

CHAPTER 5

GENDER EQUALITY

The promotion of gender equality and women empowerment in Nepal is rooted in its policies. In order to achieve these goals, the government of Nepal formulated the Poverty Reduction Strategy Paper (Tenth Five-Year Development Plan 2002-2007). It specifically views the population problem in the context of poverty alleviation and social justice. Through this, it attempts to integrate population programs with all the development activities. The public officials of the country strongly believe that the eradication of poverty can be achieved through the empowerment of women. Since they are at the center of population management programs, specific projects will be prioritized and launched for women and children to bring down the total fertility rate (TFR) to replacement level.⁸⁶

By initiating programs directly or indirectly related to women's and children's health and education, effective population management will be achieved. This entails the usage of IEC programs related to population, maternal child health and sanitation in vocational education, agricultural extension, rural micro-credit, community forest development and poverty alleviation projects.⁸⁷

The creation of the Tenth Plan is seen to reinforce the Ministry of Women, Children and Social Welfare (MOWCSW). It was established in 1995 following the Fourth World Conference on Women in Beijing. The MOWCSW is the lead agency charged with the task of fulfilling Nepal's national and international obligations on gender equality. Its functions include formulating plans and policies for women's advancement and ensuring the integration of gender concerns into broader national policies. The ministry has the mandate to supervise, monitor, evaluate and co-ordinate development activities for women in all government ministries and departments. It serves as the focal point for all Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)-related activities, including oversight of a national CEDAW committee formed to monitor the implementation of CEDAW provisions. Additional activities of the ministry include organizing training programs, seminars and workshops for policy-makers, civil servants and other members of civil society to raise awareness about women's rights and the need for gender equality.⁸⁸

A. Gender Norms and Inequality

Gender norms and inequality in Nepal exist in the household and community levels. The treatment of women as second class citizens is quite evident and prevalent in society. This is a result of the interplay of religion and culture. The strong influence of these factors on the way of living of Nepalese women has affected their overall well-being.

1. Gender inequality at the household level⁸⁹

Discrimination against women occurs from birth to death. Family members learn it through the process of socialization such as conditioning, imitation, indoctrination, anticipatory socialization and ascribed gender roles. It is a characteristic of Nepalese families to be authoritarian toward female members of the family because of the persistence of the following types of gender discrimination:

Perception of daughters as liabilities: In Hindu society and culture, daughters are seen as liabilities. Parents and other family members prefer sons over daughters. If a son is born, a big celebration is held but when a daughter is born the family does not rejoice. Discrimination between sons and daughters is manifested through differential child care, food provision, clothing, education, play, work and social mobility. Most parents do not want to invest on their daughters because they become someone else's property.

In a non-Hindu society and culture, particularly those of the indigenous tribes of the Gurung, Magar, Rai, Limbu and Tamang, there is no discrimination between sons and daughters. They do not see their daughters as liabilities.

Daijoo/Tilak (dowry) related Torture: Parents acknowledge that the daughter is not their property but during her marriage, the groom's family demands cash and kind which some cannot afford. *Daijoo* or *tilak* is widely prevalent in the Madhesi communities of the terai. If the bride does not bring enough *daijoo* or *tilak*, she is often harassed. There were increasing cases of bride-burning by the groom's family members. In addition, many brides commit suicide due to depression resulting from harassment.

Untouchability: All Hindu women are treated as untouchables for four or five days during menstruation and for few days after delivery. Untouchability is not practiced by indigenous groups and half-heartedly by those who are Hinduized or Sanskritized. In Western Nepal, Hindu women must live in a small hut called *Chhaupadi* or in a cowshed during menstruation and delivery.

Dalit women (and men) have been traditionally treated as "untouchables". Though the *Muluki Ain* of 1963 abolished untouchability, its practice remained. For instance, Dalit women are not allowed to fetch water from public sources, and enter the temple and other public places. Many Dalit women are sexually exploited but if they should become pregnant, their boyfriends can choose to abandon or marry them. Their children are unqualified for citizenship because they do not know their father.

Child marriage, polygamy, and mismatch marriage: Child marriage is still prevalent in most areas of Nepal. Young married girls experience the deprivation of education, increased workload and health or reproductive problems.

