Article 18 of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) on behalf of the Government of Nepal. Nepal has submitted its Initial Report in 1997 and Second and Third Combined Report in 2003. This Fourth and Fifth Combined Periodic Report covers the period up to 2008. During this period Nepal has made significant progress in the sphere of protection to, promotion and fulfillment of the rights emanated from the CEDAW. Nepal has ratified Optional Protocol to the CEDAW. It has incorporated many significant provisions in the Interim Constitution of Nepal, 2007 and enacted many valuable legislations such as the Domestic Violence (Crime and Punishment) Act, the Human Trafficking and Transportation (Control) Act, National Women Commission Act, the Citizenship Act, An Act to Amend some Nepalese Acts to Maintain Gender Equalities, An Act to Amend some Nepalese Acts relating to the Court Management and Administration of Justice and 11<sup>th</sup> Amendment of the Country Code. Accordingly many rules are framed and plans, action plans and programmes are being implemented.

In terms of realization of these rights women's participation in the Constituent Assembly which also acts as Legislative Parliament is about 33 per cent. Out of 45 per cent reserved seats, 20 per cent seats are allocated for women only in government services. Women's literacy has been increased significantly and school-drop-out rate of girls has declined. Sharp decline of Maternal Mortality Rate is worth to mention. Abortion and delivery facilities have been expanded through out the country. Social security for women in general and widows in particular have been increased and expanded. Gender budgeting system is introduced.

I hope this report will reveal Nepal's efforts, despite the difficulties and factors affecting the degree of fulfillment of obligations such as resource constraints, illiteracy, patriarchal perception and values and decade long conflict, in the implementation of CEDAW and progress made during this period in *de jure* and *de facto* spheres.

Finally, I would like to thank all the persons involved in the preparation of this report.

(Signed) Bindra **Hada Bhattarai**

Secretary

Ministry of Women, Children and Social Welfare



## Summary

1. An introductory background of Nepal was provided in May 1997 in its initial report to the Committee on the Elimination of Discrimination against Women. During the period between the previous report and the current one, Nepal has undergone a great political transformation. Monarchy has been abolished and the country has become a republic. The peace process that began with the signing of a Comprehensive Peace Accord between the Government and the Communist Party of Nepal (Maoist) in November 2006 has been making a steady progress. Elections to the Constituent Assembly along multi-party lines were held in April 2008 in which a combination of both the first-past-the-post and the proportional representation systems was adopted. The Constituent Assembly which also works as the Legislature-Parliament thus constituted has been hailed as one of the most representative institutions of its kind around the world. Almost a third of the 601 members of the Constituent Assembly are women. A new democratic constitution is under preparation by the Constituent Assembly, and the restructuring of the State in line with the federalism is high on the agenda. This is indeed a great positive development, and this carries in itself the prospects of even greater changes in the socio-economic and political life of the country in the days ahead.

2. Social inclusion is a must for the socio-economic transformation of Nepal. The special provision of 33 per cent women participation in all State mechanisms and the restructuring of the state with emphasis on inclusiveness are momentous developments. The Proclamation made by the then House of Representatives in 2006 (annex I) along with the provision of the Interim Constitution of Nepal (annex II) give explicit recognition and importance to gender equality. A number of affirmative provisions in favour of women have been made in the Interim Constitution with a view to ensuring right to equality for all. The constitutional framework aims to enhance social harmony through equality, equity, inclusiveness and proportionate representation.

3. The National Plan of Action (NPA) for CEDAW is being practically implemented in Nepal. Almost 33 per cent of the Constituent Assembly members are women. This is a clear indication of the realization of women's role and contributions to the constitution making process as well as the creation of an inclusive political environment in the country. Incorporating gender-friendly provisions in the new constitution, ensuring women's increased participation at different levels of governance, formation of women's caucuses and groups so as to protect and promote women's rights and interests in the society are some of the core issues high on the national agenda at the moment. The Nepalese civil society has played a supportive role to bring about this positive change.

4. The NPA covering various sectors such as education, health, women empowerment, anti- human trafficking, child protection and development, persons with disability and senior citizens are being formulated with wider consultation and participation of the stakeholders. Moreover, the National Human Rights Commission (NHRC), the National Dalit Commission (NDC), and the National Foundation for the Development of Indigenous Nationalities (NFDIN) are all striving for the protection and promotion of the rights of marginalized citizens. Furthermore, the National Women's Commission (NWC) is committed for the protection and promotion of human rights of women in Nepal.

5. The Government of Nepal submitted its initial report in May 1997 and an Addendum to that in May 1999. Thereafter, in compliance with the concluding comments.<sup>1</sup> The Government also submitted a combined second and third periodic report in April 2003 (CEDAW/C/NPL/2-3) which was considered by the Committee during its 630th and 631st meetings, on 13 January 2004.<sup>2</sup>

6 The present report has been prepared by following the guidelines as provided by the Committee. Major steps in the process include:

- Formation of CEDAW Reporting Coordination Committee (CRCC) under the chairpersonship of the Secretary of the Ministry of Women, Children and Social Welfare
- Formulation of the Plan of Action
- Collection of information from different agencies and institutions, including interview with departmental heads and focal persons of various organizations
- Review and analysis of the collected information and data
- Development and dissemination of draft report and collection of feedbacks from the four regional consultation meetings
- Dissemination of updated draft for national consultation
- Finalization of the report by the CRCC
- Inputs/comments/suggestions sought from the Ministry of Law, Justice and Constituent Assembly Affairs, the Ministry of Foreign Affairs, the NHRC and the NWC
- Final approval from the Council of Ministers (Cabinet), the Government of Nepal

7. The present report covers the period from 2001 to 2008 and comprises four parts. Part I attempts to address the 'principal areas of concern and recommendations provided by the Committee after consideration of the combined second and third periodic reports. Part II provides the details of new developments on the substantive rights under the Convention, including the general recommendations of the Committee followed by basic information, change initiatives and challenges ahead. Part III includes the progress made on 12 critical areas identified by the Beijing Platform for Action (BPFA). Finally, Part IV touches upon some of the emerging issues.

## **Part I**

### **Developments in areas of concern and recommendations of the Committee**

#### **Elimination of discriminatory laws (paragraphs 196–199 of the concluding comments)**

8. A large number of discriminatory laws prevalent in the country have been amended during this reporting period. Based on the report submitted by a high-level commission

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<sup>1</sup> See CEDAW/C/SR.434 and 439.

<sup>2</sup> See CEDAW/C/SR.630 and 631.

formed for reviewing all existing discriminatory laws against women, (mentioned in the previous report (CEDAW/C/NPL/2-3), numerous legal provisions in the *Muluki Ain* (Country Code), and other laws have been amended or repealed. An “Act to Amend Some Nepalese Acts to Maintain Gender Equality” has been enacted in 2006. The women’s equal right to ancestral property is now fully guaranteed by the Interim Constitution as well as by the Country Code. In addition to equal right to property, a number of other significant amendments have been made in various substantive and procedural laws.

9. The discriminatory condition, under article 9 of the then Constitution of 1990 regarding the “citizenship provision”, which precluded women from passing their citizenship on to their children, has now been repealed by the Interim Constitution of 2007 and accordingly a new “Citizenship Act” has been enacted in the spirit of the Interim Constitution and in conformity with article 9 of the Convention on the Elimination of Discrimination against Women.

10. Article 20 of the new Interim Constitution guarantees the “Rights of Women” as a fundamental right. In full consonance with the spirit of the Convention, the Interim Constitution clearly states that “no woman shall be discriminated against in any way on the basis of gender”. The Interim Constitution not only guarantees the protection of women from physical and mental violence but also ensures their reproductive health and reproductive rights. The Supreme Court of Nepal (SC) in many cases expressed its views that the issues of gender discrimination should be seriously dealt with by the state mechanisms. Some of the views of the SC are referred in Part II of the present report.

#### **Strengthening the existing national machinery (paragraphs 200–201 of the concluding comments)**

11. In Nepal two central agencies play decisive roles in the planning and budgeting process: National Planning Commission (NPC), and Ministry of Finance (MoF). The NPC is entrusted to coordinate, prepare, decide and monitor the planning processes of all the line ministries; and MoF decides the allocation of resources. Therefore, any proposal for strengthening government agencies for an effective implementation of their programmes and policies depend on the planning and budgeting decisions of the NPC and the MoF.

12. During this reporting period, the NPC adopted the Tenth Plan (2001–2007). This Plan aimed at strengthening national machineries in the area of gender auditing and gender budgeting. For the first time, Gender Focal Persons (GFPs)<sup>3</sup> were nominated in all line ministries to prioritize gender issues.

13. Following Jan Andolan II,<sup>4</sup> the Government formulated the Three Year Interim Plan’ (TYIP) (2007/082009/10) with the broad objective of building a Prosperous, Modern and Just Nepal. TYIP has incorporated special programmes for the women and the disadvantaged groups including persons with disability, *Dalits*, *Adibasis Janajatis*, *Madhesis*, Muslim community, and disadvantaged geographical regions. Major focus is given to the most remote areas including the Karnali region (in mid-western part of the country), which, so far, have been left behind in the regional development process and getting increasingly marginalized as a result. Under the heading of “Gender Mainstreaming and Inclusion”, the TYIP includes programmes relating to “Empowerment of Women and Gender Equality”. Some of the important activities being carried out under this programme

<sup>3</sup> Initially GFPs were called gender focal points.

<sup>4</sup> The People’s Movement of 2006.

are: policy and legal reform; better coordination of regional entities and NGOs engaged in gender related fields; leadership development; participation of women in conflict resolution and the peace process, preparation of a national action plan for the social rehabilitation of women affected by the conflict and its implementation; psycho-social counselling service for transformation of emotional disturbances; legal aid; and gender awareness and advocacy.

14. The Women Development Program (WDP) encourages social mobilization, economic empowerment and public awareness campaigns through group formation. Under this programme women are united against domestic violence and human trafficking. They are involved in skill development training, income generation, entrepreneurship development and business promotion by means of revolving fund operation. Other important activities are livelihood education to adolescent girls, reproductive health and child protection. Women cooperatives have become an effective vehicle for uniting women engaged in the informal and unorganized sectors, conducting campaigns against various traditional malpractices, and promoting security for women members. The Three-Year Interim Plan (TYIP) has set the following targets (table 1).

Table 1

**The Three-Year Interim Plan target**

| <i>No.</i> | <i>Indicators</i>   | <i>Situation as of the<br/>fiscal year 2006/07</i> | <i>Interim plan<br/>target</i> |
|------------|---|--|--------------------------------|
| 1.         | Gender Empowerment Measurement (GEM)                        | 0.351  | 0.450                          |
| 2.         | Gender Development Index (GDI)                              | 0.520  | 0.556                          |
| 3.         | Women receiving delivery assistance from health workers (%) | 23.4   | 35                             |
| 4.         | Contraceptive prevalence rate (%)                           | 48   | 51                             |
| 5.         | Total fertility rate (women aged 15–49 years)               | 3.1  | 3.0                            |
| 6.         | Maternal mortality rate (per 100,000 live births)           | 281  | 250                            |
| 7.         | Women's representation in overall state machinery (%)       | -  | 33                             |

*Source:* TYIP (2007/08–2009/10).

15. Government policies and programmes for the fiscal year 2008/09 presented before the Legislative-Parliament includes diverse areas related to gender mainstreaming in the national machineries. The budget lays stress on the elimination of all forms of discrimination and inequality against women through an increase in the rate of economic growth and development, increased access to health to all citizens, free and safe maternity services, free education to all up to the secondary level and special positive measures for increasing women's access to education, enactment of law to curb crimes such as physical exploitation, domestic violence, and trafficking against women, etc.

16. As envisaged in the TYIP, the MoF has adopted a comprehensive policy on "Gender Responsive Budget" (GRB). In order to give effect to this policy, the Government has formed a "Gender Responsive Budget Committee" (GRBC), comprising relevant representatives from various agencies under MoF. The GRB has prepared a guideline which covers the following:

- First phase: planning, project selection and programme finalization
- Second phase: programme implementation
- Third phase: regularization and evaluation

- Fourth phase: impact assessment of the budget (esp. benefits)

17. “The GRB Initiative” has been in implementation since the Tenth Plan (2002–2007). For the Fiscal Year 2008/09, the total budget allocation is Rs. 236 billion, out of which the Government has allocated Rs. 32 billion 910 million under the heading “Women Empowerment, Transformation of Living Standard” which is expected to directly benefit women. In the current fiscal year, the allocation of gender budget has been scaled up to 13.9 per cent. This will certainly facilitate the implementation of programmes to attain gender equality and women development by ensuring more women’s participation in economic, social and political processes. In addition, the WDPs are gradually being expanded in all Village Development Committees (VDCs) so as to achieve the objectives of “poverty alleviation, gender equality and social inclusion”. An amount of Rs. 3.45 million has been allocated for WDPs.

18. The Ministry of Women, Children and Social Welfare (MoWCSW) works as the Gender Focal Agency at the central level. The MoWCSW has been playing an important role in drafting laws and undertaking other activities for the elimination of all forms of discrimination and violence against women in partnership with more than 40 NGOs, INGOs and United Nations agencies. The National CEDAW Committee (NCC) led by the Secretary of MoWCSW has formulated a National Plan of Action on CEDAW.<sup>5</sup> The NPA outlines various programmes for the advancement and empowerment of women through awareness campaigns, training, publications and dissemination. The MoWCSW also coordinates other line ministries to incorporate more gender-focused activities in their programmes through their designated gender focal persons. The strategic document on gender and social inclusion, developed by MoWCSW in 2006, has been one of the most effective tools for mainstreaming gender and promoting equality at the national-level organizations. Moreover, the MoWCSW has also developed a mechanism on Audit/Analysis of the programmes and budget relating to gender, which is followed by various ministries.<sup>6</sup> Most female staffs of different ministries have been given training on “Gender, Reproductive Health and Social Inclusion” by MoWCSW in collaboration with the United Nations Population Fund (UNFPA), which is one of the indicators of building institutional capacity. It is also important to note that key positions in MoWCSW and the Department of Women Development (DWD) are held by senior women officers. The Secretary of MoWCSW and the Director General of DWD are both women.

19. The Ministry of Local Development (MoLD) has also been playing an important role in strengthening gender mainstreaming, inclusion and empowerment programmes. The Local Self-Governance Act (LSGA) provides for carrying out these activities through the adoption of procedural and financial guidelines. The LSGA provides for the advancement and empowerment of women and other social groups. By using the mandate provided by LSGA, the MoLD has adopted a number of “operational guidelines” in order to implement the National Plan of Action and Gender Budget Auditing (GBA). MoLD implemented the Decentralized Local Governance Support Program (DLGSP) previously with a major focus on integrating gender and social inclusion at the local level. MoLD has now prepared more integrated programmes named Local Governance Community Development Program (LGCDP). One of the strategic areas of LGCDP is gender equality and social inclusion.

20. At the national level, National Human Rights Commission (NHRC), ‘National Rapporteur on Trafficking in Women (NRTW), National Women Commission (NWC),

<sup>5</sup> Please refer to previous periodic reports.

<sup>6</sup> A joint publication of MoWCSW/UNIFEM, 2007.

National Dalit Commission (NDC) and National Foundation for Development of Indigenous Nationalities (NFDIN) have been established for the protection, promotion and monitoring of human rights and adequate resources have been allocated.

**Impact of armed conflict and women's participation in the peace process  
(paragraphs 202–203 of the concluding comments)**

21. The decade-long internal armed conflict (1996–2006) widely affected the civil, political, economic, social, and cultural rights of the people. It disrupted development activities, inflicted immeasurable sufferings to the people including through huge displacement and led to a heavy damage of development infrastructure and national property. During the conflict, incidences of human rights violation of women and children were reported. There were also reports about the sexual abuse of women and girls.

22. The decade-long internal armed conflict ended with the signing of the Comprehensive Peace Accord (CPA) between the Government and CPN Maoists. Clause 7.6 of the CPA incorporates the rights of women and children whereby “both sides fully agree to provide special protection to the rights of women and children, to immediately prohibit all types of violence against women and children, including child labour, as well as sexual exploitation and harassment, and not include or use children who are below eighteen years. Children so affected shall be rescued immediately and necessary and appropriate assistance shall be provided for their rehabilitation”.

23. The Interim Constitution has incorporated some redressal mechanism for victims of the conflict including specific provisions for women (reported below in Part III). Also, the Ministry of Peace and Reconstruction (MoPR) has especially been established for the overall care, management and rehabilitation of such victims. A separate fund has been created within MoPR for this purpose. MoWCSW, as an executing agency, and DWD, as an implementing agency, are running a programme named “Strengthening Decentralized Support for Vulnerable and Conflict affected Families and Children”. Under this programme, provisions have been made for humanitarian assistance to 4,000 families in 31 VDCs of the five vulnerable and conflict-affected districts, namely, Accham, Banke, Bardiya, Rolpa and Rukum.

24. The Government of Nepal has formulated National Policies and Plan of Action allocating budget for the relief of victims of the armed conflict. It will be distributed through local administration. The Chief District Officers (CDOs) are designated as coordinators to implement this relief and rehabilitation package. A policy guideline has been developed to regulate the distribution of relief and rehabilitation packages to the internally displaced persons (IDPs). The distribution of the packages has already started from 7 October 2007. Moreover, the annual budget of 2008–09 has allocated funds for conflict-affected families to provide with a lump-sum financial aid amounting one hundred thousand each. Nrs. 1,103,900,000 have been distributed to 11039 deceased persons families in 73 out of 75 districts as a compensation through the Emergency Peace Support Project, MoPR. Likewise, a scholarship programme has been launched for the education of children who lost their parents during the conflict. An amount of Rs. 1.5 billion has been allocated solely for this purpose. The MoPR has identified around 25,000 IDPs in different districts of the country so far. It has recently disbursed necessary funds (Rs. 189.5 million in total) to all District Administration Offices (DAO) in the seventy-five districts.

25. The Government has also formed a “National Committee on International Humanitarian Law (IHL Committee)” under the Chairpersonship of the Minister for law, Justice and Constituent Assembly Affairs, which authorizes for the implementation of IHL, including the issues relating to victims of armed conflict. The IHL Committee has identified enactment of laws and creation of mechanisms for the implementation of the Geneva Conventions and other humanitarian law instruments to which Nepal is a party.

26. With regard to IHL Committee's concerns and recommendations on women's participation in the process of conflict resolution and peace building, the Government has adopted a plan of action and other measures to ensure such participation. During the "People's Movement II (2006)" an unprecedented level of women participation was witnessed. In a subsequent development, 57 women (out of total 330), i.e., 17 per cent of the total, were nominated in the Interim Legislature-Parliament as Members of Parliament. Similarly, four women out of sixteen members were nominated in the Drafting Committee of the Interim Constitution 2007. During the CA election, the Election Commission conducted a number of consultations with political parties and civil society and made rules to ensure 33 per cent women representation in the CA. The current status of women's representation in the CA is 197, out of 601, and this can be taken as a significant achievement in the political mainstreaming of women and their involvement in the peace building process. The CA has formed 14 working committees, including a committee on "Women, Children and Social welfare".

27. The United Nations Security Council resolutions 1325 and 1820 are being used as guidelines to carry forward the process. MoPR and the United Nations Development Fund for Women (UNIFEM) are jointly implementing a project entitled "Capacity Building Initiative for Increased Women's Participation in Governance, Peace and Security". The MoPR has prepared a concept paper to develop strategic guidelines to ensure effective protection mechanisms for women and girls against all forms of violence including sexual violence and the meaningful participation of women in the peace process, including in transitional and post conflict period. Security Council resolutions 1325 and 1820 have both been translated into Nepali language and released on the occasion of Second National Day against Human Trafficking, in September 2008,<sup>7</sup> and are being disseminated widely to raise awareness on the impact of conflict on women. This publication includes both information on sexual vulnerability of women during conflict and women's role in conflict resolution and peace building process. Additionally, NWC is conducting various programmes to implement these resolutions in collaboration and partnership with NGOs and civil society and with the support of UNIFEM.

#### **Education (paragraphs 204–205 of the concluding comments)**

28. The Department of Education (DoE), apart from its endeavor to carry out education programmes throughout the country, is also undertaking to publish updated reports annually, including gender-disaggregated data. The following figures provide a glimpse of status of education in social groups.

Table 2

#### **Share of enrolment at primary level by social groups**

| <i>Social groups</i> | <i>Girls</i>     | <i>Boys</i>      | <i>Total</i>     | <i>% of enrolment in total</i> |
|----------------------|------------------|------------------|------------------|--------------------------------|
| Dalit                | 412 036          | 435 497          | <b>847 412</b>   | 19.2                           |
| Janajati (ethnic)    | 896 389          | 911 772          | <b>1 807 931</b> | 40.9                           |
| Others               | 851 338          | 911 681          | <b>1 763 370</b> | 39.9                           |
| <b>Total</b>         | <b>2 159 763</b> | <b>2 258 950</b> | <b>4 418 713</b> | 100.0                          |

<sup>7</sup> Please refer to joint publication of MoWCSW/UNIFEM.

29. The Flash Report of 2007 provides detailed information about students, schools, teachers including the monitoring and evaluation system of education since 2004. Its main propose is to furnish national as well as district level current educational status in terms of access, efficiency, quality and equity indicators of the Education For All (EFA) by 2015 (as mentioned in the previous report) and particularly regarding Gross Enrolment Rate (GER) and Net Enrolment Rate (NER) of pre-primary, primary, lower secondary and secondary education by gender and ecological region, ratios etc. Some of the relevant information is as follows:

- The Gender Parity Index in the percentage of enrolment at primary level is 0.96 (as shown in table 2 above).
- The GER and NER at primary level is 138.5 and 89.1 in the school year 2007–08 respectively.
- The overall GER at primary level is 138.5 per cent, accounting 139.6 per cent for girls and 137.6 per cent for boys has slightly increased for girls and decreased for boys compared to the preceding year. The Flash Report 1, in the school year 2007–08, has also recorded the average GER in Grade 1 that is 145.2, accounting for 146.1 in girls and 144.4 in boys.
- The share of girls’ enrolment at primary level is 48.9, accounting 48.6 per cent and 49.6 per cent for *Dalit* and *Janajati* respectively. The total number of enrolment at lower secondary level was 1,443,515. Among them 680,072 (47.1 per cent) were girls.
- The total number of children enrolled in Early Childhood Development (ECD) Pre-Primary Classes (PPC) was 823,106 with 378,437 girls and 444,669 boys, which has increased by 48.6 per cent in total, as compared to 2006/07.
- The ratio of girls to boy’s attendance rate in secondary education improved from 0.67 to 0.83 between 1996 and 2006.<sup>8</sup> The share of girls’ enrolment for the year 2007/08 at lower secondary level has increased almost by 1 per cent as compared to the previous school year.
- The GPI for ECD/PPC children’s enrolment (in percentage) is 0.91 for *Dalit*, 0.88 for *Janajati* and 0.82 for others. It gives a clear picture of the diminishing gap in the participation of *Janajati* and *Dalit* girls and boys in the ECD/PPC programme. Out of total 48,399 students, 22,141 are girls with different types of disabilities.
- With regard to the concerns of Committee on the issue of “drop outs”, data show a decreasing trend in the drop-out ratio after the Government introduced the “Welcome to School” programme with some additional facilities for the girls. However, *Dalit* girls’ drop out ratio in the higher grade levels is yet to decline. To overcome this challenge, the Government has introduced a concrete educational plan, policy and programme including Gender Responsive Budget prioritizing the marginalized social groups. Details have been reported below in Part II under article 10 of the present report.

<sup>8</sup> Source: Nepal Demographic and Health Surveys 1996, 2001 and 2006.



**Discriminatory cultural practices (paragraphs 206–209 of the concluding comments)**

30. During the reporting period a number of changes have been introduced through legal reforms, judicial orders, enforcements and implementation activities. In addition to the constitutional guarantees, the Supreme Court has issued directives to the Government in the cases relating to old and outdated cultural and traditional practices subjecting women to inhumane and disgraceful treatment. For instance, the *Chhaupadi* system, still in practice in the Far-Western part of the country, treats women as untouchables during menstrual and delivery periods. The SC has issued a directive to the government to initiate legal reform for prohibiting such practices. The details of the case filed in the SC against *Chhaupadi* and the measures taken in order to implement the Court's order are reported below in Part II under article 5.

31. MoWCSW and MoLD in partnership with international non-governmental organizations (INGOs) are conducting various awareness raising programmes, including trainings for both men and women regarding the elimination of all forms of discrimination, exploitation and gender-related violence based on traditional cultural practices. More importantly, Domestic Violence (Control and Punishment) Act, 2009 has been enacted to put an end to domestic violence, based on the study conducted by the MoWCSW in 2008 regarding such traditional cultural malpractices. Social security provision for women in general and widows/single women in particular has been expanded by the budget fiscal year 2008/09.

**Trafficking in women and girls (paragraphs 210–211 of the concluding comments)**

32. With regard to the Committee's concern about legal framework, a new "Human Trafficking and Transportation (Control) Act, 2007 (hereinafter referred to as 'the Act') has been enacted replacing the previous Human Trafficking (Control) Act, 1986. The Act defines 'Exploitation' as 'an act of keeping human being as slave'. It has broadened the scope of reporting, investigation, prosecution and adjudication along with procedural and substantive provisions. It has incorporated important provisions to provide justice with the victims' perspectives. The main characteristics of the Act are:

- Broader definition of human trafficking in line with Palermo Protocol
- Criminalization of human trafficking: jail sentence up to 20 years and fine up to Rs 200,000, and confiscation of property and used vehicles
- Shifting the "burden of proof" to perpetrators
- In-camera hearing
- Children's age redefined as under 18
- Compensation to victims, their minors or dependents
- Provision of translator
- Protection of witnesses
- Protection of victims – first statement is the last statement
- Rescue and rehabilitation – state responsibility
- Two-tier anti-trafficking committees: national and district level
- Establishment of "Transit Homes"
- Creation of "rehabilitation fund"
- Extra-territorial jurisdiction

33. Moreover, the Act covers not only cross border trafficking, but also internal trafficking for sexual exploitation or any other purpose. In addition, the “Human Trafficking and Transportation (Control) Regulation”, 2008 has also been recently adopted in order to ensure the effective enforcement of provisions made under the Act. The details about the recent developments in structural and institutional reforms including legal provisions, judicial initiatives and enforcement mechanisms have been underlined below in Part II of the present report under article 6.

**Access to health (paragraphs 212–213 of the concluding comments)**

34. With regard to the Committee’s concern on diverse issues of women’s health, Nepal has taken adequate legal and other policies and enforcement measures. The National Demographic Health Survey (NDHS) provides detailed information regarding the current scenario of health. For example:

- The life expectancies of both male and female are progressively rising. Women’s life expectancy, at 63.7 years, is higher at of men
- The Maternal Mortality Rate shows a decreasing trend, which is recorded as 281 per 100,000 women
- The fertility rate has decreased from 4.6 (as recorded in 1996) to 3.1 in 2006. The fertility rate of rural women is 3.3, which is higher than that of urban women which is 2.1
- Average age at first child has increased to 20 years
- Use of contraceptives by women has increased. In 2006, 70 per cent women used contraceptives. Among them, 44 per cent women use modern forms of contraceptives
- 40 per cent women receive prenatal care, out of which 28 per cent women receive it from skilled health workers

35. The Committee’s concerns and recommendations on reproductive health-related issues and the situation of HIV/AIDS and other related issues have been reported in Part II, under article 12 of the present report.

**Women’s participation in decision-making (paragraphs 214–215 of the concluding comments)**

36. Women’s greater participation in national politics is a major change that has taken place in Nepal. The Interim Constitution addresses the gender issue in its preamble and guarantees an inclusive and proportionate representation of women in the restructuring of the State. Article 63 of the Constitution explicitly requires all political parties to nominate 33 per cent of the candidates in the CA through both the First Past the Post (FPTP) and Proportional Representation (PR) electoral systems. Article 142 (3) (c) of the Constitution, in order to ensure women’s participation in the decision making bodies of the respective political parties, requires that any political party, in order to get recognition as a political party from the Election Commission it has to register in the Election Commission by fulfilling conditions prescribed in this article. One of the conditions is that there should be a provision of inclusion of women in different levels of Executive Committees. Many political parties, through their party manifestos, publicized the principles of inclusive and proportional representation of women in state mechanisms and within the political parties themselves.

37. The said constitutional provision has brought an encouraging result. Out of 601 elected/nominated members of the Constituent Assembly, 197 are women (32.77 per cent).

The detail figures about women's participation in politics and other public sectors have been reported below in Part II under article 7 of the present report.

**Access to land (paragraphs 216–217 of the concluding comments)**

38. Article 20 of the Interim Constitution and the recent amendments in many national laws are expected to bring about significant changes in women's economic status by addressing the issue of gender disparity vis-à-vis ownership of real property.

39. The Government gives a 25 per cent discount on land registration fees for women. Details of this are given below in Part II, under article 15 of the present report.

40. The Government with the aforementioned special measures aims to combat domestic violence and enhance women's economic status. The Government has adopted a holistic approach to ensure women's sustainable real property rights via education-related measures whereby women can fully enjoy their rights as reported under the relevant headings in Part II of the present report.

**Refugee women (paragraph 219 of the concluding comments)**

41. Regarding the Committee's apprehension and recommendation about the situation of women in the refugee camps, the Government has taken initiatives for maintaining the records and formulating necessary measures accordingly. According to the statistics maintained in Ministry of Home Affairs (MoHA), a total of 103,309 Bhutanese refugees have been accommodated in seven camps in two districts (Jhapa and Morang) of Nepal. Out of this, 50,916 are women. Similarly, out of a total of 15,057 household/families, 2,781 families have women as heads of the household. In the camps there are 27,883 students including 14,169 girls.

42. The status of a refugee woman, in terms of her rights as a refugee, remains the same even if she enters into marriage with a non-refugee man, whereas any woman, who gets married to a non-refugee, prior to attainment of the refugee status, is not entitled for the same right.

43. The legal framework of Nepal does not discriminate on any ground of person's identity as a refugee or a non-refugee during investigation, prosecution, adjudication procedures and penal provisions. The cases reported by the refugees including women have been prosecuted.

44. The Government in collaboration with the United Nation High Commissioner for Refugees (UNHCR) has been providing adequate protection and treatment to refugee women victimized by gender-based violence. The "Sexual and Gender Based Violence Program" (SGBV), includes registration of complaints, hearing, training, and awareness-related programmes. Under the SGBV programme, each camp has a clear referral and follow-up mechanism. In order to run this programme effectively, a "code of conduct" has been formulated. Furthermore, a mandatory provision has been prepared for ensuring 50 per cent women's participation in each "Camp Management Committee" from among the members of the refugees.<sup>9</sup>

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<sup>9</sup> Based on the Information document of MoHA dated 2065/9/4.

**Regarding statistics (paragraphs 220–221 of the concluding comments)**

45. Central Bureau of Statistics (CBS) undertakes national census and publishes data. The latest census was published in 2001 incorporating gender-disaggregated data. However, the updated reports are published in thematic volumes periodically by encompassing some specific issues related to women. The gender perspective volumes cover diverse issues including gender-disaggregated data and mainly focus on socio-economic issues such as households, marital status etc.

46. The CBS published “Some Statistical Facts on Nepalese Women, 2007” which carries basic gender-disaggregated statistics on education, health, employment, political and public participation etc.

47. Some ministries such as the Ministry of Education, and the Ministry of Health and Population also publish periodic updates with gender-disaggregated data. The figures have been reported below in part II of the present report.

**Ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (paragraph 222 of the concluding comments)**

48. Nepal has ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 15 June 2007. The MoWCSW has translated the Optional Protocol into the Nepali language for wider dissemination throughout the country. Moreover, MoWCSW has conducted trainings and awareness programmes in collaboration with various NGOs and United Nations agencies like UNIFEM in this regard.

**Implementation of other United Nations declarations, and platforms for action adopted by relevant United Nations conferences, summits and special sessions (paragraph 224 of the concluding comments)**

49. As mentioned in the previous reports, Nepal has already initiated actions on recommendations adopted by United Nations conferences, declarations and resolutions such as BPFA including its review meetings, Security Council resolutions 1325 (2000) and 1820 (2008). The details are given in Parts II and III of the present report. The issues of the rights of single women, women with disability, migrant woman worker, detainees, prisoner women etc. have been dealt with under the heading “emerging issues” in Part IV of the present report.

## **Part II**

### **New developments**

#### **Articles 1 and 2**

##### **Review and amendment in discriminatory laws**

###### **Basic information**

50. The Discriminatory-Laws Reform Committee established under the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) has carried out its work speedily. As a result, dozens of legal provisions have been amended or repealed both in the areas of civil and criminal laws, such as property, marriage, inheritance, adoption, rape, abortion, polygamy, etc. Similarly, some new provisions for criminalizing violence against women such as penalizing the act of condemning a woman as witch have been incorporated in the Country Code. Amendments have also been made in procedural laws from the perspective

of gender equality and gender-sensitive language construction. Some of the areas of such amendments made by the eleventh amendment in the Country Code and through the Act enacted to Amend Some Nepalese Acts to Maintain Gender Equality are as follows.

### **Property laws**

51. The discriminatory provisions regarding ancestral property and restrictive conditions for the use of property have been amended providing full guarantee to recognize women as coparceners both in obtaining and exercising their exclusive property rights on equal terms with men. These laws have been amended in the wake of the Supreme Court's order to maintain gender equality. There are some of the landmark cases, filed as public interest litigations that have been decided in favor of women's property rights during this reporting period. In the case of *Lily Thapa v. Council of Ministers*, decided on 2062-8-30 BS (15<sup>th</sup> Dec. 2005), the petitioner had challenged the provision under the "Chapter on Women's Property" that put restrictions on women from enjoying their exclusive property rights including selling and transferring their share. The Supreme Court's decision further reaffirmed the "ownership over property" in line with the legal rights of women's property guaranteed by article 15 of the Convention. The eleventh amendment in the Country Code has brought the necessary reforms accordingly.

52. After the first case filed by *Meera Dhungan* regarding right to ancestral property (reported in previous reports), eleventh amendment in the Country Code was made, which repealed the provision of gender discriminatory criterion based on age and marital status. The eleventh amendment had recognized daughters as coparceners entitled to ancestral property by birth. The provision was still discriminatory as daughters were required to return the ancestral property after marriage. It was also challenged through the cases *Meera Dhungana v. Council of Ministry* decided on 29 July 2004 (2061-4-14 BS) and *Prakash Mani Sharma v. Council of Ministers*, decided on 15 December 2005 (2062-8-30 BS). In accordance with the directive order of SC to the Government, the discriminatory provision in the Country Code on question of right to ancestral property has been amended.

### **Provisions on marriage, divorce, child custody and adoption**

53. Gender discriminatory provisions relating to marriage, divorce, child custody and adoption have been repealed accordingly. For example, after the court issued directive order in the case of *Shyam Krishna Maskey et. al. v. MoLJPA and others*, decided on 2061-10-28 BS (10 Feb. 2005), the legal provision on divorce has been amended so as to establish the same grounds for men and women. Similarly, the existing legal provision sets first priority to mother to hold child custody. The laws on marriage (reported below under the progress of Article 16) have been amended. For instance, the marriageable age for both men and women has been made the same. Similarly, the laws establish equal criteria for child adoption.

### **Recognition of women's identity in procedural laws**

54. Several provisions have been amended following recognition of women's independent status in procedural laws. Earlier, women were not entitled to take part, unlike male members, in matters of court procedures. The previous law excluded women from receiving summons paper issued in the name of family members. An Act to Amend some Nepalese Acts relating to Court Management and Administration of Justice, 2002. In addition, a number of laws have been amended making special affirmative provisions in sensitive cases of women, for example, giving priority in hearing the cases of widows. Similarly, the provision of *in camera trial* has been incorporated to respect women's privacy and confidentiality so as to protect them from being re-victimized.

**Amendments in criminal laws**

55. Several provisions related to criminal law have undergone amendments in the Country Code, such as criminalization of abortion made on the basis of identification of sex of the child, conditions or legalization of abortion (as reported in the previous report), criminalization of sexual harassment, widening of the definition of “rape” along with different levels of punishment according to the gravity of the crime based on rape victims’ age, physical and mental conditions etc. Marital rape has also been criminalized. Provisions of additional punishment for the crime of rape on women by persons with HIV/AIDS or while in custody/prison are worth mentioning. There are also provisions for compensation and in camera trial to the victims of rape and trafficking.

56. Most importantly, separate specific legislations have been amended from the point of view of gender equality including special measures for women. Legal provisions excluding women from joining the Army have been amended, too. However, even after the amendment in the Army Act, some discriminatory provisions were still prevalent. For example, the provision regarding family pension and educational allowances provided to the family of army personnel, excluded married daughters from such facilities. This was challenged in the case of the *Forum for Women, Law and Development (FWLD) v. The Government of Nepal*, decided on 28 June 2007 (2064/3/14 BS) where the Supreme Court issued an order declaring the said provision unconstitutional and also inconsistent with the provisions of international human rights instruments to which Nepal is a party.

57. The second Amendments in the Civil Service Act and its Regulations have developed some special inclusive measures in the recruitment of civil servants. These measures are meant for the reservation of women and other marginalized segments of the society, the details of which have been provided in Part II under articles 7 and 8 of the present report.

58. Some new Acts have been enacted to promote gender equality. Among them the Foreign Employment Act, 2007 and the Human Trafficking and Transportation (Control) Act 2007 and its Regulation 2008 are noteworthy. The details have been reported in the concerned provisions of the Convention below in Part II of the present report.

**Challenges ahead**

59. Although all major discriminatory legal provisions have been amended and harmonized with the notion of gender equality, a number of challenges lie ahead before women to fully exercise and enjoy their rights. Hence, in order to cope with these challenges, the Government has considered both immediate and long term strategies for the full and equal enjoyment of constitutional and legal rights of women.

60. The cultural, religious and traditional values often tend to perpetuate gender discriminations and violations of women’s rights. Insufficient political commitment, weak institutional capabilities of delivery and regulatory mechanisms and lack of awareness of information technology in rural areas have contributed to women’s deprivation of their rights. Despite a lot of initiatives taken for the protection and promotion of human rights of women, the rights of *Dalit* women, women with disabilities, ethnic minorities and the ones infected with HIV/AIDS are yet to be fully realized. Considering these challenges, the Government has taken legislative and other appropriate equity measures for the social inclusion of these vulnerable and marginalized women.

## Articles 3 and 4

### Measures to accelerate equality between women and men

#### Basic information

61. The Government has engaged itself in the full development and advancement of women by adopting temporary and special measures. The Interim Constitution provides sufficient scope for taking special measures. Article 13 (3) of the Constitution explicitly states: "... making of special provisions by law for the protection, empowerment or advancement of the interests of women ...". This provision provides a guideline for the implementation of the rights of women as guaranteed under article 20 of the Constitution. Part IV of the Constitution further provides enforcement measures in discharging state responsibility by following directive principles and state policies. The policies outlined in the constitution in the areas of health, education, empowerment of widow/single women and other socio-economically marginalized women are of special significance.

#### Change initiatives

62. With regard to the short-term special measures, the Government has adopted legislations, policies and programmes by targeting disadvantaged groups including women and the girl child. The SC has developed jurisprudence on affirmative provisions since the case of *Sita Acharya* (mentioned in the previous reports) that "A woman requires a special protective environment throughout her pregnancy and even after the delivery, in which, she should be cared and nourished and it is even the state's duty to ensure that she meets all these requirements. On the basis of the social concern of maternal and child health care and the law assigned by the international treaty, the women workers of Nepal should also be provided opportunity to exercise their Reproductive Rights. "These efforts were reinforced in the directives issued by the SC in its verdict upon deciding in the case of *Prathous Chhetri v. Council of Ministers and Others*-case decided in 2004 on 29 October 2004 (2061-07-13 BS) to enact legislation for implementing intervention plans to uplift and promote equitable development of the deprived community including women.

63. Respecting the directives of SC, the Government has significantly expanded scholarship programmes targeting the girl child, *Dalits*, deprived group of the society, and geographically remote areas since the fiscal year 2006/07. Further, the Interim Plan has formulated special programmes for empowerment, rehabilitation and income generation for Badi women of the Far-western and Mid-western regions who are commonly known as sex workers. Also, the plan targets to conduct household development programmes to provide employment-oriented training and free education for Badi children. The Plan is also explicit in implementing targeted programmes to increase access of *Dalit* women to education, health services and provide non-formal education for them.

64. More than 150 laws provide affirmative provisions for women's involvement in education, health, employment, civil service recruitment etc. The Interim Constitution provides scope for confirmatory actions in the advancement and empowerment of women. The result is seen at local levels with a number of women's groups formed under Women Development Program. Women Development Offices have been established in all 75 districts. WDP is concentrated on social mobilization and economic empowerment through

women cooperatives, thus mainstreaming poor and marginalized rural women through economic and social development programmes.<sup>10</sup>

65. The National Plan of Action (NPA) has incorporated a number of measures adopted for the empowerment of women, including awareness, advocacy, training and so on. It has targeted the special provision of 33 per cent participation of women, which is being achieved progressively. In order to implement the targets, the Government has increased its budget for the fiscal year 2008/09. The Government realizes empowerment as a multidimensional process which enables women to exercise and enjoy human rights and fundamental freedoms equal to men. Gender Empowerment Index (GEI) of the excluded women increased by 10 per cent. A UNFPA research study attributes to following three dimensions in this process:

(a) Increasing women's access to economic opportunities and resources through employment, credit and wealth including land, technology, education, knowledge and health which is vital for human development;

(b) Raising social awareness in women and men about the symptoms and causes of oppressive religious, economic, cultural, familial and legal practices and strengthening their capacity to capitulate traditional gender roles;

(c) Increasing women's political power through women's organizations, solidarity, collective action and effective voice and presence in decision making positions.

66. The above dimensions are being considered by the Government and NGOs. The awareness programme is one of them which are being conducted by the MoWCSW through Women Development Officers (WDOs) in coordination with other ministries and other implementing agencies in all districts. The Government's policies and programmes have explicitly mentioned that "women shall be proportionately included in all bodies and levels of Government by bringing forth special and positive legal provisions. A National Commission for Inclusion shall be set up to give recommendations for the purpose of achieving the same." The Asian Development Bank (ADB) has funded the Gender Equality and Empowerment of Women (GEEOW) programme, which is being implemented in the remote districts of Far and Mid Western Hills and the Terai districts of the Central Region, where HDI is lagging behind, since 20 November 2006. The total number of districts covered by GEEOW is 15.

### **Challenges ahead**

67. The conceptual basis of short-term special measures has yet to be internalized as there is slow process of socio-economic growth. The life options for women are determined not only by material assistance but also by the overall gender ideology and the prevailing socio-economic set-up. The deeply rooted discriminatory and stereo-typed practices are hindering the transformation process.

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<sup>10</sup> Source: WDD/MWCSW Annual Report, 2006/07.



## Article 5

### Traditional cultural practices

#### Basic information

68. Social acceptance or the culture of silence can still be observed in some of the stereotyped areas. Dowry system, son preference, child marriage, polygamy, widowhood and other practices related to social exclusion are occasionally reported in the media. Nevertheless, as a result of Government initiatives and NGOs interventions, such bad practices in the name of tradition and culture have significantly come down during the reporting period.

#### Reform initiatives

69. The Interim Constitution provides clear safeguards for women from the aforementioned practices. Article 20 of the Constitution says, “No one shall be discriminated in any form merely for being a woman”, this provision ultimately provides a greater scope for the implementation of rights against exploitation and violence against women.

70. Moreover, the directive orders of the SC have brought a lot of change initiatives regarding the elimination of discriminatory traditions that are deeply rooted in the society and being practiced in the name of cultural, customary or religious practices. The *Chaupadi* practice was challenged through the case of *Dil Bahadur Bishwokarma v. HMG*, where the SC on 1 May, 2004 (2062-1-19 BS) declared the practice as discriminatory against women and a violation of women’s human rights. The SC has also issued an implementation guideline to the Government. The SC also issued directive order to the Ministry of Health and Population (MoHP) for the formation of a Committee so as to conduct an in-depth study on the impact of this practice on women’s health. The MoWCSW was also ordered to develop guidelines in line with the spirit of elimination of violence and discrimination against women. More importantly, the SC observed the importance of NGOs in carrying out awareness campaigns against this kind of discriminatory, inhumane and degrading traditional and customary practices.

71. Following the SC’s directive order, the Government has taken a number of implementation measures. The Council of Ministers has already declared *Chaupadi* as the worst form of social practices. Similarly, MoWCSW has been implementing a three-year pilot project, supported by Save the Children/Norway. The project includes activities such as:

- Awareness building through media and Information, Education and Communication (IEC) materials (e.g. radio programme, leaflet, posters, documentary)
- Health checkups and safety measures including sanitation with a provision of separate toilet, use of sanitary napkins, infirmary, etc.
- Formation of Vigilance Committees by including senior citizens of the community to put pressure against such practices

72. This intervention has helped to bring about positive changes. The mindset of people towards *Chaupadi* has now begun to change. The confinement period during menstrual cycle has been reduced. Instead of confining women in cowshed, they are now allowed to stay inside their home. Additionally, MoHP has already established a committee and has carried out an in-depth research on the adverse impact on women’s health due to such practices.

73. Similarly, in the case of the witchcraft Advocate *Resma Thapa v. Council of Ministers*, 10 August 2004, the SC has issued a directive order to the Government to enact adequate laws and other appropriate preventive and promotional measures. The Government has already taken it seriously by denouncing the act as embarrassing and degrading and humiliating anyone in the name of witchcraft is now considered a serious crime, which is punishable with jail sentence, under the State Cases Act. Additionally, the MoWCSW has developed “a zero tolerance policy” on violence against women. Likewise, the Domestic Violence Act has been passed by the Legislature-Parliament recently. This Act is considered a major instrument in protecting women from domestic violence.

74. The MoWCSW has been implementing programmes to empower adolescent girls and advocate their right to education and health as well as to end discrimination against the girl child in all 75 districts. To this end, a number of targeted programmes have been implemented with special focus on empowerment of women and girl children across the country. Meanwhile, NGOs are also actively working to raise awareness in the community against the existing social prejudices and discriminatory practices imposed upon women in the name of religion and culture. The policies adopted in the recent periodic plans and the Governments’ concerted efforts through gender responsive budget mechanism are expected to be resulted in desired change in this area.

### **Challenges ahead**

75. Some practices are so deeply ingrained in the society that it is often difficult to call them discriminatory. The practice of the *Kumari* —“Living Goddess” —(mentioned in the previous initial and periodic reports) is one such difficult issue. Whether this practice is to be preserved as a long-established culture of respecting a girl as a Living Goddess or is it a mere violation of the rights of the girl child? Two cases, arguing against each other, have been filed with the SC.

76. Disadvantages related to gender discrimination are further reinforced by socio-cultural, institutional and other practices which discriminate against women mainly belonging to marginalized castes and ethnicities. They are susceptible to discrimination due to traditional practices which are guided by religious and social dogmatism. The dowry system, still in practice in some parts of the country, is also a challenge in the way to empowering women, particularly, of the *Madhesi* community as their level of awareness and education is relatively low.

## **Article 6**

### **Trafficking in women**

#### **Basic information**

77. There is no reliable data regarding human trafficking. The National Human Rights Commission (NHRC) of Nepal has reported that, 12,000 women are trafficked every year and among them, 20 per cent are the girls below the age of 16. The International Labour Organization (ILO) provides a staggering figure of women trafficked from third countries to Indian metropolitan cities (such as Mumbai, Delhi) and Gulf Countries. Likewise, various reports prepared by different organizations estimate that some 100,000 to 250,000 trafficked girls and women are working as sex workers in India. An analysis of information obtained from the print media, case studies and surveys on trafficked survivors shows the age group 11–18 years for girls are found to be more vulnerable to trafficking. However, reported cases of each year are very few in number (it was 112 in 2006/07). There is no match in the “usually quoted” figures and reported cases. The estimates made are based on speculations and refer to one and another report, which are also without any firm basis.

However, the 2001 census data shows that altogether 82,712 women are absent from households and out of them, 33,620 (40.6 per cent of female absentees) are absent for unknown reasons. (Source: Status and Dimensions of Trafficking within Nepalese Context, Integrated Development Studies (IIDS) and UNIFEM, 2004).

78. However, there are some indications that the State has to be alert to check human trafficking. One attention has to be paid in the cross border movement of young women. The data given below shows the most vulnerable age group is 17–25 years followed by 13–16 years. A total of 243 cases (81.54 per cent of the total) fall under these age categories out of the total 298 cases.

Table 3

**Number of trafficking victims according to their age and number of cases filed in the court (during fiscal year 2003/2004 (2060/61 BS) to 2006/2007 (2063/64 BS))**

| <i>Year</i>               | <i>Below<br/>7 yrs.</i> | <i>8–12<br/>yrs.</i> | <i>13–16<br/>yrs.</i> | <i>17–25<br/>yrs.</i> | <i>26–35<br/>yrs.</i> | <i>36–45<br/>yrs.</i> | <i>Above<br/>46 yrs.</i> | <i>No. of<br/>cases filed</i> |
|---------------------------|-------------------------|----------------------|-----------------------|-----------------------|-----------------------|-----------------------|--------------------------|-------------------------------|
| 2003/2004<br>(2060/61 BS) | 2                       | 7                    | 26                    | 39                    | 1                     | 0                     | 1                        | 76                            |
| 2004/2005<br>(2061/62 BS) | 3                       | 3                    | 22                    | 52                    | 8                     | 4                     | 2                        | 94                            |
| 2005/2006<br>(2062/63 BS) | 6                       | 7                    | 30                    | 74                    | 10                    | 1                     | 0                        | 128                           |
| 2006/2007<br>(2063/64 BS) | 3                       | 12                   | 35                    | 83                    | 12                    | 2                     | 0                        | 147                           |

*Source:* Women and Children Service Center, Nepal Police, 2007.

Table 4

**The status of trafficking cases registered in the court**

| <i>Fiscal year<br/>(BS)</i> | <i>Registered<br/>cases</i> | <i>Finalized cases</i> |                  |              | <i>Remaining<br/>cases</i> | <i>Convicted<br/>percentage</i> |
|-----------------------------|-----------------------------|------------------------|------------------|--------------|----------------------------|---------------------------------|
|                             |                             | <i>Convicted</i>       | <i>Acquitted</i> | <i>Total</i> |                            |                                 |
| 2003/04                     | 134                         | 11                     | 17               | <b>28</b>    | 106                        | 39.29                           |
| 2004/05                     | 131                         | 17                     | 13               | <b>30</b>    | 101                        | 56.67                           |
| 2005/06                     | 117                         | 16                     | 13               | <b>29</b>    | 88                         | 55.17                           |
| 2006/07                     | 102                         | 4                      | 9                | <b>13</b>    | 89                         | 30.77                           |

*Source:* Attorney General's Annual Report, 2006/07 (2062/063 BS), p. 19.

79. The decade-long armed conflict which caused large scale displacement and migration of people, led to further aggravation of the problem. The growth of dance bar restaurants in Kathmandu and other cities of Nepal have attracted a growing number of teenage girls. Exploitation of girls working in the cabin/dance restaurants as one of the emerging issues is discussed in subsequent paragraphs in Part IV of the resent report.

### **Reform initiatives**

80. During the reporting period, Nepal has ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Trafficking of Women and Children in 2007. The present framework of laws relating to human trafficking in Nepal is very progressive. Article 29 of the Interim Constitution guarantees the “Right against

Exploitation” and clearly prohibits human trafficking, slavery or bonded labour and exploitation in the name of custom, tradition and practice or in any other manner. This provision provides full constitutional guarantee against trafficking of women in all circumstances.

81. In addition to the newly enacted Trafficking Act, the Government has recently adopted the “Human Trafficking and Transportation (Control) Regulation” in November 2008. The Regulation provides for the formation of Committees at National and District levels. The Secretary and the Joint Secretary of MoWCSW will be the Chairperson and Member Secretary of the National Committee respectively. The National Committee also includes members from ministries (Joint Secretary level, with priority to women) of Labour, Home, and Foreign Affairs, Deputy Attorney General (preferably women), DIG (preferably women). In addition, three women actively working against human trafficking on an individual or organizational basis will be nominated by MoWCSW on the basis of inclusiveness as far as possible. Similarly, the MoWCSW will nominate two victims of trafficking. The District Committee will be headed by the CDO as Chairperson, Women Development Officer as Member Secretary, and Chiefs of District Government Attorney Office, District Police and other stakeholders as members. Three women working against human trafficking will be nominated from the Civil Society organizations on an individual or organizational basis by MoWCSW. A representative of District Executive Committee of Nepal Journalist Federation will also be a member.

82. This regulation makes important provisions such as maintaining confidentiality of victims, providing translator or interpreter for victims, establishment and operation of Transition Shelter (minimum 50 per cent women’s representation) including physical infrastructure, legal aid, treatment, health services, psycho-social counselling, educational access, skill training and social and family integration for the victims. The regulation also provides for the management and operation of rehabilitation fund and monitoring and reporting formalities. The regulation also requires the development of the code of conduct for the center. This regulation is the first of its kind to combat the crime of trafficking.

83. The Office of the National Rapporteur on Trafficking in Women and Children (ONRT) has been established within NHRC. Control and elimination of trafficking and social integration of victims is one of the strategic objectives of ONRT. ONRT has started publishing its reports on the situation of Trafficking in Nepal since 2005. The second report (2006/07) is analytical in terms of addressing the opportunity and problems of foreign employment and associated risks of trafficking in women as well as the possible interventions on it. In order to implement the legal provisions, the Government has already established a “Trust Fund” in December 2008 with a core fund of Nrs. 14,000,000.

84. During 2006 and 2007, ONRT has conducted several advocacy programmes including trainings on trafficking including safe migration. It has appointed focal persons at the NHRC regional offices to work on this issue.

85. The Government has formulated NPA for the implementation of the Convention in 2004. Combating trafficking in women is one of its 19 recommended areas for action. The main activities/programmes related to combating trafficking of women include the following:

- Identification of the number of trafficking survivors in different towns/countries
- Repatriation of trafficking survivors with the help of diplomatic mission
- Establishment of an adequate number of rehabilitation centers to trafficking survivors and providing reintegration services
- Providing employment opportunities to trafficking survivors in rehabilitation centers by establishing, expanding and developing public and private industries

- Ensuring the commitments of concerned Ministries and Departments to effectively implement NPA against Trafficking of Women and Children for Sexual and Commercial Sexual Exploitation
- Ensuring the effective enforcement of trafficking law by the mobilization of different stakeholders including NGOs and Community based organizations (CBOs)
- Implementation of poverty alleviation programmes in most trafficking-prone areas and increase the livelihood opportunities for the people
- Identify bilateral and multilateral areas of cooperation in order to control cross-border trafficking
- Prepare and publish a National Report on the situation of trafficking in Nepal each year
- Making MoLT, Department of Labor, DoELP and Nepal Police responsible to combat trafficking in relation to foreign labour employment

86. A number of NGOs, INGOs and United Nations Agencies, mentioned in the previous reports have also contributed to the prevention and elimination of trafficking through various programmes. The line ministries and departments have implemented some programmes to prevent it. Scholarship programmes to *Dalit* students and girls under HIV/AIDS control programme of MoHP, Decentralized Action for Children and Women (DACA) of MoLD/DWD, Land Reform and Rehabilitation programme for freed bonded labours (*Kamaiyas*) of the Ministry of Land Reform and Management (MoLRM), and Poverty Reduction Strategic Planning programmes of Poverty Alleviation Fund are some of the major programmes undertaken.

87. MoWCSW plays a key policy-making role in the area of combating trafficking. It also makes institutional arrangements to fight trafficking. There is a National Policy and Action Plan to Prevent and Control Trafficking in Women and Girls prepared in 1999 and task forces have been formulated in each of the 26 districts which have been identified as the most vulnerable in terms of human trafficking. They are: Jhapa, Sunsari, Morang, Sarlahi, Mahottari, Dhanusa, Udayapur, Ramechhap, Sindhuli, Kavrepalanchowk, Sindhupalchowk, Kathmandu, Lalitpur, Nuwakot, Rasuwa, Dhading, Gorkha, Kaski, Makawanpur, Parsa, Chitwan, Nawalparasi, Rupandehi, Dang, Banke and Kailali.

88. The Government has allocated additional budget of Rs. 14 million in the fiscal year 2008/09 for trafficking prone districts, Sindhupalchowk, Kathmandu and Kailali, for the purpose of rehabilitation and re-integration of women with their families. The programme is being implemented by the MoWCSW in partnership with NGOs such as the Agro-forestry, basic health and cooperation (ABC), Shakti Samuha and Sirjanshil Samaj. Under this Government-run rehabilitation programme, 56 trafficking-victim women have been rehabilitated in the aforesaid 3 centers. According to MoWCSW programme, during 2009, 4 more Rehabilitation Centers have to be established in Jhapa, Parsa, Rupandehi and Banke districts.

89. The MoWCSW and DWD have taken initiatives in organizing various public awareness programmes in collaboration with NGOs working in the area. Apart from rehabilitation, the programmes include counselling and consultation, vocational training, capacity building, leadership development, social mobilization, legal aid, re-integration, education, awareness on HIV/AIDS etc. MoWCSW annually organizes awareness programmes on the occasion of “national anti-trafficking day”. The programme has had a great impact as it is live-cast throughout the day all over Nepal by the national and other media.

90. The SC has shown its activism in *Suresh Lama et al v. HMG* on the FIR of Sharmila Tamang (NKP 877, 2005), has clearly observed that “Unlike other criminal Acts, there may not be witnesses or by-standers in the cases of sexual exploitations against women. Therefore, the victim herself and the reports of her physical examination are the major evidences. Clever, deceitful and selfish people are found to be the perpetrators of this organized crime whereas under-aged, immature, illiterate, ignorant women/girls are the victims. These women/girls are not aware of their rights and are ignorant of the fact that there is a legal provision to report such sexual exploitation and also provision of punishment the offenders or perpetrators. Even gloomier side of this picture involves the victim’s family’s ignorance and poverty. The family members cannot think of the possible outcomes that could face them under the cupidity of their daughter-earned money. Forcing women/girls to engage in prostitution is a despicable and condemnable crime. This is not only of national concern but also an internationally recognized grave offence.”

### **Challenges ahead**

#### *Statistical data*

91. The statistical data on trafficking victims vary widely. The numbers quoted in one report do not tally with that of another. Several factors seem to have been the likely cause of under-reporting, such as the fear of social stigma, low level of awareness, and strong networks and linkages of the traffickers at various levels.

### **Internal trafficking**

92. A study conducted by MoWCSW in 2006 found that an estimated 40,000 female workers aged between 12–30 years were employed in 1,200 Cabin and Dance restaurant and Massage Parlors in Kathmandu Valley. They were compelled to work late in the evening and to engage in sexual activities unwillingly so as to please the customers. The study found that these female workers are vulnerable to trafficking, as 52.2 per cent of them said they have been approached by the pimps with assurances of better job opportunities in Hong Kong, Saudi Arabia, and Dubai.

### **Prospect for foreign employment for women**

93. In many instances has turned into a snare for human trafficking. The number of women who want to go abroad for employment due to the lack of jobs and favorable working condition within the country is increasing. Unfortunately, they often lack reliable information or contacts and, therefore, many of them are duped by pimps and end up in brothels across the border.

### **Open border**

94. The open border between Nepal and India facilitates easy movement of people and goods between the two neighbours. At the same time, it also gets misused by traffickers to transport women and children on the other side of the border. In order to keep a strict vigilance and monitor cross border movements so as to check and control suspicious activities, the Government has also been collaborating with NGOs at the local levels.

### **Opening of rehabilitation centres**

95. DWD, as directed by MoWCSW, has run state-owned rehabilitation centers in some districts. Last year such centers were opened in 3 districts (Sindhupalchok, Kailali and Kathmandu). This year DWD has allocated resources to open them in four more districts (Jhapa, Prasa, Rupandehi and Banke). Except Kathmandu and Sindhupalchok, the other five districts are border transit points. WDOs in these districts have signed management

contracts with NGOs. In other places, some NGOs working in the area have been active in support of the government's initiative. *Maiti Nepal*, working in close cooperation with the Nepal Police, is one of the most active organizations in preventing women and children from being trafficked. It intercepted 754 victims at various points in Nepal-India border in 2002 only. Similarly, a total of 1,618 children and women were intercepted at Nepal-India border during 2004. The number was 1,404 and 2,398 in the years 2005 and 2006 respectively. There are more than 10 Transit Homes run by different NGOs at the border cities of Nepal with the objective of providing temporary support to the rescued and intercepted children and women. Women Rehabilitation Center (WOREC) is one of them. WOREC is running Safe Homes both for traffic survivors and victims of gender-violence.

96. The Government has been making various efforts to deal with the issues of STD and HIV/AIDS. A number of NGOs have been cooperating and collaborating with the Government in these efforts. There is a need for conducting more awareness programmes so as to bring positive changes in the attitude of the community towards the victims of such diseases and facilitate their reintegration in the society.

97. The impact of the Government's declaring bonded-labours illegal is expected to reduce the chances of cross-border trafficking of Nepalese children for the purpose of using them as bonded labours, including various forms of economic and sexual exploitation. Previously, the demand of girl child was rather high. During 2006-07, of the 233 children rescued, 217 were girls. Of this total number, 78.55 per cent are from ethnic groups and 12.5 per cent from the *Dalit* community.<sup>11</sup> For obvious reasons, girls are more vulnerable to this kind of trafficking.

## Articles 7 and 8

### Political, public and international participation

#### Basic information/change initiatives

98. The NPA has been framed to encourage women to actively participate in the institutionalization of democracy and the electoral as well as peace and reconstruction processes with the following measures:

- Policy and legal reforms as well as other necessary measures to ensure at least 33 per cent representation of women in the policy and decision-making process at all levels
- Women's active participation will be ensured through gender mainstreaming in all areas of development

99. The Interim Constitution makes a landmark affirmative provision for participation of women in politics. Article 63 (4) of the Constitution explicitly states "the principle of inclusiveness shall be taken into consideration while selecting the candidates by the political parties" elected on the basis of FPTP system from each of the election constituencies, and on the basis of proportional electoral system. Article 63 (5) further provides: "in case of women there should be at least one third of the total representation obtained by adding the number of candidates" in both FPTP and Proportional Representation system. The Constitution also makes provision for the inclusion of women

<sup>11</sup> The State of Children of Nepal 2007, CCWB, Kathmandu.

in the executive committees of the political parties. In addition, there is a mandatory provision of inclusion of women member in the NHRC.

100. The target envisioned by article 63 of the Interim Constitution has been achieved, which can be seen from the tables given below.

Table 5

**Election of the Constituent Assembly: candidates and results**

| <i>Candidates (First-Past-The-Post)</i> | <i>Total number</i> |
|---|---------------------|
| Women candidates                        | <b>373</b>          |
| Men candidates                          | <b>3 648</b>        |
| <b>Total candidates</b>                 | <b>4 021</b>        |

Table 6

| <i>Candidates (Proportional Representation)</i> | <i>Total number</i> |
|---|---------------------|
| Women candidates                                | <b>3 067</b>        |
| Madhesi candidates                              | <b>1 918</b>        |
| Dalit candidates                                | <b>680</b>          |
| Janajati candidates                             | <b>2 138</b>        |
| Backward area candidates                        | <b>183</b>          |
| Candidates from other groups                    | <b>1 750</b>        |

101. As per the legal provision of guaranteeing 33 per cent of women candidates in CA, the political parties nominated their candidates. The result is as follows:

- Women comprise 197 members (32.77 per cent) out of 601 elected/nominated members of the Constituent Assembly
- In the Proportional Representation (PR) election, 161 women were elected (48.6 per cent) among the 335 candidates selected by the political parties
- Thirty women have been elected out of a total of 240 seats in the first-past-the post election (FPTP)
- Out of 26 nominated members, six are women

Table 7

**Sex disaggregated statistics of the Constituent Assembly members represented from different political parties and on independent basis**

| <i>No.</i> | <i>Political party</i>          | <i>Direct</i> |             |              | <i>Proportional</i> |             |              | <i>Nominated</i> |             |              | <i>Total</i> |
|------------|---------------------------------|---------------|-------------|--------------|---------------------|-------------|--------------|------------------|-------------|--------------|--------------|
|            |                                 | <i>Female</i> | <i>Male</i> | <i>Total</i> | <i>Female</i>       | <i>Male</i> | <i>Total</i> | <i>Female</i>    | <i>Male</i> | <i>Total</i> |              |
| 1.         | Nepal Communist Party (Maoists) | 24            | 96          | <b>120</b>   | 50                  | 50          | <b>100</b>   | 3                | 6           | <b>9</b>     | 229          |
| 2.         | Nepali Congress                 | 2             | 35          | <b>37</b>    | 36                  | 37          | <b>73</b>    | 1                | 4           | <b>5</b>     | 115          |
| 3.         | CPN-UML                         | 1             | 32          | <b>33</b>    | 35                  | 35          | <b>70</b>    | 2                | 3           | <b>5</b>     | 108          |
| 4.         | Madhesi Janadhikar Forum, Nepal | 2             | 28          | <b>30</b>    | 11                  | 11          | <b>22</b>    | 0                | 2           | <b>2</b>     | 54           |
| 5.         | Terai Madhes Loktantrik Party   | 1             | 8           | <b>9</b>     | 5                   | 6           | <b>11</b>    | 0                | 1           | <b>1</b>     | 21           |



| No.          | Political party                         | Direct    |            |            | Proportional |            |            | Nominated |           |           | Total      |
|--------------|---|-----------|------------|------------|--------------|------------|------------|-----------|-----------|-----------|------------|
|              |   | Female    | Male       | Total      | Female       | Male       | Total      | Female    | Male      | Total     |            |
| 6.           | Sadhbhavana Party                       | 0         | 4          | 4          | 2            | 3          | 5          | 0         | 0         | 0         | 9          |
| 7.           | Janamorchha Nepal                       | 0         | 2          | 2          | 2            | 3          | 5          | 0         | 1         | 1         | 8          |
| 8.           | Nepal Workers Peasants Party            | 0         | 1          | 2          | 1            | 1          | 2          | 0         | 1         | 1         | 5          |
| 9.           | Rastriya Janamorchha                    | 0         | 0          | 1          | 1            | 2          | 3          | 0         | 0         | 0         | 4          |
| 10.          | Rastriya Prajatantra Party              | 0         | 0          | 0          | 4            | 4          | 8          | 0         | 0         | 0         | 8          |
| 11.          | CPN-ML                                  | 0         | 0          | 0          | 4            | 4          | 8          | 0         | 1         | 1         | 9          |
| 12.          | Rastriya Janashakti Party               | 0         | 0          | 0          | 1            | 2          | 3          | 0         | 0         | 0         | 3          |
| 13.          | Rastriya Prajantantric Party (Nepal)    | 0         | 0          | 0          | 2            | 2          | 4          | 0         | 0         | 0         | 4          |
| 14.          | Nepal Communist Party (United)          | 0         | 0          | 0          | 1            | 1          | 2          | 0         | 0         | 0         | 2          |
| 15.          | Nepal Sadhbhavana Party (Aanandadevi)   | 0         | 0          | 0          | 1            | 1          | 2          | 0         | 1         | 1         | 3          |
| 16.          | Nepal Communist Party (Samyukta)        | 0         | 0          | 0          | 2            | 3          | 5          | 0         | 0         | 0         | 5          |
| 17.          | Rastriya Janamukti Party                | 0         | 0          | 0          | 1            | 1          | 2          | 0         | 0         | 0         | 2          |
| 18.          | Sanghiya Loktantrik Rastriya Manch      | 0         | 0          | 0          | 1            | 1          | 2          | 0         | 0         | 0         | 2          |
| 19.          | Dalit Janajati Party                    | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 20.          | Chure Bhawar Rastriya Ekata Party Nepal | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 21.          | Nepali Janata Dal                       | 0         | 0          | 0          | 1            | 1          | 2          | 0         | 0         | 0         | 2          |
| 22.          | Prajatantrik Janata Party Nepal         | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 23.          | Nepal Rastriya Party                    | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 24.          | Nepal Loktantrik Samajwadi Dal          | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 25.          | Nepal Pariwar Dal                       | 0         | 0          | 0          | 0            | 1          | 1          | 0         | 0         | 0         | 1          |
| 26.          | Independent                             | 0         | 2          | 2          | 0            | 0          | 0          | 0         | 0         | 0         | 2          |
| <b>Total</b> |   | <b>30</b> | <b>210</b> | <b>240</b> | <b>161</b>   | <b>174</b> | <b>335</b> | <b>6</b>  | <b>20</b> | <b>26</b> | <b>601</b> |

Source: Election Commission, Nepal, 2008.

### The participation of women in public services

102. The second amendment (Aug. 2007) in the Civil Service Act, 1993 (2049 BS) and changes in the Civil Service Regulation, 1994 (2050 BS) include special inclusive measures in the recruitment process. Under this, 45 per cent seats are reserved for women, indigenous and ethnic communities, *Madhesis*, *Dalits*, persons with disability and marginalized groups. Out of this 45 per cent, 20 per cent is solely reserved for women. The provision requires conducting separate competitions among each of the category mentioned above. The amendment also provides that if any civil servant is killed in conflict while discharging service, the husband or wife of the deceased shall get pension throughout his/her life, adding further remaining tenure if the deceased's service tenure would be less than 20 years. However, as compared to the significant number of women elected in CA, the

participation of women in different areas of public services is relatively low. The following are some of the sex-disaggregated statistics:

Table 8

**Recommendations for appointments on a gender basis, 2006/2007 (2063/2064 BS)**

| No           | Sex    | Gazetted     |               |                     | Non-gazetted |               |                     |
|--------------|--------|--------------|---------------|---------------------|--------------|---------------|---------------------|
|              |        | Technical    | Non-technical | Total               | Technical    | Non-technical | Total               |
| 1.           | Female | 41 (9.53%)   | 39 (18.93%)   | <b>80 (12.58%)</b>  | 3 (11.11%)   | 11 (11.83%)   | <b>14 (11.67%)</b>  |
| 2.           | Male   | 389 (90.47%) | 167 (81.07%)  | <b>556 (87.42%)</b> | 24 (88.89%)  | 82 (88.17%)   | <b>106 (88.33%)</b> |
| <b>Total</b> |        | <b>430</b>   | <b>206</b>    | <b>636</b>          | <b>27</b>    | <b>93</b>     | <b>120</b>          |

Source: Public Service Commission 064.

Table 9

**Participation of women in the legal sector, 2063/2064**

| No. | Designation                      | Female (%) |                | Male (%)   | Total number  |
|-----|----------------------------------|------------|----------------|------------|---------------|
| 1.  | Attorney General                 | -          | -              | 1 (100.0)  | <b>1</b>      |
| 2.  | Higher rank Government Attorney  | -          | -              | 4 (100.0)  | <b>4</b>      |
| 3.  | First Class Government Attorney  | -          | -              | 27 (100.0) | <b>27</b>     |
| 4.  | Second class Government Attorney | -          | -              | 78 (100.0) | <b>78</b>     |
| 5.  | Third class Government Attorney  | 2 (1.85)   | 106 (98.15)    |            | <b>108</b>    |
| 6.  | Senior Advocate                  | 2 (3.84)   | 50 (96.15)     |            | <b>52</b>     |
| 7.  | Advocate                         | 914 (7.76) | 10 863 (92.24) |            | <b>11 777</b> |
| 8.  | Pleader                          | 693 (7.12) | 9 038 (92.88)  |            | <b>9 731</b>  |
| 9.  | Agent                            | 5 (0.45)   | 1 088 (99.54)  |            | <b>1 093</b>  |

Source: Office of Attorney General, Nepal Bar Council, Kathmandu, 2007.

Table 10

**Statistics of women judges**

| No.          | Court           | Female   | Male       | Female (%)  | Total      |
|--------------|-----------------|----------|------------|-------------|------------|
| 1            | Supreme Court   | 1        | 12         | 7.69        | <b>13</b>  |
| 2            | Appellate Court | 1        | 77         | 1.28        | <b>78</b>  |
| 3            | District Court  | 3        | 131        | 1.50        | <b>134</b> |
| <b>Total</b> |                 | <b>5</b> | <b>220</b> | <b>1.78</b> | <b>225</b> |

Source: Judicial Council Secretariat, 2008 (2065 BS).

103. The Government has adopted policies to ensure active participation and empowerment of women from disadvantaged groups, *Adibasi Janajatis*, *Madhesis*, Muslims, single women, women with disability and the marginalized in the social economic and political spheres. Women are encouraged to actively participate in institutionalization of democracy and the electoral process. Gender based information system (GBIS) is being established to closely monitor and evaluate the policy implementation.

**Challenges ahead**

104. The value of women's role in decision-making is yet to be fully realized. Substantive participation of women is yet to be increased and ensured in other public spheres (at national and international levels) as compared to political participation.

105. Constitutional guarantee of women's compulsory participation in constitutional bodies and other state agencies is yet to be established. The Government is cognizant of Security Council resolution 1325, which underlines the importance of women's participation in peace building process and other decision making positions. Accordingly, efforts are underway to fully mainstream women in the process.

106. Stereotype cultural practices are still seen as major impediments to achieve substantive participation of women in political and public life. Moreover, unlike women's participation in national-level politics, women's participation at international level other than in women's issues, are comparatively less.

**Article 9****Nationality (citizenship)****Basic information/reform initiatives**

107. The citizenship provision in the previous Constitution and Citizenship Act which precluded women from passing their nationality to their children has now been repealed. Article 8 of the Interim Constitution recognizes that Nepalese women can transfer their citizenship to their children and the children can obtain citizenship in the name of either of the parents. A new Citizenship Act has been enacted replacing the Citizenship Act, 1963. The Government has taken initiatives in order to implement the provisions accordingly. CDOs have already started providing citizenship certificates parenting the name of the mother.

**Challenges ahead**

108. Article 8 (6) of the Constitution provides: a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen may acquire non-naturalized citizenship, if she desires to do so. Pursuant to the laws in force, the gap in the legal framework in relation to Nepalese women married to foreigners is yet to be bridged. The Government has taken this issue into consideration.

**Article 10****Education****Basic information**

109. Remarkable achievements have been made in education in order to meet the commitment towards 'Education for All' (EFA) by 2015' (as reported in the previous report). Department of Education has mainly concentrated on producing educational information of school activities in terms of number of schools – community and institutional; student participation and their representation to gender, *Dalit*, *Janajati* and disables; number of teachers and their training status; GER and NER of pre-primary, primary, lower secondary and secondary education by gender and ecological region, ratios, etc.

110. The overall literacy rate has been divided into three broad headings according to age, under which:

- 6 years and above: 53.7 per cent population is literate, in this, 65.1 per cent comprise males and 42.5 per cent are females
- 15–24 years: total 69.4 per cent are literate, out of which, 80.2 per cent are males and 59.2 per cent are females
- 25 years and above: total 48.6 per cent are literate, out of which, 62.7 per cent are males and 34.9 per cent are females

Source: Some Statistical Facts on Nepalese Women, CBS, 2007.

111. In total, the Gender Parity Index (GPI) at lower secondary and secondary levels is 0.89 and 0.85 respectively. This indicates that the overall participation of girls in both levels is still low. Similarly, compared to other social groups the percentage of girls and the GPI for *Dalit* is also low.

112. The overall share of girls' enrolment at lower secondary level is 47.1 of which 43.8 per cent is in Mountain, 49.1 per cent in Hill, 48.1 per cent in Valley and 45.4 per cent in the Terai area respectively. The share of girls' enrolment in all social groups is in increasing trend; however, the enrolment of *Dalit* girls is 9.8 per cent, and so is yet to be increased compared to their population share at national level. The share of *Janajati* (ethnic community) enrolment remains similar as at the primary level.

113. The above figures regarding ethnic communities do not provide the same ratio of enrolment all over Nepal as there are 11 remote districts namely Kalikot, Bajura, Baitadi, Darchula, Bajhang, Jumla, Achham, Dadeldhura, Mugu, Doti and Saptari with less than 10 per cent Janajati students at primary level, whereas seven districts namely, Mustang, Panchthar, Taplejung, Makwanpur, Solukhumbu, Rasuwa and Manang have more than 70 per cent Janajati students at primary level. Therefore, the girls' enrolment in far remote rural area is also affected in the same or even less in ratio. The figures given in the following tables indicate the scenario of women in higher education.

Table 11

**Students enrolled in higher education, by faculty (including Proficiency Certificate Level) of all universities of Nepal, 2004/05)**

| Faculty                     | Total students | No. of boys    | No. of women  | Percentage of women students |
|-----------------------------|----------------|----------------|---------------|------------------------------|
| Engineering                 | 7 925          | 6 736          | 1 189         | 15.0                         |
| Medicine                    | 2 761          | 1 223          | 1 538         | 55.7                         |
| Forestry                    | 437            | 350            | 87            | 19.9                         |
| Agriculture                 | 760            | 607            | 153           | 20.1                         |
| Science & Technology        | 14 080         | 11 546         | 2 534         | 18.0                         |
| Humanities & Social Science | 52 312         | 34 055         | 18 257        | 34.9                         |
| Management                  | 41 112         | 29 395         | 11 717        | 28.5                         |
| Education                   | 31 661         | 22 099         | 9 562         | 30.2                         |
| Law                         | 1 025          | 851            | 174           | 17.0                         |
| Sanskrit                    | 270            | 182            | 88            | 32.6                         |
| Ayurved                     | 148            | 129            | 19            | 12.8                         |
| <b>Total</b>                | <b>152 491</b> | <b>107 201</b> | <b>45 290</b> | <b>29.7</b>                  |

Source: Some Statistical Facts on Nepalese Women: 2007, CBS.

### Female teachers

114. MoE has comprehensively analysed the trends (i.e. 2004–2007) of female teachers in all types of community schools. In total the proportion of female teachers has been found increased by 6.4 per cent from 2004 to 2007. A total, 49,061 (29.7 per cent) female teachers are reported for all levels, of which 3,557 (21.3 per cent) are in Mountain, 20,992 (27.5 per cent) in Hills, 9,322 (50.4 per cent) in Kathmandu Valley and 15,190 (28.2 per cent) in Terai area respectively. Considering the level-wise distribution of teachers, there are altogether 116,846 teachers at primary level, of which 41,475 (35.5 per cent) are female teachers. At the lower secondary level there are 27,903 teachers with 5,182 (18.6 per cent) female teachers and in total 20,674 with 2,404 (11.6 per cent) female teachers at secondary level were reported in the school year 2007–08.

115. The percentage of female teachers in the institutional schools is 44.1 per cent for all levels of education, of this 55.9 per cent, 32.1 per cent and 19.8 per cent female teachers were reported for primary, lower secondary and secondary level. Out of the total reported number of teachers, 25.7 per cent female teachers were reported in all levels of community schools, of this 30.9 per cent at primary level, 13.7 per cent at lower secondary level and 7.7 per cent female teacher were reported at secondary level. Overall, the highest percentage of female teacher is found in Kathmandu Valley and the lowest is in Mountain zone at all levels.

116. The overall share of female teachers is 29.7 per cent in all types of schools, of which 35.5 per cent is in primary level, 18.6 per cent in lower secondary level and 11.6 per cent female is in secondary level. Compared to the total share of female teachers in the country, the Valley zone has the highest share and the lowest is in Mountain, hills and Terai zones. Similarly, the highest GPI is of Valleys and the lowest is of Mountain regions at all levels of education.

117. The distributions of female teachers at lower secondary and secondary levels also vary from district to district. Compared to the national average, altogether 52 districts have lower percentage of female teacher at lower secondary level, whereas rest of the 23 districts have higher percentage of female teacher than the national average (13.7 per cent) in all types of 31 community lower secondary schools. Some districts, namely: Dadeldhura, Bajura, Kalikot, Bajhang, Rautahat, Baitadi, Doti, Mugu, Rukum and Achham have less than 5 per cent of female teacher at lower secondary level whereas, 20 districts have higher percentage of female teacher at secondary level than the national average. (Source: Flash 1 Report 2007/08, Annexes: XXI “A, B, & C”).

118. The per cent of *Dalit* and *Janajati* teachers in the teaching profession as well as in school administration is still low. The following figure shows the scenario of women participation in the school administration.

Table 12

#### Women's participation in school administration

| Description                     | No. of schools | Female member | Dalit members | Members of ethnic groups | Selected members | Elected members |
|---------------------------------|----------------|---------------|---------------|--------------------------|------------------|-----------------|
| School Administration Committee | 25 948         | 17.2          | 8.2           | 33.8                     | 94.5             | 5.5             |

Source: Ministry of Education and Sports, 2007.

### Information on available physical infrastructures

119. Altogether 78 per cent of total schools have toilet facilities, out of which 33 per cent have common toilets, and 36 per cent have separate toilets for girl students.

**Reform initiatives**

120. Reaffirming the Free and Compulsory Education Plan of Action (2001/2015), recently the Government has echoed “Basis of New Nepal, Education as Universal Fundamental Right”. Rs. 38.98 billion has been allocated for the education sector which is a 44.5 per cent rise from the revised education sector expenditure of the previous fiscal year (2007/08).

121. The National Plan recognizes that “no girl should be deprived of school education due to her economic condition, caste/ethnic, religious or linguistic backgrounds. The state is committed to pursue a policy of making special provision for such marginalized and disadvantaged group. To this end, the education plan has adopted strategic programmes for achieving gender parity and social equality including mass awareness to eradicate patriarchal ways of behavior and more programmes for girls and children from *Dalit* communities and ethnic minorities. The plan targets the following:

- Ensuring 96 per cent girls’ Net Enrolment Rate by 2009
- Ensuring 50 per cent female teacher ratio by 2009
- Ensuring primary education for all girls by 2015 and
- Achieving 66 per cent and 75 per cent female literacy rate by 2009 and 2015 respectively

122. The Recommendations of the Gender Audit Report further reaffirms the national plan with a number of programmes such as:

- Formulation and dissemination of gender strategies by MoE
- Implementation of female teacher policy
- Development of educational materials, free from gender bias
- Inclusion of gender issues in all training materials
- Establishment of Girls’ Education Fund to achieve girls’ right to education with equity and equality framework
- Provision of School Grants with conditions of girls’ enrolment and the recruitment of female teachers etc.

123. The Government has also developed ‘Gender responsive budget’ prioritizing education, training and technology and other programmes and has allocated the budget in line with NPA.

124. Additionally, during the reporting period, MoE has adopted a number of change initiatives in increasing the number of girl students. The slogan, ‘Welcome to School’ has proved to be effective. To meet the objective, MoE has further taken measures for the promotion of education in general and women and other social group in particular. Following are some of the steps taken:

- 50 per cent girls are selected for scholarship on the basis of poverty
- Additional grant is for the school that enrolls at least 45 per cent girls and also retains them until the end of the school year and
- Additional grant for the school that recruits female teacher up to 50 per cent

125. Due to internal efficiency at primary, lower secondary and secondary level, compared to the previous school year, the promotion rate in the current school year in all grades is increasing. It is interesting to note that the promotion rate of girls in all primary grades is higher compared to the boys, whereas at the lower secondary and secondary

levels, the promotion rate for boys is higher than that for girls. (Source: Annexes XVIII-A-C and XVIII-A of the Flash Report 2007/08.)

126. Nepal is implementing EFA national plan under which a detailed programme for 2005–09 has been developed in consultation with education stakeholders at national, regional and district and sub-district levels. It incorporates six policy goals of the Dakar Framework for Action and aims to meet the main objectives including – to ensure access and equity in primary schools (to raise net enrolment to 96 per cent by 2015), enhance quality and relevance of primary education, and improve system efficiency and institutional capacity of schools and institutions at all levels. Likewise, the Government is promoting alternative learning opportunities for children aged 6–14 years who are out of formal education. There are three packages targeted to such children – ‘out-of-school’ programme, ‘flexible schooling’ and the ‘school outreach’ programme. In addition, The Government is running literacy programme for adults, particularly targeted to women. Likewise, Nepal has initiated School Sector Reform (SSR) Program aiming to integrate school system (grade 1 to 12) since 2008. The proposed policy direction defines grade 1–8 as the basic education which is evolved with the notion of ‘rights-based’ approach. The Government, since long time back has long taken the position that every child has the right to receive quality basic education. And, thus, interventions are planned and implemented in the same direction.

### **Challenges ahead**

127. Early marriage and the social obligation of marriage and the expectation of bearing children are major impediments to women’s advancement in education and career jobs.

128. Dropout is seen both in pre and post-marital status. The social obligation of marriage and the expectation of bearing children is the root cause of dropout.

129. The low number of female teachers, mainly in higher level and in technical subjects of all social groups, is another challenge. Although there is policy of compulsory recruitment of at least one female teacher in each primary school, a large number of schools are still failing to comply.

130. Women staffs, mainly at the decision level in the MoE, is to be increased. At present, the female Joint Secretaries represent 4.7 per cent, the female Under Secretaries and the female Section Officers are 6.8 per cent and 4.9 per cent respectively in MoE and Sports. (Source: UNFPA, Gender Equality and Empowerment of Women in Nepal, 2007.)

131. Girls’ participation in quality education is to be increased. Boys are given better educational opportunities by parents, who send them to private schools or to cities while the girls, particularly those from villages, have few such opportunities.

## **Article 11**

### **Employment**

#### **Basic information**

132. Gender Development Index (GDI) and Gender Empowerment Index (GEI) of Nepal are 0.391 and 0.452, respectively. The total labour force in Nepal is 63.4 per cent (10 years and older), in which women comprises 55.2 per cent, and men 71.6 per cent. Amongst women, majority are in the agriculture sector. The CBS also records that 57.9 per cent of women are found to be involved in agriculture, whereas 46.7 per cent are men. Most of the women are engaged in informal, subsistence, domestic wage earning and care taking jobs. In the economic activities outside home, contribution of women is 36.3 hours per week and that of men is 42.6 hours per week. In the non-economic activities at home, their labour participation is 25.1 hours and 9.7 hours respectively. The involvement of women and men

in the overall economic and non-economic activities are 103.9 and 98.8 hours, respectively. The contribution of women has been important not only in the normal period but also during the period of conflict. In the conflict affected areas, as the majority of active age men either went to India or urban cities of Nepal to escape from war or join in the armed group, women did all the activities including care taking and other economic activities.

133. Women's contribution is 50 per cent in GNI, which is also higher as compared to men, who contribute only 44 per cent. However, in total labour force, it is shown that the number of men is higher because of the sole counting of formal sectors where men's participation is higher. The following comparative figures of three decades, is symbolic:

Table 13

**Men's and women's comparative contribution to the labour force (1981–2001)**

| Area            | 1981  |        | 1991  |        | 2001  |        |
|-----------------|-------|--------|-------|--------|-------|--------|
|                 | Male  | Female | Male  | Female | Male  | Female |
| Agriculture     | 88.9% | 96.1%  | 74.8% | 90.5%  | 62.7% | 79.7%  |
| Non-agriculture | 11.1% | 3.9%   | 25.2% | 9.5%   | 37.3% | 20.3%  |

Source: CBS, 2001.

134. The number of women, going on an individual basis, for foreign employment is increasing. However, the number of women going through foreign employment agencies is low. The following two figures provide a comparative scenario:

Table 14

**Migration on individual basis**

| No. | Year    | Women          | Men            | Total        |
|-----|---------|----------------|----------------|--------------|
| 1.  | 2007/08 | 2 296 (47.47%) | 2 540 (52.52%) | <b>4 836</b> |
| 2.  | 2006/07 | 3 030 (66.37%) | 1 535 (33.62%) | <b>4 565</b> |
| 3.  | 2005/06 | 377 (15.72%)   | 2 021 (84.27%) | <b>2 398</b> |

Source: Ministry of Labour and transport management.

Table 15

**Migration through foreign employment agencies**

| No. | Year    | Women       | Men              | Total          |
|-----|---------|-------------|------------------|----------------|
| 1.  | 2007/08 | 390 (0.19%) | 204 143 (99.81%) | <b>204 533</b> |
| 2.  | 2006/07 | 828 (0.46%) | 176 748 (99.53%) | <b>177 576</b> |

Source: Ministry of Labour and Transport Management.

**Reform initiatives**

135. Article 18 of the Interim Constitution guarantees the fundamental right to employment, including social security. Part IV of the Constitution also enshrines the state obligation and state policies within the framework of basic means of subsistence. The discriminatory laws related to employment have been amended in line with gender equality, including affirmative provisions mentioned above under the progress of articles 1 and 2 of the present report. Ratification of the ILO Convention No. 169 further ensures the rights of indigenous ethnic groups where women of such community will also be benefited.



136. The TYIP targets the integrated development of skills, capital and market in order to promote self-employment to the unemployed women and men in the informal and unorganized sectors. According to the TYIP, support will be provided through education, training and skill development to increase the access of low income groups such as, *Dalits*, women, *Adibasi Janajatis*, *Madhesis*, minorities, backward classes, conflict affected and disabled people, in domestic and foreign employment. The Interim Plan makes clear provision for vocational and skill development programme for women followed by quantitative targets for three years (fiscal year 07–09) as 7,500, 11,000, and 16,000 respectively.

137. The Government is promoting safe migration and ensuring the rights of women migrant workers since 2002. UNIFEM is supporting the Government to advance this principle. Core groups were formed at the Department of Labour and Employment Promotion to guide the programme on empowering women migrant workers of Nepal.

138. The new Foreign Employment Act has been enacted in 2007 to ensure the rights of workers in general and women workers in particular. The Act, among others, envisages the following principles:

- A right-based approach has been recognized in the preamble as it clearly states that there will be no discrimination in the sector of foreign employment on the basis of sex which allows women workers to go for foreign employment in the informal sector in Gulf countries.
- A provision has been included to adopt special measures and reservation for women to provide access in foreign employment.
- Strict requirement to use national airport to go abroad for foreign employment has been adopted to protect women from various forms of exploitation, fraud, harassment and the risk of human smuggling.
- Mandatory orientation training and the cost of such training to be reimbursed by the Foreign Employment Board for women, to ensure authenticity and the quality of orientation training.
- Skill training on the basis of the demand of the job as women migrant workers are found being taken for domestic work without prior training and there have been instances of early termination of contract due to lack of skills. UNIFEM is working with the Government to develop a manual for domestic workers.
- The Act provides a mandatory provision to establish labour attaché in those countries where more than 5,000 Nepalese are working. More importantly, the provision also facilitates for the assignment of women worker attaché in countries where more than 1000 women workers are placed. The Act also has created some mechanisms to govern and manage the foreign employment. A separate foreign employment department and a foreign employment board have been established, comprising representatives from MoWCSW, foreign employment experts, etc. The board is mandated to carry out study on the opportunities and challenges within foreign employment and recommend new and safe labour destinations; collect and collate data to promote foreign employment and conduct awareness programme through various medium; to manage welfare fund, to protect the rights of the workers; to use remittances, skills and knowledge of the migrants for the development of the nation; to develop the NPA to ensure social benefit to the workers; and to establish and manage safe home for the women migrant workers.
- Similarly, the Act has provisions for the establishment of Foreign Employment Fund which will also be used to compensate women migrant workers, for the pre-departure orientation costs, to establish and manage day-care centers for the children

of women migrant workers, to conduct awareness programmes on foreign employment and programmes for the benefit of the families of migrant workers, to create employment opportunities for the returnees which are expected to benefit women. It has been proved that comparatively social cost can be higher for women and children in the process of re-migration.

139. The condition of women at workplace has also drawn the attention of the SC in some cases. In *Sarmila Parajuli et. al v. Council of Ministers* decided in 2004, the SC upheld that sexual harassment at workplaces is one of the issues of exploitation of women in which, a woman working at an institute or organization is sexually abused by her co-workers or seniors. The SC has also noted how a woman employee would be subjected to such harassments either with the threat of dismissal from job or some enticing promises such as promotion, increment in salary or rewards. Such abuses have drastic negative impact on the victim's work status and morale. Therefore, the SC ordered enactment of legislations covering all aspects of this issue including proper investigation, adequate penal provisions and relief measures for victims of such cases. The MoWCSW is drafting a Bill on 'Sexual Harassment in Work Places'.

### **Challenges ahead**

140. The major challenge in achieving the right to equality in employment is that, on the one hand, women have right to work irrespective of the nature of job, place and time (night or day) as of men, on the other hand, there are several instances reported where women working in restaurants, within the country or gone for foreign employment are found sexually exploited. In this context, there is a contradiction between enjoyment of the right to non-discrimination in employment and the extent of the protection of women from sexual harassment.

141. The use of women labour for income generating activities is yet to be institutionalized. Labour exploitation by the informal and unorganized sector goes unabated and exposure to such risks is imminent.

142. The prevalence of De facto discrimination and stereotype practices in the society is seen as a factor hindering women from enjoying their rights to/in employment. Furthermore, the reproductive role of women is often found not being acknowledged with necessary measures at the employment sectors.

## **Article 12**

### **Health**

#### **Basic information**

143. The National Demographic Health Survey (NDHS) has been conducted in 2006 by DHS. The survey was done among 10,793 women aged 15–49 years and 4,397 men aged 15–59 years. The report provides some of the success indicators described in the subsequent paragraphs.

144. The life expectancy of both male and female is progressively increasing. The average life expectancy of women is relatively higher, which is 63.7 years. The maternal mortality rate is in a decreasing trend which is recorded as 281 per 100,000 women. The fertility rate has been decreased from 4.6 (1996) to 3.1 in 2006. However, women in rural areas have comparatively higher fertility rate, which is recorded to be 3.3 whereas women in urban areas are found to be 2.1. Average age of first child bearing has been increased, which is now, 20 years. Use of contraceptives by women has been increased. In 2006, 70 per cent women use contraceptives. Among the women who use contraceptives, 44 per cent

women use modern forms of contraceptives. 40 per cent women receive prenatal care, out of which 28 per cent women receive from skilled health workers. (Source: NDHS, 2006)

145. The NDHS provides detailed information on fertility, family planning, infant, child, adult and maternal mortality, maternal and child health, nutrition and knowledge of HIV/AIDS and other sexually transmitted infections.

### **Fertility**

146. Survey results indicate that there has been an unprecedented decline in fertility from 4.6 births per woman in 1996 to 3.1 births per woman in 2006, a drop of 1.5 births per woman in the past ten years. The decline is more pronounced in five years between 2001 and 2006 (one child or 24 per cent decline) than between 1996 and 2001, with declines observed in every age group over the past ten years, and larger declines seen in the older than younger age cohorts. Following figures presented to depict the real situation:

- Fertility is considerably higher in rural (3.3 births per woman) than in urban areas (2.1 births per woman).
- Almost one quarter of Nepalese women have given birth before reaching age 18, and more than half have had a birth by age 20. The median age at first birth is about 20 years for all age cohorts, indicating virtually no change in the age at first birth over the past few decades.
- Data from the 1996 NFHS, the 2001 NDHS and the 2006 NDHS indicate that the proportion never married among women age 15–19 and 20–24 increased by 21 per cent each over the past ten years, with the decline more pronounced in the past five years than in the previous five years. A similar pattern of decline in nuptials is observed among men as well in the past five years, although the decline is much smaller among men than women.
- First age at marriage is 17.2 among women age 20–49.
- The median age at marriage among women age 20–49 increased by nearly a year over the past ten years but this increase was small over the past five years. However, the median age at marriage among men rose by nearly a year in the last five years.
- The median age at first birth is about 20 years across all age cohorts, indicating virtually no change in the age at first birth over the past two decades. More than 70 per cent of women in all age cohorts had their first birth by age 22; with the proportion of women having their first birth by age 22 declining with increasing age of the mother. About 90 per cent of Nepalese women have their first birth by age 25. One in five adolescent women age 15–19 are already mothers or pregnant with their first child. The proportion of teenage women who have started childbearing increases from 1 per cent among women age 15 to 41 per cent among women age 19.

### **Family planning**

147. Nearly one in two married women is using a method of contraception, with most women using a modern method (44 per cent). The two most popular modern methods are female sterilization (18 per cent) and injections (10 per cent). The use of modern contraceptive methods among currently married women increased by 70 per cent in the past ten years from 26 per cent in 1996 to 44 per cent in 2006.

148. Nearly three-quarters of currently married women who were not using any family planning method at the time of the survey responded that they intend to use a method in the future. The majority of prospective users prefer injections and female sterilization.

### Maternal health

149. Forty-four per cent of mothers received antenatal care from skilled birth attendants for their most recent birth in the five years preceding the survey. In addition, 28 per cent received antenatal care from trained health workers such as a health assistant or auxiliary health worker, a maternal and child health worker (MCHW), or a village health worker (VHW). Less than 2 per cent of women received antenatal care from a traditional birth attendant or a female community health volunteer (FCHV). One in four births received no antenatal care at all. Over the past ten years, there has been a significant improvement in the proportion of mothers who receive antenatal care from an SBA, increasing from 24 per cent in 1996 to 28 per cent in 2001 and 44 per cent in 2006. About three in ten women make four or more antenatal care visits during their entire pregnancy. The percentage of women who made four or more antenatal visits during their pregnancy tripled during the past ten years. The median duration of pregnancy for the first antenatal visit is 4.6 months, indicating that Nepalese women start antenatal care at a relatively later stage of their pregnancy.

### Breastfeeding and nutrition

150. The 2006 NDHS also collected information on the nutritional status of women age 15–49 years, which showed 24 per cent of Nepalese women were malnourished, that is, they fall below the cutoff of 18.5 for the body mass index (BMI), which utilizes both height and weight to measure thinness (Kg/m<sup>2</sup>). Nine per cent women were overweight or obese. Women's nutritional status has improved only slightly over the years. 36 per cent of women age 15–49 are anemic, with 29 per cent mildly anemic, 6 per cent moderately anemic, and less than 1 per cent severely anemic.

### HIV and AIDS

151. Women are mostly aware that the chances of getting the AIDS virus can be reduced by limiting sex to one uninfected partner (65 per cent) or by abstaining from sexual intercourse (60 per cent). 59 per cent of women and 75 per cent of men aged 15–48 know that a healthy-looking person can have the AIDS virus. The sex-disaggregated data presented in the following tables show some of the glimpses:

Table 16

**Number of HIV-affected population**

| Year         | Sampled test  | HIV positive |              |              | AIDS       |            |            |
|--------------|---------------|--------------|--------------|--------------|------------|------------|------------|
|              |               | Male         | Female       | Total        | Male       | Female     | Total      |
| 2004         | 6 326         | 942          | 340          | <b>1 282</b> | 112        | 32         | <b>144</b> |
| 2005         | 7 654         | 907          | 327          | <b>1 234</b> | 90         | 21         | <b>111</b> |
| 2006         | 16 890        | 1 750        | 931          | <b>2 681</b> | 197        | 70         | <b>267</b> |
| 2007         | 28 103        | 1 239        | 798          | <b>2 037</b> | 265        | 119        | <b>384</b> |
| <b>Total</b> | <b>58 973</b> | <b>4 838</b> | <b>2 396</b> | <b>7 234</b> | <b>664</b> | <b>242</b> | <b>906</b> |

Table 17

**Description of HIV-affected population**

| Medium                 | Male  | Female | Total        |
|------------------------|-------|--------|--------------|
| Sex workers            | 1     | 728    | <b>729</b>   |
| Clients of sex workers | 4 941 | 104    | <b>5 045</b> |

| <i>Medium</i>                          | <i>Male</i>  | <i>Female</i> | <i>Total</i>  |
|--|--------------|---------------|---------------|
| Housewives                             | 0            | 2 366         | <b>2 366</b>  |
| Blood transfusion and organ transplant | 20           | 7             | <b>27</b>     |
| Drugs and injections                   | 2 107        | 33            | <b>2 140</b>  |
| Gay relations in men                   | 43           | 0             | <b>43</b>     |
| Babies infected by pregnant mothers    | 348          | 232           | <b>580</b>    |
| Unknown                                | 50           | 17            | <b>67</b>     |
| <b>Total</b>                           | <b>7 510</b> | <b>3 487</b>  | <b>10 997</b> |

*Source:* National STD's and HIV Control Head office.

### Reform initiatives

152. Article 16 of the Interim Constitution guarantees the right to health stating “Every citizen shall have the right to get basic health service free of cost from the State as provided for in the law.” Article 20 further provides that the Constitutional guarantee is more specific on women’s right to reproductive health. Article 22 provides the right to nourishment, basic health and social security of children which is equally applicable to girl child. Part IV of the Interim Constitution accordingly incorporates state obligation “to pursue a policy of establishing the rights of all citizens to health.” The State policy further requires strengthening delivery mechanism; including the development of infrastructure for people feel their rights to health are being implemented. The state policy explicitly requires pursuing a policy of encouraging maximum participation of women in national development by making special provisions for their education, health and employment.

153. The Budget for the fiscal year 2007/08 explicitly targeted to reduce maternal mortality through the provision of maternity services. For this, infrastructures will be developed in 100 health posts to provide maternal health services. A 24-hour operation facility including maternity services will be provided in eight districts, viz. Panchthar, Jumla, Dailekha, Pyuthan, Siraha, Sankhuwasabha, Achham, and Gulmi. Maternity services will be provided free of cost to all. The Budget also states that “national programme will be launched for the treatment of women suffering from uterus prolepsis and such a facility along with operation services will be provided to 12 thousand women this year”.

154. To reduce risks associated with pregnancy and childbirth and address the deferral, three major strategies have been adopted in Nepal. (Source: DoHS, Annual report 2005/2006 p. 93)

- Provision of 24-hour emergency obstetric care services (basic and comprehensive) at selected public health facilities in every district
- Promoting the use of skilled birth attendants at every birth, either at home or in a health facility
- Promoting birth preparedness and complication readiness, particularly the availability of blood, transport and money

155. In order to ensure more focused and coordinated efforts among many stakeholders involved in safe motherhood and neonatal health programming, Government and Non Government, national and international organizations collaborated to draw an improved the National Safe Motherhood Plan (2002–2017). The revised Safe Motherhood and Neonatal Health Long Term Plan (SMNHLTP 2006–2017) includes recent developments not adequately covered in the original plan. Revisions are being made to better ensure the

access of services to needy women in many priority areas, such as recognition of the importance of addressing neonatal health as an integral part of safe motherhood programming, the policy for skilled birth attendants, health sector reform initiatives, legalization of abortion and integration of safe abortion services under the safe motherhood umbrella, addressing the increasing problem of mother to child transmission of HIV/AIDS, and recognition of the importance of equity and access.

156. In order to achieve the National Plan mentioned above, the SMNHLTP identifies the following goal, purposes and outputs:

- Strengthening human resource management.
- Establishing functional referral system and advocating for emergency transport systems and funds from communities to district hospitals for obstetric emergencies and high-risk pregnancies.
- Strengthening community-based awareness on birth preparedness and complication readiness through FCHVs, increasing access of all relevant maternal health information and service.
- The SMNHLTP further identifies equity and access as a cross-cutting issue. It has developed specific indicators to monitor information access and changes among poor and excluded people. The major target of this plan is to encourage communities to utilize available services and to empower communities especially the poor and excluded to demand services. Social mapping was carried out in eight selected districts in this regard. Similarly, as part of the demand activities, continuous advocacy has been done for services, especially increase in human resources. These tools were used for district needs assessments prior to programme implementation.

157. In order to implement the legal provisions on abortion effectively, the Government has introduced a Comprehensive Abortion Care (CAC) that includes effective reproductive health services. In the fiscal year 2005/2006, 83 doctors were trained and listed as service providers and 64 new sites from both public and private were listed for service delivery. During the Fiscal Year 2005/06, 47,210 women received services from 191 sites from Government hospitals.

158. The IEC and Behavior Change Communication (BCC) strategies have been developed for the awareness raising programmes like development and printing of posters, leaflet, flyers, district-level orientation to increase women's power to choose and access safe abortion and other reproductive health services.

### **Maternity incentive scheme**

159. In Nepal high financial costs are a key barrier for common people to have access to skilled birth attendants or health facilities. To help mitigate this constraint, the Government has initiated a scheme to provide financial assistance to women seeking skilled delivery care to cover their transportation cost on the basis of equity. Now this scheme is being implemented throughout the country. The main components of the scheme are:

- Free maternity service in the hospitals.
- A cash payment to women is given for presenting for delivery at any public health facility for their first or second child. The amount vary according to ecological regions, reflecting the associated difficulties of travel: Nrs. 500 in Terai, Nrs. 1,000 in Hill areas and Nrs. 1,500 in Mountain areas.
- A payment of Nrs. 300 to staff classified as trained health workers for attending deliveries either at home or in a facility.

- In selected districts (25 classified as having a low human development index) free services at public health facilities for both normal and complicated deliveries.

160. In order to review any maternal prenatal death, a National Maternal and Prenatal Death Review Committee (NMPDR) has been formed under Family Health Division. Initially for the fiscal year 2004/2005, NMPDR process was initiated in six hospitals and further expanded in six zonal hospitals in the fiscal year 2005/2006.

161. A sum of Nrs. 139,850,000 was allocated for maternity incentives scheme in the fiscal year 2005/2006. It has been found that altogether 60 districts had submitted detailed reports with information on deliveries, complications, caesarean sections, referral of complicated cases and incentives paid. Similarly, the Government is working with various NGOs having expertise in various issues. The Uterine Prolapse Alliance (UPA), an NGO established in April 2007 in consultation with MoHP under the fold of Safe Motherhood Network Federation-Nepal (SMNF) is one of the worthy examples to mention. The Government announces a national programme on Uterine Prolapses (UP) providing surgical treatment to 12,000 needy women in the fiscal year 2008/2009 and conduct 25 surgery camps. A 'UP Prevention and Management Committee' has been formed under the MoHP. (Source: SFNFN, 2008)

162. The judicial activism on the issues of 'reproductive health' of women has been proved to be an important guideline in taking change initiatives in bringing law and policy measures. The case of *Prakashmani Sharma and Others v. the Government of Nepal* decided on 2065/2/22 (4 July 2008) is one of the landmarks where the SC has issued writ of mandamus to MoHP for the enactment of laws regarding women's reproductive health and reproductive right including special measures as guaranteed by article 20 (2) of the Interim Constitution. The SC also issued an order for the essential treatment for the reproductive health-related diseases. Moreover, it has issued a directive order for the formation of 'Experts Committee' in coordination with MoWCSW comprising the members from MoHP and NGOs working in this area.

### Challenges ahead

163. Poverty, household drudgery, low status of women in the overall social structure, culture of son preference, early marriage, low level of education and low nutritional status have triggered the low health status of women in Nepal.

164. Even though the Government has paid its prioritized attention towards women's reproductive health, the general health problem such as anemia and malnutrition, which is the root cause of almost all health problems, is yet to be adequately addressed.

165. Unlike reproductive health, gender disaggregated data on incidences and treatments of various diseases are found to be gender-neutral and therefore lack gender disaggregated data. The current health policies are seen focusing more on women's reproduction and its control, rather than the overall health issues.

166. Due to the lack of adequate disaggregated data, various health sector targets (i.e. MMR, IMR) are hard to specify without proper analysis of the contributions of each factor, quality of services, infrastructure or motives of service providers.

167. Moreover, the state of pregnancy is always a subject of an emergency consideration. Without an efficient referral system, the Millennium Development Goals (MDGs) or other targets on MMR, IMR and under five mortality rates may be difficult to achieve.

168. The health programme is more focused to rural women, while poor women in urban areas are also suffering from uterus prolapsus and other diseases.

169. Most nutritional programmes are focused to improve the nutritional status of infants and children. Less attention is paid to improving the nutrition of mothers. Again though the reproductive health strategy adopts human rights-based approach at the center, the strategy yet to be developed and disseminated to service providers for its proper implementation.

170. The policy on HIV/AIDS and STDs is yet to incorporate different vulnerability and needs at prevention levels. The most notable challenge so far is bringing people for using health check-up for tracing out this kind of disease. The case of women is more challenging as they fear of family and community. Taking into account these potential challenges, the Government has focused more on awareness-raising programmes through maximum utilization of media and other means of communication.

## Article 13

### Economic and social life of the community

#### Basic information

171. Although there has been positive change in gender development, substantial change in the status of women in the socially and economically backward groups and rural areas is yet to be achieved. Nevertheless, the contribution of women has been important not only in the normal period but also during the period of conflict. In the conflict-affected areas, as majority of men were engaged in the armed struggle, women took all the burden of farm-land, household management and other economic activities.

172. The labour force participation rate among women is 48.9 and among men is 67.6. Most of the women are engaged in informal, subsistence, domestic wage-earning and care-taking jobs. In the economic activities outside home, contribution of women is 36.3 hours per week and that of men is 42.6 hours per week. At home, the respective contributions are 42.5 hours and 46.5 hours per week. In the non-economic activities at home, their labour participation is 25.1 hours and 9.7 hours respectively. The involvement of women and men in the overall economic and non-economic activities are 103.9 and 98.8 hours, respectively. The following table shows this figure more clearly:

Table 18

#### The involvement of women and men in the overall economic and non-economic activities

| No. | Indicators – Labour contribution             | Unit          | Male | Female |
|-----|--|---------------|------|--------|
| 1.  | Economic activities outside house            | Hour per week | 42.6 | 36.3   |
| 2.  | Economic activities inside house             | Hour per week | 46.5 | 42.5   |
| 3.  | Household works (unpaid)                     | Hour per week | 9.7  | 25.1   |
| 4.  | Entire (economic and unpaid household works) | Hour per week | 98.8 | 103.9  |

Source: TYIP (2007/2009), Kathmandu National Planning Commission.

173. One of the indicators of access to resources is property ownership, where women lagged behind. Women's earned income is only half of men. One of the gender discrepancies can be seen in the household distribution by sex of the household head. The female headed household comprises of only 14.9 out of total 4.17 million houses. Moreover, it is only 41.9 per cent out of total female headed households that live in owned houses; the rest live in rented or other houses. In terms of the household living standard, only 14.6 per cent of the female headed households is found to be living in permanent houses whereas the ratio of male headed household living in such houses is 85.3 per cent.



The gender disparity can also be seen in the ownership of the house and land. It is worthwhile to note that very few women have ownership of house or land or both.

174. Gender discrepancy is almost insignificant in terms of small scale household activities. However, in the case of paid employment, female involvement constitutes 1.3 per cent (12.4 per cent illiterate and 18.9 literate female) whereas male involvement constitutes 68.9 per cent (30.0 per cent illiterate and 38.9 literate male).

175. The family system in Nepal is traditionally structured with the concept of a joint family where the socio-economic decisions are taken by the 'head' of the family and the women have very limited access in it. There are 14.9 per cent of the female headed households living in permanent houses whereas the ratio of male headed household living in such houses is 85.1 per cent. The table below shows women having limited decision making power in the households:

Table 19

**Head of the family on the basis of gender**

| <i>Description</i> | <i>Number</i> | <i>%</i> |
|--------------------|---------------|----------|
| Male head          | 3 553 390     | 85.1     |
| Female head        | 620 984       | 14.9     |

*Source:* Central Bureau of Statistics, 2007 (264) (Cited at Gender Disaggregated Data, National Women's Commission, 2008, table 4, p. 6).

176. With regard to the credit-related programme, as of mid-July 2005, the Women Development Program of Small Farmers Development Project (WDP/SFDP) had organized 431,000 women into nearly 48,000 groups, and the cumulative credit disbursed was Rs. 21 million. SFDP's sub-project office has been converted to Small Farmers Cooperative Limited (SFCL). There are 154 SFCL's now established in 36 districts. Their cumulative loan disbursement up to May 2004 reached Nrs. 2.2 billion. Of the borrowers, 59.4 per cent were men and 40.6 per cent were women.

177. The comparative economic status of Nepalese women (in the years 1996 and 2004) may be summarized in the following figure:

Table 20

**The comparative economic status of Nepalese women (in the years 1996 and 2004)**

| <i>Indicator/year</i>                           | <i>1996</i> | <i>2004</i> |
|---|-------------|-------------|
| Per capita purchasing power parity US\$         |             |             |
| Men   | NA          | 1 776       |
| Women   | NA          | 891         |
| Agricultural Wages (Current Prices)             |             |             |
| Men   | Men         | NA          |
| Women   | Women       | NA          |
| Non-agricultural wages in Nrs. (current prices) |             |             |
| Men   | 76          | 137         |
| Women   | 57          | 101         |

*Source:* UNDP (HDR) 2004, and 2005, CBS NPC/NLSS, 2003/4 for wage rates. (Cited at UNFPA, Gender Equality and Empowerment of Women in Nepal, 2007.)

**Reform initiatives**

178. With the realization of the gender issues in relation to socio-economic well being of women, the Government has adopted the plan of action to address the following:

- Prevalence of female-headed and male-headed households in poverty-wealth spectrum
- Extent of female ownership and access to assets
- Gender gap in access to household economic activities
- Gender biased occupational and industrial segregation

179. Special attention has been given to the women, *Dalit*, *Adibasi Janjati*, the *Madhesi* community, low-income groups, and extremely remote areas including Karnali, which so far have been excluded in the past socio-economic development efforts. In order to provide relief to the general public including the destitute and deprived groups and to bring improvements in their socio-economic conditions, TYIP has adopted policies and programmes to cover the gaps. TYIP is explicit with regard to better ensuring women's access to and control over natural resources for their economic empowerment.

180. Progress in savings and credit programmes for the economic and social empowerment of women is encouraging. Gender perspective, now, has been incorporated in the overall economic environment, development process, and the budget and policy formation.

181. The Government's programme is targeted for the welfare of suppressed, extremely poor, landless *Dalit*, marginalized and *Madhesi* women. The economic empowerment programme will be implemented in 40 districts. The budget allocation for the fiscal year 2007/08 also includes this programme as a specially prioritized programme. The social security arrangements have been made effective from 17 September 2008 as follows:

- Monthly Rs. 500 for all age groups of endangered ethnicities.
- Monthly Rs. 500 for *Dalits*, Single Women and people above 60 years of Karnali Zone.
- Monthly Rs. 500 for all other citizens above 70 years.
- Likewise, the Government also increased the monthly allowances for blind person. A monthly Rs. 1000 for fully handicapped and disabled and Rs. 300 for partially handicapped and disabled will be provided.
- Apart from single women, the budget is beneficial to women of old age, endangered ethnicities and with disability.

**Challenges ahead**

182. TYIP admits the following challenges:

- The condition of women has become miserable due to armed conflict and displacement
- Opportunities of livelihood at the local level have been lost
- Agreement to check cross-border human trafficking still does not exist
- Labour exploitation by the informal and unorganized sector goes unabated and exposure to such risks is imminent
- There is an increasing feminization of poverty

- Use of women labour for income generating activities is not yet a reality

## Article 14

### Women in rural areas

#### Basic information

183. MoAC along with the Ministry of Forest and Soil Conservation (MoFSC) and MoLD, in coordination with MoWCSW play key roles in the management of the Women Development Programs in rural area. MoLD is working gender sensitively at the local level for the advancement and empowerment of rural women. The gender sensitivity of MoLD is reflected in its policy and programmes, such as:

- Introducing and managing credit programmes for women to meet the objectives of Local Self Governance Act (LSGA).
- Specifying the need of programmes to address gender concerns by District Development Committees (DDCs) and Village Development Committees (VDCs). Need for participation women and other disadvantaged groups in planning and budgeting practices are incorporated in the policies, Act and Regulations of local institutions.
- Requiring all user committees to have at least 30 per cent women.
- Introducing specific gender empowering elements in its programmes, such as Participatory District Development Program, Local Governance Program (PDDP/LGP) and now Local Governance Community Development Program (LGCDP).
- Promoting programmes like Decentralized Action for Children and Women (DACA) in collaboration with the United Nation Children's Fund (UNICEF) for increasing women's access to services and changing the community gender perspective with men's participation.

184. Some programmes such as Village Development Program (VDP) under LGCDF are concentrated on group formation, skill development and small scale income generating programmes, which have elements for women's empowerment. Moreover, they seem to have started to pay attention to issues of women's and children's rights in their training programmes and seek women's participation in planning, programming/budgeting exercises. Besides, the area or VDP coverage of LGCDP is limited and the programme sites are viewed only as model areas.

185. Focusing rural women, the Women Development Program (WDP) now covers 75 districts, 1843 Village Development Committees (out of 3913 VDCs) and 32 municipalities. During the fiscal year 2008/2009 WDP has a target to cover 600 more VDCs. This programme has coverage of 54,350 women's group to include more than 340,000 women members. 752 women cooperatives have been registered and 442 are in a process to be registered. Women's co-operative and groups are mobilizing more than Rs. 483 million out of their savings. They also mobilize the revolving fund in their groups which has been increased to Rs. 85.7 million.

#### Reform initiatives

186. Economic empowerment of rural women is one of the major concerns of the Government. Five Rural Development Banks (RDBs) were established in five development regions since the early 1990s to cater the credit needs of rural women. Up to 2005, a total of Nrs. 12.5 billion had been lent to nearly 146,000 women borrowers. Four other rural

development banks in the private sector also mobilize credit to rural women borrowers. By mid-July 2005, their cumulative disbursement to about 129,000 borrowers had reached Nrs. 5.4 billion. Similarly, up to 30 June 2005, Decentralized Local Governance Support Program (DLGSP) – a successor of Local Governance Program and Participatory District Development Program disbursed Nrs. 1.2 billion to around another 633,000 borrowers; 48 per cent borrowers are women.

187. The TYIP clearly states that “an intensive programme targeted to employment and income generation for rural women of backward groups will be extended to Village Development Committees by increasing their involvement. To upgrade the professional skills of rural women in their economic pursuit, steps will be taken to develop their entrepreneurial capacity, through an increased access to economic resources and information, market management, technology transfer and innovation.”

188. Production Credit for Rural Women (PCRW) was one of the focused areas of the Government programme. PCRW in Nepal was started during the Sixth Five Year Plan (2037–2042 BS). This was expanded in all 75 districts during the fiscal year 2001/2002. Realizing that Women Development requires moving towards multi-dimensional direction, this programme has been reframed incorporating various approaches such as gender empowerment, economic self-reliance and equality approach. Such programmes are being implemented with the financial and technical support from UNICEF, UNFPA, UNDP, ADB, etc. Learning the lesson from PCRW, women are given training on various issues such as legal rights, reproductive rights, and income-generating activities, in the field of agriculture, cottage industry, savings and credit management. Since 2002, with the assistance of UNICEF, Decentralized Action for Children and Women (DACAW) programme has been implemented in 15 districts. Under the umbrella of DDC, WDC and the District Education Officer (DEO), DDWO are collaborating to monitor education, health and other economic activities of women groups. UNICEF also assists to ensure legal aid to children and women through para-legal committees. Now DACAW programme has been extended to cover 23 districts.

189. The WDP programme is set up with the realization that *Dalits*, and marginalized women face more problems than other privileged women, and so these women have greater challenges in their development. It is taken in consideration that the main determining factor in this regard is the degree of the holding of ‘social capital’ by women. Those ‘poor’ who hold more of ‘social capital’ and those ‘poor’ who hold less of social capital will have different level of benefits, by this programme aiming to increase the active participation of men, to promote women’s involvement in development activities.

190. The above mentioned programmes are specifically targeted to conflict-affected women with a total budget of Rs. 40 million that includes initial training, skill development training and investment aid. The MoLD is responsible for strengthening local governance system, facilitating the development process in remote areas and poverty alleviation programmes through social mobilization. As per the objectives of the Tenth plan, TYIP, and the policy and programmes of present Government sufficiently provides scope for MoLD to ensure equitable distribution of resources and better power relations between local level groups and between women and men.

191. The need for participation of women and other disadvantaged groups in planning and budgeting practices is well incorporated into the policies, Acts and regulations of local institutions. The LGCDP, as a successor of Local Governance Program and Participatory District Development Program, is gender sensitive to a substantial extent and is trying to involve women in all stages of activities in coordination with community-based women’s groups (Mother’s group, community forestry group, women’s cooperatives, etc.) and the NGOs working in thematic areas of concerns at grass root level. 48 per cent of local organizations promoted by DLGSP were of women.

192. The Government has also implemented other rural women development programme in partnership with various United Nations organizations and INGOs. The UNICEF-supported DACAW is one of the successful examples targeted to women and children from policy-making to service providing level. UNFPA supported Population and Reproductive Health Integrated (PARHI) project is implemented in 6 districts and targets women and socially excluded groups.

### **Challenges ahead**

193. The following challenges lie ahead:

- Despite the various economic empowerment programmes, women's access to institutional credit still remains marginal. Due to illiteracy and social hindrances, women are not found exercising the available opportunity. Moreover, women's access to institutional credit has been consistently recorded lower than men, irrespective of ecological region, urban/rural status, or ethnicity and caste.
- Although the Village Development Program (VDP) under LGP/PDDP programmes has brought about significant changes in the female group member's economic and social life, aspects of women's empowerment and efforts to change gender ideology and gender roles are lagging behind. The mandatory requirement of women's participation in each step of planning and programming has been weakly implemented. The focus has been on a few leading women rather on strengthening the group dynamics. Moreover, inadequacy of resources is one of the major challenges in the way to implement the programmes mentioned above.

## **Article 15**

### **Legal rights**

#### **Basic information/change initiatives**

194. To ensure legal rights based on the principle of 'equality with men before the law' focusing civil matters, contracts and to administer property, movement of persons and the freedom to choose their residence and domicile, the Interim Constitution has recognized a number of guarantees under the fundamental rights that fully give legal effect in obtaining legal entitlements followed by the Constitutional remedies. Article 12, under the heading of 'right to liberty', starts with a very human right friendly language stating 'everyone has the right to life with dignity'. This has further been complemented by 'right to equality' guaranteed under article 13. The equality framework under the Constitution respects the principles of equality and non-discrimination that has a greater scope of interpretation for achieving substantive equality required by the Convention. Moreover, Article 20 under the explicit heading of 'rights of women' provides a clear guideline in order to invoke both direct and indirect discrimination. Article 20 that states: 'No one shall be discriminated in any form merely for being a woman', is fully consistent with the Convention. In the same line, the discriminatory laws regarding property and other civil matters have been amended. As reported under articles 1 and 2 above, a lot of amendments in the civil code and the specific laws have been made in this regard.

195. In order to increase women's access to land ownership in the current fiscal year, the Government declared a 25 per cent discount in the registration fee. Earlier the discount rate was 20 per cent. In addition to this, the Government announced a 10 per cent rebate in income tax to women for the fiscal year 2008/09. It will certainly promote women entrepreneurs to be involved in more income generating activities thereby creating a more gender-balanced income pattern.

**Challenges ahead**

196. Despite these legal and policy measures, women's access to fixed property and credits is still limited. Various economic social, cultural and political factors are responsible for preventing women from enjoying their legal rights. *Dalits* and marginalized groups are at the verge. Although article 20 of the Interim Constitution ensures Women's rights to property, their rights over parental property and in-laws' property are not substantially achieved.

**Article 16****Marriage and family relations****Basic information**

197. In Nepal early marriage has been regarded as one of the main factors for population increase. Marriage pattern is an important factor to determine the fertility level. Data from the 1996 NFHS, the 2001 and 2006 NDHS indicate that the proportion of unmarried women between the ages 15–19 and 20–24 has increased by 21 per cent. (See details reported under article 12 above).

198. According to the census of 2001, 277,478 (5.7 per cent) of married men have been found to be living with more than one spouse. The situation of women having the status as first wife is inferior and vulnerable to domestic violence in comparison to the second wife. Therefore, the practices of bigamy or polygamy are also hindering women from exercising their rights. The NDHS data shows the decreasing trend of Polygamy. This may be due to the increase in punishment and other factors, such as decreasing ratio of child marriage, increasing ratio of literacy etc.

**Divorce**

199. Out of the total number of married women, 0.42 per cent are divorced or separated. Out of the total divorced women, 8,122 (43.5 per cent) women are found to have no child. The CBS (2001) records that 3,357 women having daughters only are being divorce. This domestic sphere of gender-based violence has already been established as one of the compelling factors for divorce. Both court and out-of-court cases justify this trend.

**Remarriage**

200. The number of remarried women is lower than that of men in all age groups. The data presented in the table shows more remarried men aged 50 and above, whereas the age of women is seen within their reproductive age.

**Number of children of married women**

201. The number of children is related with age of ever married women. Due to child marriage, women in higher age group will have more number of children. Because of son-preferred society, women are compelled (irrespective of consent of women, as there is an indirect influences imposed by society) to try at least one living son. The fact is obvious that more number of children ever born increases the burden to women in daily life causing difficulties in the improvement of the status of women in society.

**Reform initiatives**

202. The marriage laws of Nepal have been amended in line with the equal right of women and men in all stages of marriage and family relations (pre, during and post

marriage), including equal standards of marriageable age, free and full consent, guardianship, property etc. Following are some of the important changes to mention:

- Article 20 of the Interim Constitution explicitly recognizes the ‘rights of women’, including ‘the right to reproductive health and other reproductive matters’, rights against violence against women and more specifically the right to property that are directly or indirectly concerned to right to marriage and found a family.
- According to the amended legal provision, the wife, irrespective of age or duration of marriage, is entitled to get the property. The existing legal framework provides the same entitlement to the divorced wife.
- A widow is entitled to get her share of property irrespective of any age or duration of marriage.
- Both spouses having no child are equally entitled to adopt the child of either sex.
- The law recognizes women’s right to abortion (generally of up to 12 week’s pregnancy except in cases of pregnancy due to rape and incest) upon her voluntary consent. However, the abortion on the basis of sex identification is prohibited with penal provision.
- Judicial decisions in announcing marital rape, right of single mother, and property rights of divorced women (mentioned above), are some of the benchmarks to refer as positive changes to recognize independent identity and personality of women. SC further defines marriage including same sex marriage as observed in the case of *Sunil Babu Pant and Others v. The Government of Nepal* decided on 21 December, 2007 (2064-9-6). It was held that “the State and society should recognize the rights of lesbian, gay and bi-sexual and should also respect their human rights to marriage and co-habitation on the basis of sexual orientation”. The SC has further ordered the Government to have a serious study on the matter. For this the Government was ordered to form a Committee comprising seven members including experts from government, legal and sociological sectors.

203. The laws regarding marriage are being harmonized in line with the Article 16 of the CEDAW and other relevant human rights standards. The SC in the case of *Sapana Pradhan Malla v. Council of Ministers*, on 16 June 2004 (2063-03-02 BS), has also issued directive orders to the Government to harmonize all the legal provisions regarding marriage and make necessary arrangements to implement the law effectively in order to control incidences of child marriage. Accordingly new amended provision of the Country Code on Chapter on Marriage made the marriageable age 20 years for both boys and girls.

### Challenges ahead

204. Even though mothers’ identity has been recognized by the present Constitution, it is yet to be implemented effectively. Laws regarding marriage (such as Social Behavior Reform Acts and Registration of Marriage Act) are not found adequately enforced. The laws like ‘Personal Event Registration Act’ in matters of marriage, divorce, death, migration are yet to be effectively implemented. As a result, there are number of disputes found regarding verification of spousal relations and legitimacy of child. Fake marriage is one of the effective techniques frequently used by traffickers.

205. Illiterate women are not enjoying the reproductive rights as compared to educated women. Sex of household heads may also affect the fertility behavior and the reproductive health of women, and also, in the marriage of teenage girls. The female headed households are found to be more conscious than the male headed households in terms of fertility behaviors, including reproductive health of women. The cases of teenager girls’ marriage are also found far less in the female headed households comparing to the male ones. The

census records that about 10 per cent of the total household of the country has teenager as married women. Among those, about 90 per cent households are headed by male.

## Part III

### Progress on the implementation of the Beijing Platform for Action

#### Women and poverty

206. The Government is aware of the fact that measures to fight poverty will be ineffective when poor women are perceived as inactive beneficiaries of social development. Therefore, in the poverty alleviation programme, policy measures have been initiated by various state institutions and are being implemented through local-level women development programmes under the umbrella framework of MoWCSW and MoLD. Other ministries (such as MoAC, MoFSC, MoHP, MoE etc.) prioritize the role of women as active economic agents to increase women's productivity in home-based, informal and agricultural work while expanding their employment opportunities and also strengthening their income generating capacity, as reported above under the headings of socio-economic rights of women in general and of rural women in particular.

207. Nepal is committed to work towards attaining Millennium Development Goals (MDGs) by 2015. The MDGs came up with quantitative targets for poverty alleviation, health improvement, education, gender equality, environment, and general human development. Poverty rate declined significantly between 1995–96 and 2003–04, from 42 per cent to 31 per cent, a decline of 3.7 per cent per year. However, poverty is still rampant among *Dalits* and *Janajatis*. 46 per cent of the *Dalits*, 44 per cent of the hill *Janajatis* and 41 per cent of the Muslim community have been found below the poverty line. In comparison to the national average of 31 per cent, these figures are considerably high.

208. Poverty alleviation is an ongoing national policy. The Ninth Plan (1997–2002) wrought a 20-year vision to reduce the proportion of people living below poverty line to 10 per cent by 2017. The decentralization process, though in its early stage, is being institutionalized to ensure that women also enjoy the right to fully participate in the development process besides having access to basic social services.

209. Women empowerment was recognized as the most effective instrument for poverty alleviation and given top priority in the Tenth Plan (2002–06). Consequently, Women Development Programs (WDP) were initiated in addition to VDCs, in all 75 districts. Of late, these programmes have been expanded to cover 2,443 VDCs and 32 municipalities. Considering the positive changes brought about by these programmes on rural women, international donor agencies such as UNICEF, UNFPA, ADB, etc. have been contributing in an appreciable manner.

210. In the current fiscal year, about 3 billion rupees in Poverty Alleviation Fund (PAF) has been allocated for intensive programme based on the improvement in the of Human Development Index for poverty alleviation which is to be implemented in 55 districts with direct focus on backward community including deprived, women, *Dalit*, *Janajati*, and *Madhesi*. Traditional skill promotion, income generation, community infrastructure development such as roads, bridge and culverts, drinking water, irrigation and capacity development programmes such as education, health, and training will be implemented under this programme. According to the Interim Plan, special food programme will be initiated which will render services to poor women by the formation of groups.

211. With a view to reduce poverty, the Government is making untiring attempts to run ongoing micro-credit programmes which will be effectively managed and implemented. A



national-level micro-finance fund will be established by integrating and consolidating existing whole-sale micro-credits providers. Institutions rendering micro finance will be encouraged to implement programmes in rural, high-hill and other poverty-afflicted areas. For this, Rs. 100 million will be made available in the Self-reliant Fund which is to be managed by Nepal Rastra Bank, ultimately proving beneficial to women.

212. It is to be noted that WDP related to poverty alleviation, gender equality and social inclusion are being implemented in 2,443 VDCs with the aim of gradual extension of WDPs to all VDCs. In order to achieve the aforementioned objective, the Government has allocated Rs. 345.4 million. Regarding poverty alleviation of women, it has made provision of group formation, self-help through saving and credit mobilization, skill-development training, micro credit, and revolving fund management for women entrepreneurship development. As a result WDP has successful to accumulate Rs. 485 million. This indicates as a symbol of substantial achievement.<sup>12</sup>

### Education and training of women

213. The Government has given top priority to education and training of women. Women's illiteracy is a major challenge for socio-economic development. MoE has adopted policies to improve girls' enrolment in schools. MoE is also taking a number of change initiatives for the promotion of right to education of women in general and those of marginalized groups like *Dalits*, *Janajatis*, and *Madheshis* in particular.

214. To enhance quality education, DoE has carried out a number of training programmes for community-school teachers. Formal and informal training programmes for teachers have been organized to develop their skills. In the current fiscal year, budget has been allocated to train 33,141 primary-level teachers and 12,250 secondary-level teachers.

215. The following table shows the current percentage of female and male teachers at all levels, who received teacher's training. This data is for the school year 2007/2008. Compared to the past school years, the number of trained teachers at all levels has increased significantly.

Table 21

#### The current percentage of female and male teachers at all levels, who received teacher's training

| <i>Level</i>    | <i>Female teacher</i> | <i>Male teacher</i> | <i>Total trained teachers</i> |
|-----------------|-----------------------|---------------------|-------------------------------|
| Primary         | 65.7 per cent         | 66.8 per cent       | <b>66.4 per cent</b>          |
| Lower Secondary | 57.1 per cent         | 51.3 per cent       | <b>52.3 per cent</b>          |
| Secondary       | 69.1 per cent         | 70.2 per cent       | <b>70.0 per cent</b>          |

216. The training effort is not only limited to formal trainings. The Government in collaboration and partnership with NGOs, INGOs and United Nations line agencies, has also been organizing informal training programmes at the community level. The Local Development Training Academy (LDTA) is an umbrella organization for the five regional training centers to cater training needs for rural and local development. It is an autonomous institute affiliated with the MoLD. The goal of LDTA is to enhance the managerial and administrative capacities of local bodies, prioritizing women and disadvantaged groups in

<sup>12</sup> WDP/MWCSW annual report, 2063/64 BS

the institutional development process of local bodies. It organizes both long-term and short-term trainings. Its planning, supervision and gender mainstreaming division is headed by a woman first-class officer.

217. The MoLD has played a very crucial role in promoting such training activities by mobilizing community organizations (COs). A number of COs is providing trainings on gender-related issues. The following figures show the higher number of female community organizations, female members, and ratio of trained female CO members, and also in leadership positions.

Table 22

**Community organizations training activities: gender breakdown**

| <i>Title</i>  | <i>Male</i>   | <i>Female</i> | <i>Mixed</i> | <i>Total</i>   |
|---|---------------|---------------|--------------|----------------|
| COs   | 6 727 (25%)   | 9 225 (34%)   | 11 269 (41%) | <b>27 221</b>  |
| Member of COs   | 310 989 (46%) | 364 338 (54%) | -            | <b>675 327</b> |
| <i>Total Women in Leadership Positions in the COs</i> |               |               |              |                |
| Chairperson   |               | 13 107        |              |                |
| Manager   |               | 11 291        |              | <b>24 398</b>  |

*Source:* MoLD, 2008.

**Women and health**

218. Nepal has accepted the universal recognition of “Health: People’s Basic Right” and thus established the responsibility of the State on people’s health for the first time, by embracing this concept in the Interim Constitution, 2007.

219. The TYIP has developed a range of programmes to ensure women’s basic and reproductive health. The ‘gender responsive budget gives priority to women’s health in general and reproductive health in particular’. The Maternal Mortality Rate has decreased to 2,810 per million and Child Mortality Rate to 61 per thousand. Similarly, Infant Mortality Rate has also come down significantly. The present rate is 48 per thousand and newly born Infant Mortality Rate is 34 per thousand (Nepal Demographic and Health Survey 2006). The average life expectancy of the Nepalese people has reached 62 years and the span of life for female is longer in comparison to that of male.

**Violence against women**

220. The Government views ‘violence against women’ as a serious issue requiring consistent attention and concrete measures. The previous report also drew attention on the situation of violence against women in Nepal (including the issues adopted by general recommendation 19 and the DEVAW). Currently, the Government has undertaken a number of steps to deal with this issue. Provisions in the Interim Constitution guarantee the liability of state to take actions on violence against women. Chapters in the Country Code relating to women have been amended accordingly. One of the most remarkable amendments is to establish the marital rape as a crime. The present legal framework protects the dignity and privacy of victims and allows for in-camera court hearings. The court regulations have been amended accordingly. The Interim Plan has adopted strategies for the elimination of all kinds of violence and gender discrimination against women including human trafficking, for which various activities will be undertaken to create a conducive environment. Complaint handling centers are being established in each VDC to address domestic violence.

221. Nepal has espoused some laws and policies to follow the SC directive orders and guidelines, e.g. the case of witchcraft, trafficking (with victim's protection framework). The Act on Domestic Violence has already been enacted, and another legislation on Sexual Harassment is in the process of drafting as mentioned above in Part II. The Government has also adopted other apposite measures including institutional development to ensure women's rights against discrimination, exploitation and gender-based violence followed by policy guidelines to eliminate de jure and de facto discriminations against women. Recently, the MoWCSW, in partnership with UNIFEM, has drafted a 'Zero Tolerance Policy' containing a comprehensive strategic intervention for the adoption of legal and other appropriate measures including strengthening national mechanisms. This policy will render a uniform guideline in conceptualizing and addressing all forms of gender-based violence and is expected to bring about a remarkable change. The law enforcement agencies are moving forward to take action against perpetrators. Following figures provide a glimpse of the current situation:

Table 23

**Cases reported on violence against women**

| No.          | Year    | Rape       | Attempted<br>to rape | Trafficking | Abortion  | Polygamy   | Child<br>marriage | Domestic<br>violence |
|--------------|---------|------------|----------------------|-------------|-----------|------------|-------------------|----------------------|
| 1.           | 2003/04 | 155        | 18                   | 56          | 08        | 44         | 3                 | 922                  |
| 2.           | 2004/05 | 174        | 26                   | 72          | 11        | 66         | 1                 | 730                  |
| 3.           | 2005/06 | 189        | 41                   | 97          | 14        | 65         | 1                 | 939                  |
| 4.           | 2006/07 | 137        | 70                   | 112         | 03        | 94         | 7                 | 1 100                |
| <b>Total</b> |         | <b>655</b> | <b>155</b>           | <b>337</b>  | <b>36</b> | <b>269</b> | <b>12</b>         | <b>3 691</b>         |

Source: Women Cell (Police Head Quarter, Kathmandu, 2007).

Table 24

**Status of prosecuted rape cases**

| Fiscal year<br>(BS) | Registered<br>cases | Finalized cases |           |           | Remaining<br>cases | Convicted<br>percentage |
|---------------------|---------------------|-----------------|-----------|-----------|--------------------|-------------------------|
|                     |                     | Convicted       | Acquitted | Total     |                    |                         |
| 2003/04             | 128                 | 18              | 15        | <b>33</b> | 95                 | 54.55                   |
| 2004/05             | 147                 | 19              | 41        | <b>60</b> | 87                 | 31.67                   |
| 2005/06             | 113                 | 9               | 6         | <b>15</b> | 98                 | 60.00                   |

Source: Attorney General's Annual Report, 2062/063, p. 19.

222. Apart from the cases filed under the general jurisdictions of the court as mentioned above, some cases have also been lodged in the NHRC and NWC. The following table gives a glimpse of the cases recorded at the National Women's Commission for the fiscal year 2007/08.

Table 25

**Cases recorded at the National Women's Commission for the fiscal year 2007/2008**

| No. | Cases             | Number |
|-----|-------------------|--------|
| 1.  | Citizenship       | 2      |
| 2.  | Domestic Violence | 45     |
| 3.  | Polygamy          | 7      |

| <i>No.</i>   | <i>Cases</i>   | <i>Number</i> |
|--------------|--|---------------|
| 4.           | Property   | 13            |
| 5.           | Miscellaneous (Rape, Trafficking, Forced Marriage, Sexual Harassments, Coercion, Battery, Dismissal from employment, sexual and economic exploitation in foreign employment, etc.) | 38            |
| <b>Total</b> |  | <b>105</b>    |

Source: NWC, 2008.

### **Judicial directive orders**

223. The Supreme Court of Nepal has issued a range of directive orders for the enactment and amendment of the laws vis-à-vis the issues of violence against women in the wake of guarantees under the Convention on the Elimination of All Forms of Discrimination against Women and its Committee's general recommendations. (See the details in the case of *Sharmila Parajuli* reported above under the progress of article 11 of the Convention.)

224. Similarly, in the case of *Advocate Reshma Thapa v. Council of Minister*, decided on 10 August, 2004 (2061-4-26 BS), the SC observed that witchcraft was a very serious accusation upon women often leading to incidents of extreme torture and public humiliation. Accusing women of witchcraft is an extremely illogical and superstitious act that raises issues of injustice, exploitation and torture against women. The SC has accordingly drawn the attention of the Government to put a ban on such offensive and inhuman activities.

225. Recently, the SC has rendered a landmark decision *Sapana Malla Pradhan v. The Government of Nepal et. al*, 2006, writ no. 3561, decided on 25 December 2007 (2064/9/10 BS) for the maintenance of privacy of victims of cases with special nature. The SC issued directive order for the formation of a committee comprising the concerned Court, Bar Association, MoWCSW, and the organizations including FWLD and civil society working in the area of women, children, HIV/AIDS infected people and marginalized people for drafting laws on it. Since the law is not enacted, SC has issued, for the first time, a separate and comprehensive procedural guideline (2007) for the concerned agencies to maintain the privacy of the victim. Moreover, recently in 2008, a "Procedural Guideline for the Protection of Crime Victim Women and Children and Witnesses" has been developed by the Committee formed under the SC which provides a range of guidelines to ensure access to justice to victims. The present legal framework provides the provision for protecting the dignity and privacy of victims by facilitating camera court provisions. The Courts' (District, Appellate and Supreme Court) regulations have been amended accordingly.

226. So as to eliminate violence against women, the CEDAW National Plan of Action is being implemented with a number of policy measures which have been adopted by the TYIP, followed by the budget for the empowerment of women allocated for the fiscal year 2008/2009. NWC, NHRC including NRT are the key state mechanisms. They are committed to the protection and promotion of human rights of women by handling the complaints of various issues regarding violation of rights of women with close cooperation and coordination with NGOs working in this area.

### **Women and armed conflict**

227. Part IV of the Interim Constitution incorporates a range of provisions under State responsibility to:

- Make arrangements for appropriate relief, recognition and rehabilitation for the family of the deceased persons, the disabled and helpless persons due to injury during the course of armed conflict
- Provide relief to the families of the victims, on the basis of the report of the Investigation Commission constituted to investigate the cases of disappearances made during the course of the conflict
- Conduct special programmes to rehabilitate the displaced
- Provide relief for damaged private and public property, and to rebuild infrastructures destroyed during the course of the conflict
- Constitute a high-level Truth and Reconciliation Commission to investigate the facts regarding grave violation of human rights and crimes against humanity committed during the course of conflict, and create an atmosphere of reconciliation in the society
- More importantly, the directive principles based on positive discrimination, provides a special provision for women victims of conflict

228. The TYIP is driven by long term objectives for social rehabilitation of conflict-affected and displaced women and to ensure the active participation of women in conflict resolution and the peace process. The plan sets following quantitative targets for relief distribution to all the widows and single women affected by the conflict:

- Protection and rehabilitation of women affected by the conflict.
- A special programme will be run to protect the rights of conflict victims and internally displaced women, and to rehabilitate them.
- Active and meaningful participation of women in conflict resolution and peace building will be ensured.
- Social rehabilitation of conflict-affected and displaced women will ensure the active participation of women in conflict resolution and in the peace process.
- National Action Plan on social rehabilitation of conflict-affected women will be prepared and a process of facilitating a secure and courteous return of dislocated women will be set up in motion.
- Services and facilities such as free education and skill training, free basic health services, psycho-social counselling, easy access to financial investment and legal help will be extended to conflict affected women.
- Cases of sexual exploitation and any kind of violence and infringement on the rights of women during conflict will be investigated and brought to justice.
- To make the implementation of the comprehensive peace accord women-friendly, an advocacy programme will be launched and measures will be taken to ensure 33 per cent national level and 50 per cent local level representation of women in the peace councils and peace committees respectively. In this regard, the Government has adopted women empowerment programme with different components, mainly capacity building programmes.

229. As a consequence of conflict, access to health facilities in remote rural areas has been adversely affected. Women with reproductive health problems, including difficulty in pregnancy, complication in abortion suffer extensively due to disrupted transportation services. Problems related to pregnancy, delivery and bleeding (symptoms of miscarriage of pregnancy) require emergency attention. Several unsafe deliveries and maternal death due to lack of timely treatment were reported during strikes and blockades imposed during the

conflict. The following table exhibits a glimpse of access of those who received postnatal care and those adopting family planning measures during conflict.

Table 26

**Indicators of access during armed conflict**

| <i>Indicators of access during armed conflict</i> | <i>2001</i> | <i>2003/04</i> |
|---|-------------|----------------|
| Children not immunized (partially or fully)       | 3.4         | 7.4            |
| Pregnant women receiving prenatal care (rural)    | 46.6        | 53.9           |
| Women receiving post-natal care (rural)           | 17.3        | 11.0           |
| Couples using family planning                     | 38.9        | 38.3           |

*Source:* Nepal demographic and Health Survey, NLSS 2003/04.

**Women and the economy**

230. Economic activities for women still tend to have low added value and often go unaccounted. The male members exercise control over women's activities and income. For instance, women are socially permitted to involve themselves in raising buffaloes, but commercialization of their milk is the exclusive preserve of men.

231. For the first time, the upcoming census is taking the work done by women into account so as to acknowledge their works and exhibit their economic value. The micro-credit projects for women now extend to all 75 districts, though the coverage of VDCs within districts is a bit limited. Credit is provided on a group liability basis and complemented by skill training, exchange visits and literacy programmes. Micro-credit programmes have reported successes and continued efforts are needed to make them sustainable.

**Women in power and decision-making**

232. As mentioned above, women are gradually being mainstreamed in the state restructuring process, national and local level politics, administration and various other aspects of national life. There are now a significant number of women representatives in the Constituent Assembly as well. This is a very remarkable development both in terms of recognition of their capabilities and further empowerment of women.

233. Apart from the national policy-level representation, the LSGA has introduced women's mandatory representation in councils, executives committees (board) and ward committees of DDCs, VDCs and municipalities. Section 70(2)(1) of the Local Self Governance Financial Administration Regulations provides for the compulsory representation of 30 per cent women members in users' committees. These are some of the most significant measures taken to ensure effective female political participation and representation.

234. The CEDAW/NPA is being implemented with a number of policy measures adopted by the TYIP, followed by the budget allocated for the fiscal year 2008/2009 with a motive of empowerment of women by ensuring 33 per cent women participation in the decision making process. According to NPA "at least 33 per cent women's representation in the state machinery will be ensured through legal, policy and institutional reforms. Composition of women representation will be proportionate in its structure and embraces diversities of women in the society. Specially designed courses will be conducted at the national, regional and district levels to promote the capacity of women in general and those of the marginalized communities in particular, to contest in the appointment and promotion of

public office posts. Industrial enterprises with women as chief executive officers and 50 per cent women in their managing board as members will be given special incentives.”

### **Institutional mechanism and advancement of women**

235. With regard to strengthening institutional mechanisms, as mentioned in the previous reports, the role of MoWCSW remains pivotal. The NPA on CEDAW is being implemented by the National Committee on CEDAW (NCC) with various programmes including trainings, awareness generation, publications and disseminations under the MoWCSW. The strategic document on gender and social inclusion, developed by MoWCSW in 2006, has proved to be one of the most effective tools in gender mainstreaming and equality promotion at the state institutional level. The majority of the female staffs of different ministries have received trainings on ‘Gender, Reproductive Health and Social Inclusion’. The training provided by MoWCSW in collaboration with UNFPA is one of the indicators of building institutional capacity. WDOs have been established in all 75 districts of Nepal. A total number of 943 staffs are deputed under WDO. According to DWD, total 53,136 women’s groups have been formed. The following figure is one of the result indicators of institutional development of women in general and with women with different social identities in particular.

Table 27

### **Involvement of women in women’s development groups**

| <i>Women</i>            | <i>Number</i>  | <i>Percentage</i> |
|-------------------------|----------------|-------------------|
| Dalit Women             | 44 666         | 13.1              |
| Janajati (Ethnic) Women | 115 074        | 33.53             |
| Others                  | 183 509        | 53.46             |
| <b>Total</b>            | <b>343 249</b> | <b>100</b>        |

*Source:* Annual Report of Women Development Department (WDD/MWCSW), 2063/64 BS, p. 49.

236. LSGA, as mentioned above, provides enormous scope for the advancement and empowerment of women and other social groups. In order to meet the objectives of LSGA, MoLD has adopted guidelines which not only spell out the procedures but also provide for inclusive participation of beneficiaries, including women, in the decision making committees. Following are some of the areas for which the guidelines have been developed:

- Village Development Committee Grant Program (VDCGP) Operational Guidelines, 2006
- Community Based Organization (CBO)’s Commitment, 2007
- Social Security Program Operational Guidelines, 2008
- Local Bodies Gender Budget Audit Guidelines, 2008

237. The VDCGP Operational Guidelines, 2006 makes a provision [7.2 (b)] regarding the formation of Users’ Committee which demands a minimum of 33 per cent women representation. The ‘Local Bodies Gender Budget Audit Guideline’ (approved by MoWCSW on 2 May 2008) is a more comprehensive implementation guideline that embodies the objective of institutionalizing gender responsive good governance system through monitoring, evaluation and gender budget audit system. The guidelines clearly stipulates the scope of work of gender budget audit to collect and update the disaggregated data, gender responsive capacity building, facilitation and many other provisions regarding establishment of gender focal persons for coordination, documentation and reporting etc,

followed by its annexes for working modules regarding gender mainstreaming in local bodies'. Section 3 of the Guidelines explicitly provides the *modus operandi* for the implementation of 12 critical areas adopted by BPFA.

238. NWC is another independent state institution established for the advancement and empowerment of women. It was previously established merely by the decision of Government, but at present, it is an autonomous and corporate body, with the enactment of National Women Commission Act, 2007. The need for the establishment of NWC was felt for the protection and promotion of the rights and interests of women. Consistent with the relevant international convention, the Act provides mandates to review, monitor and evaluate the policy and programme in the area. Moreover, NWC has a role in making essential investigations including by seeking information from any person, extracting of testimony or statement, order for the submission of necessary deed or document or evidence and initiation for the legal or other action to the related authority with follow-up activities. NWC submits its report annually to the Minister for Women, Children and Social Welfare. NWC has been allocated an amount of Rs. 31.4 million in order to strengthen its institutional capacity for conducting programmes related to women's rights and empowerment in general and marginalized women in particular, rescue of victims of violence against women and legal counselling, public hearing, establishment of information center and other sensitization programmes. In the policies and programmes of the Government spelt out before the Legislature-parliament for the fiscal year 2008/9, the Government has committed itself to take the necessary initiatives to develop NWC as a constitutional body so as to make its role more effective in women empowerment.

239. The NHRC also provides an institutional mechanism in the area of protection and promotion of human rights of women in Nepal. The role of ONRT, reported under article 6 above, is noteworthy.

240. In order to provide complaint mechanism for different issues, as mentioned in the previous report, separate women cells have been established at the police headquarters and in some districts. Now, there are 42 such cells which are in the process of expansion throughout Nepal.

241. Apart from the aforementioned institutional mechanisms, gender mainstreaming programmes are also being carried out by other ministries and agencies of the government, as documented in the "National Plan of Action on the Convention on the Elimination of All Forms of Discrimination against Women, 2003" reported in the previous and initial periodic reports.

### **Women and human rights**

242. Constitutional protection of human rights, establishment of a National Rapporteur against Trafficking under the NHRC, and reinforcement of NWC with legal provisions are some of the most notable achievements made in this field so far. Human rights institutions are actively working to monitor the status of women's rights and are also working as pressure groups to amend discriminatory laws. Human rights and legal literacy programmes for both men and women have been extensively launched. A CEDAW monitoring committee has been formed at the Government level by establishing 'gender focal person' at various ministries.

243. With the aim of respecting the human rights of women, during the reporting period, the Government has adopted a number of legal and policy measures to discharge state responsibilities to implement substantive rights under the Convention. All gender discriminatory laws have been either amended or repealed or are in the process of doing so. Moreover, the SC stands as a very progressive national judicial institution for developing a



landmark gender equality jurisprudence treating the rights of women with the utmost respect.

244. The Government remains more committed to respect, protect and promote the rights of women as human rights by adopting a number of policies, programmes and implementation mechanisms in collaboration with NGOs and the civil society. More importantly, the Government, in order to promote human rights of women, has laid special targets on health, education, employment and other issues relating to 'empowerment and advancement of women'. For achieving these targets, it has also espoused a 'Gender Responsive Budget' as reported in Part I of the present report.

### Women in the media

245. There has been remarkable progress in women's participation in the media, particularly in the electronic media, after the political change of 1990. The landmark changes can be witnessed after the reopening of the media to the private sector. Women media workers constituted 12.3 per cent in 1991 and 12.9 per cent in 1992. At that time the sole electronic media were the state-run Radio Nepal and Nepal TV. With the proliferation of FM radios and private TV channels, women's participation as media workers has increased significantly, as reflected in the table below.

Table 28

#### Women's involvement in the media

| <i>Media/year</i> | <i>2002</i> |
|-------------------|-------------|
| Print             | 9.1         |
| Public            | 4.2         |
| Private           | 11.2        |
| Radio             | 29.1        |
| Public            | 16.5        |
| Private           | 37.9        |
| TV                | 30.8        |
| Public            | 31.8        |
| Private           | 68.2        |
| <b>Total</b>      | <b>19.4</b> |
| Public            | 4.2         |
| Private           | 8.6         |

*Source:* Asmita Publishing House, 2003.

246. Women are also increasingly being involved in the Television media. The following statistics shows the situation of women working at different television channels:

Table 29

#### The situation of women working at different television channels

| <i>Television channel</i> | <i>Female (number)</i> | <i>Percentage (%)</i> |
|---------------------------|------------------------|-----------------------|
| Nepal Television          | 57                     | 33.0                  |
| Kantipur                  | 34                     | 20.0                  |
| Sagarmatha                | 20                     | 12.0                  |
| Nepal 1                   | 10                     | 5.0                   |

| <i>Television channel</i> | <i>Female (number)</i> | <i>Percentage (%)</i> |
|---------------------------|------------------------|-----------------------|
| Image channel             | 20                     | 12.0                  |
| Avenues                   | 15                     | 9.0                   |
| Channel Nepal             | 15                     | 9.0                   |
| <b>Total</b>              | <b>171</b>             | <b>100.0%</b>         |

*Source:* Concerned Televisions, 2065.

247. The Nepal Press Council adopted a “Code of Journalistic Ethics” in 2003. It was amended and revised in 2008. The gender-related provision of the Code at Section 3 (10) stipulates: “Journalists and media shall bear a special social responsibility to render special assistance, through the dissemination of information and opinions, towards the upliftment and development of the disabled, the helpless, the incapacitated, women, children and people from backward classes or sectors, nationalities and minority communities.” Similarly, Section 4 (5) provides an explicit clause ‘Non discrimination’ under which, “the media and media persons are prohibited to bring any news or opinion in such a manner as to discriminate on grounds of race, gender, religion, region, language, color and the like”. Likewise, Section 4 (6) makes prohibition to publish, broadcast or produce, distribute any news or opinion with the use of language, sound, picture, figure, scene or the like in such a way as to make the survivors re-victimize. Similarly, Section 4 (7) further respecting the confidentiality of the victim, states ‘not to publish, broadcast or produce, disseminate any news, picture or scene in such a manner as to disclose the name, address and identity of a victim in a sexual crime or in an event or context that invokes hate or brings social contempt, without the consciously given consent of the victim’. Following are some of the noteworthy changes brought about:

- Media coverage of women’s issues in general has increased
- Research and studies regarding women’s issues are being undertaken by the media
- The media are gradually becoming more sensitive to and responsible for their public portrayal of women
- The Press Council has welcomed female members in decision making positions in recognition of their expertise
- Women focused programmes have been explicitly conducted on national television, over the radio and in newspapers

248. The judicial decisions in Nepal can also be regarded as benchmark on the issue of women in the media. In the case of *Prakashmani Sharma v. The Government of Nepal* decided on 29 August, 2008 (2065-5-13 BS), the SC has issued a writ of Mandamus in the name of Government for the formation of ‘Advertisement Censor Board’ under the Ministry of Information and Communication (MoIC) in order to prohibit pornographic and undignified advertisements that project women as commodities and promote defective gender discriminatory cultural practices. The SC also ordered the MoIC for the development of ‘guidelines’ and establishment of a Committee to monitor and follow-up on the issues.

### **Women and the environment**

249. Women have a big role to play in the area of environmental conservation. Realizing this, the Government has, since the Eighth Plan, initiated some programmes in women and the environment sector. The TYIP has come up with some more programmes with a view to support services for alternative energy management, by producing briquettes and other

materials from locally available forests products. Accordingly, while preserving forest and protecting the environment, employment opportunities are being created for the poor women by enhancing their skills through trainings on technology and equipment.

250. MoEST (previously the Ministry of Population and Environment) has now adopted a strategy to involve women in decision making process related to environment. Also the conservation programmes include skill development, income generation, as well as health and sanitation training programmes for women. The mother groups are highly involved in conservation and development programme. For example, there were 312 mother groups in Annapurna Conservation Area Project (ACAP) till 2002. The mothers' groups are still active in collecting funds mainly through cultural programmes during feasts and festivals. Such funds are used in community development programmes like repairing and building trails, water taps, drainage construction and other small scale conservation programmes. The mother groups are mainly active in stone paving, drinking water supply schemes and toilet construction, water management and health education.

251. As rural women still have to walk miles every day just to fetch a bucket of water, this year's budget promises with the programme "Drinking Water: Taps in the Villages". The rural drinking water programme is being implemented under the MoLD. For this Rs. 3 billion has been allocated for the fiscal year 2008/09.

252. Participation of women in community forest management and information sharing mechanisms is an important aspect of women preserving environment. There are 12,000 community forest users' groups managing the forest areas. At the end of the Tenth Plan, 14,500 users groups have been formed to manage nearly 1.24 million hectares (25 per cent) of land. In addition to the community forest, more than 950 leasehold forestry users' committees have been formed to manage 3,700 hectares of forest land, in order to provide opportunities for those below the poverty line. This has resulted in improvements in the quality of the forest and the protection of forests, environment and bio-diversity leading to increased supply of forest products and sustainable management along with community development works for the population dependent on forests. Gender balance, empowerment of the communities and institutional development works are increasing due to community forest users' groups. The MoFSC has adopted 'Gender and Social Inclusion Strategy for Forest Area' in 2008, mainly focusing women's empowerment and their involvement in the decision making process which incorporates the following aspects:

- Maintaining transparency in the statistics and gender inclusionary process
- Conducting programmes which shall help in lessening the work load and prevalent burdens of women
- Implementing monitoring and evaluation system based on indicators in all levels
- Calculating the progress of information collection, evaluation of gender, poverty and social equity of all levels through indicators
- Recording and registering all information and statistics in all programmes regarding forest areas by enlisting under gender and social divisions separately

253. The DWD in coordination with MoFSC, has been conducting Bio-diversity Sector Program for Terai Region with the financial support from the Government of the Netherlands since 2003. The programme includes various activities relating to gender-friendly capacity building mainly focusing 'sustainable subsistence programme' for cooking, farming etc. The programme is focused on poor *Dalits* and other marginalized peoples.

### Girl child

254. The Government ratified both Optional Protocols to the Convention on the Rights of the Child) on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict on 3 January 2007 (that were signed on 8 September 2000) without reservation.

255. The Government has formulated a 10-year National Plan of Action (NPA) for protection of children (2004/05-2014/15). NPA has categorized policies under four broad sub-headings: (i) General, (ii) Health, (iii) Protecting children against abuse, exploitation and violence, and (iv) Combating HIV/AIDS. In order to implement its policies, NPA has outlined seven strategies which include: (i) Formulation and necessary amendment of law; (ii) Developing network and promoting child participation; (iii) Coordination, collaboration and integration of development; (iv) Decentralization and community mobilization; (v) Reach to the unreached; (vi) Transparency and capacity development of concerned stakeholders and human resources. Among the NPA's four broad policies, 'protecting against abuse, exploitation and violence' is directly relevant to combating trafficking in children.

256. As an endeavor to uplift the status of the girl child, the Government has adopted an inclusive approach in the child rights and development programmes. For example, the Government has launched targeted programme for increasing the number of girl children in education (providing scholarship for girls, free text-books and other subsidies) and training as well, and also providing female adults with job opportunities. The details can be seen in the progress report of 'education' mentioned above in Part II under article 10 of the present report.

257. The Government, in collaboration with development partners, has implemented targeted programmes for girls in Terai districts where their (particularly of *Dalit*, *Madhesi* and marginalized communities) school enrolment rate is comparatively low. While contributing to change traditional thinking and mindset, such efforts have been instrumental in redefining the roles of the girl children of the *Dalits* and other indigenous communities.

258. The MoWCSW, through DWD, is implementing programmes to empower adolescent girls and remains an indefatigable advocate of their right to health as well as eliminating all discriminations against the girl child throughout the country. Furthermore, a number of programmes have been implemented with special focus on the empowerment of women and the girl child across the country and to bring them in the mainstream of the society. Likewise, child clubs, through various activities, are active in raising awareness in the community and in advocating against the existing social prejudices and discriminatory practices against children.

259. Apart from the enactment of laws, there are a number of cases where the courts have rendered some proactive judgments to protect and promote the rights of the girl child. The *Kamlari* practice (bonded labour girl child as defined by the Bonded Labour Prohibition Act), prevalent in the western part of the country, was challenged by the students of *Kathmandu School of Law (Kathmandu School of Law (KSL) et. al v. Council of Ministers*, 2004). The SC has issued mandamus for the implementation of laws including directive orders to the Government to adopt legal and other appropriate measures including raising awareness regarding the rights of the child in general and of the girl child in particular, by incorporating them in the school curricula. Accordingly, the Government has included matters on child rights including child health in the school level curriculum.

## Part IV

### Emerging issues

260. The Government of Nepal considers the following as the emerging issues:

#### Single women

261. Article 35 (9) of the Interim Constitution states “special provisions of social security for the protection and welfare of single women ...” All discriminatory laws have been amended as an initiative to respect the rights of widowed women as reported above under articles 1, 2 and 16 of the Convention. For its effective implementation, the Government has formulated an explicit plan and gender-responsive budget under the heading of ‘widowed women’. As a part of the national social security system, the said allowance is being distributed. There are some NGOs working in the area of widow’s human rights such as Widow’s Human Rights (WHR). It is important to note that 51 widows have been elected as CA members at the election held last year (April 2008).

262. In an effort to build consensus in the definition of a ‘single woman’, Nepal had brought the issue in the fifteenth SAARC Summit encompassing three types of women as being single: (a) widowed women, (b) legally or informally divorced women, and (c) unmarried women. Considering Nepal’s initiative, the Summit made a declaration to work in the areas specifically on the issue of discrimination against widows. Furthermore, the SAARC Committee on Women, Youth and Children accepted the proposal put forwarded by the Government. As a result, Government has formed a committee comprising government agencies and the representative from WHR to draft the Charter. The draft is under preparation and is slated to be released very soon.

#### Elderly and disabled women

263. Articles 13 (3) and 35 (14) of the Interim Constitution clearly makes provisions of positive discrimination for the aging people, persons with disability and those who are physically or mentally handicapped. Further, article 18 (2) furnishes fundamental guarantee stating “Women, labourers, the aged, disabled as well as incapacitated and helpless citizens shall have the right to social security ...” (*Emphasis added*), followed by state policies under article 35 (9). Article 33 (p) additionally, makes provision for the relief and rehabilitation of conflict-ridden disabled persons. More importantly, article 154 of the Interim Constitution renders scope for the formation of a Commission for the persons with disability. The Chapter on ‘Rape’ in the Country Code carries the provision of additional punishment to the rapist of a woman with disability.

264. A Disability Service National Coordination Committee has been set up with the adoption of the National Policy and Action Plan, 2007. Trainings like special education classes and disabled rehabilitation skills orientation programmes are being run. Monthly social security allowance has been provided (as mentioned above). According to a quota system, scholarship for students with disabilities is being provided. Efforts are underway to make the government buildings and physical infrastructure disabled-friendly. More such reforms and improvements are underway.

265. Apart from the legal provisions, National Plan and Policies, the SC has also taken up the issues related to the protection of rights and welfare of the disabled persons. In the case of *Prakashmani Sharma and Tek Tamrakar v. MoWCSW and the Council of Ministers* decided on 8 May 2007 (2064/1/25), the SC has issued the mandamus for the adequate implementation of ‘*Disabled Protection and Welfare Act*’ and the Constitutional provisions. The SC specifically ordered the Government to form a committee and submit its bi-annual

progress report on different physically-challenged groups. MoWCSW has been conducting trainings and other various programmes through Government and NGOs specifically working in the area for five years in 54 districts of Nepal. Similarly, the Government is providing grants to old age homes and daytime services. A High Level Senior Citizen Coordination Committee has been formed, committed to the service of the old citizens. Old people left out and the helpless are being placed in old age homes. Elderly women have been given priority in rehabilitation. Model old age homes are to be established in all the five development regions. A Senior Citizen Welfare Fund has been established accordingly. (Source: Interim Plan 2007–09)

266. As women with disability and old age are more susceptible to sufferings, the Government has considered this as a cross-connecting issue for their advancement, empowerment and welfare. MoWCSW, in collaboration with 'Nepal Disabled Women Organization', is providing housing and shelter facilities along with women/girls hostel for the homeless women with different kinds of disability. The WDOs, who will be involved in providing orientation and skill development training to VDC level officers, are also being trained on the issues of 'disability'.

### **Migrant women workers**

267. The Government has taken initiatives for the protection of migrant workers in general and of women workers in particular. The Foreign Employment Act provides a range of comprehensive preventive and protective measures as reported earlier under the progress of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women. The SC, very recently, in the case of *Advocate Prakash Mani Sharma et. al. v. The Government of Nepal*, has issued the writ on 16<sup>th</sup> December, 2008 (2065/9/1 BS) of mandamus in the name of the Government for the effective implementation of the provisions of the Foreign Employment Act and regulation of the foreign employment mainly on the issues of training prior to leaving for foreign employment, access to loan facilities for women who are in the process of foreign employment, establishment of Information Center about the country providing such employment and provision for labour monitoring focal person. The SC also issued order to the diplomatic and consular offices stationed at respective countries to cater the needs of Nepali migrant workers, and the investment opportunities and social security to the returnees.

268. The present legal framework provides equal opportunity to both men and women in foreign employment. However, taking the likely threats of trafficking and various forms of sexual abuse and economic exploitation of women working in foreign countries into consideration, this has emerged as a matter of serious concern to the Government. Therefore, it is in the process of adopting effective measures in keeping with the spirit of international human rights norms.

### **Women detainees and prisoners**

269. Protection and promotion of the rights of detainee and prisoner women is another emerging issue that the Government is seriously concerned about. Accordingly, programmes are mainly focused on the following three areas:

- Mental and Psychic issues
- Reproductive health issues
- Dependent children's (below 5 years) accommodation with their mothers

270. MoWCSW is taking initiatives in these areas and has made the following allocations: Rs. 5,000 per woman for treatment of mentally/psychologically retarded, and Rs. 5,000 per woman for the prenatal, during, and post natal care in cases of pregnancy and

delivery. Dependent children are also provided about Rs. 500 per head for subsistence. MoWCSW has carried out a study on the 'Status of Prisoner-Women' in collaboration with NGO and published its report in 2008. The study mainly focused on (a) physical environment, (b) health status, (c) the level of violence and status of victims perpetrated and condoned by prison authority and inmate, and (d) level of gender-sensitivity awareness amidst the prison authorities. The study has made recommendation to MoHA for setting minimum standards on security matters. Accordingly, establishment of 'Model prisons' in 5 regions following such minimum standards is to be initiated.

271. The SC, in the case of *Advocate Rama Panta Kharel et. al. v. The Government of Nepal* decided on 5 June 2008 (2065/2/23 BS), has issued directive order for the necessary health management for the pregnant women in prison. Following the court order, the Government has started to conduct programmes for the reproductive health check up and other necessary treatment to detainees and prisoner women from the year 2009.

### **Exploitation of girls working in dance cabin restaurants**

272. MoWCSW had conducted a study on 'Cabins, Dance Restaurants and Massage Parlors' highlighting the problems and recommending solutions of women workers. The Study was released on the occasion of 'Second National Day against Human Trafficking' in 2008. The study reveals cases of sexual abuse and exploitation of girls working in dance/cabin restaurants. The issue was also contended by filing a writ petition *Prakashmani et. al v. MoWCSW and others*, decided on 26 November 2008 (2065-8-11 BS) where the SC has issued mandamus for the enactment of legislation to protect the right to employment of women working in such places. The SC focusing on the 'dignified treatment and security measures' for women workers, has also issued comprehensive 'guidelines' containing a number of provisions regarding the registration and management of restaurants, massage parlors, maintaining individual record profile of women workers including detailed terms of reference, remuneration, physical infrastructures and range of provisions for the prohibition of sexual abuse, harassment and exploitation. Realizing that sexual harassment at the workplace is an emerging issue of serious concern, MoWCSW has recently set up a task force comprising representatives from various related line ministries. The law making process for controlling sexual harassment in the workplace is in progress.

273. With the political change Nepal is fully engaged in making a new constitution through a democratically elected Constituent Assembly. One of the major tasks ahead is the restructuring of the State so as to make it an inclusive, just and democratic State. At the same time, the issue of institutionalizing the rights of women and the girl child is of great interest and concern to everyone in the country. The Constituent Assembly has also formed a specific committee on women, children and social welfare, which will focus on the issues of the rights of women, children and other socially and economically disadvantaged groups. It will undertake and encourage extensive consultations with all stakeholders and the civil society so as to ensure adequate guarantee of women's rights in the new Constitution of the Federal Democratic Republic of Nepal.

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