Polygamy is widely practiced, whereas polyandry is still followed by mountain communities such as the Dolpali, Lhopa, Baragaunle and Manange. Polyandry is a customary practice but polygamy exists though the law declared it illegal.

Mismatch marriage is also common in the hill and terai regions. Often the husband is older while the wife is either a teenager or very young. Most of these young wives become widows at a young age which confers a low social status in the Hindu society and culture.

2. Gender inequality at the community level⁹⁰

Aside from inequalities in the family, the community also has certain attitudes towards women affecting their status in society.

Bonded labor: In the Western terai region, bonded labor (*kamaiya*) was prevalent until it was abolished by His Majesty's Government. All the family members of such laborers were exploited by their landlords throughout their lives by engaging them in agricultural and domestic work. After gaining freedom from bonded labor, the laborers have a difficult time making a living due to the inability of the government to provide for them.

Deuki, Jhuma and Kumari: Due to some traditional religious practices, some women lose their freedom. For example, in Baitadi, a district in the far-western region, some poor girls are purchased by rich or high caste people and offered to the gods as *Deuki*. Later, these girls become prostitutes.

In the mountain region, Buddhist families offer their second daughters to the monasteries where they live a life of *Jhuma*. They must practice celibacy for life.

The Newars of Kathmandu Valley believe in a goddess called Kumari. For them, the women should adhere to Kumari. Hence, they should live in temples until they menstruate. After menstruation, they are no longer eligible to be treated as a Kumari and many of them remain single because of the belief that whoever marries them would die.

Badi: Women of one of the Dalit caste groups called Badi are forced by the society to engage in commercial sex as their only profession.

No right on woman's body: A Nepali woman does not have any right to her own body. She has no right to ensure her reproductive health. She has no right to decide when to become pregnant, how many times to become pregnant, and whether or not to terminate pregnancy. Decisions about such matters are usually done by men and women have to follow them faithfully.

Patrilineal/Patrilocal system: It is a tradition that a married woman should change her family name to that of her husband and live in her husband's home. As women have to drop their maiden name and leave the natal home, they become dominated by the husband and his family. Husband and wife relationship changes substantially if the couple moves to a new home. The children inherit the father's family name. It is not surprising to hear beliefs that sons open the door to heaven and parents should make efforts to have a son if they already have many daughters.

Social values: Hindu values have a direct bearing on gender discrimination. Some of them are: *dhilo paye*, *chhora paye* ("let it be late, but let it be a son"), *chhora paye swarga jaane* ("the birth of a son paves the way to heaven"), *chhori ko janma hare ko karma* ("a daughter is born with a doomed fate"), *chhora paye khasi*, *chhori paye pharsi* ("if a son is born, the event is celebrated by sacrificing a goat, if it is daughter, a pumpkin is enough"), *mare paap*, *pale punya* ("it is a sin if the groom kills the bride, charity, if nurtured") and *swasni machecko buddhi pachhadi* ("women are always shortsighted").

3. Factors accounting for gender inequality⁹¹

The presence of gender inequality or discrimination in society is rooted in three factors: patriarchy, hegemony or dominance of Hindu cultural values, and cultural diversity.

Patriarchy: Since Nepal is a patriarchal society, husbands control their wives' labor, production, sexuality, mobility and economic resources including property. This structure is evident in the religion, legal system, political institution, media and educational institutions. Women who belong to indigenous groups have a better position and status compared to the Indo-Nepalese or Hindus. Girls and women are in a better position at home and in the community in indigenous groups although absent in public office. Many of them are coerced to Hinduization, Sanskritization or Nepalization, resulting in the loss of their traditional language, religion and culture. In such cases, the males of indigenous communities may be even stricter than their Hindu counterpart in exploiting, subjugating and oppressing women. As the saying goes: *naya jogile kharani dherai ghascha* ("new hermits rub their bodies with more ashes").

Hegemony or Dominance of Hindu Cultural Values: Women in general belong to the so-called "low caste" or Dalits and indigenous ethnic groups have become double victims: one as women in general and the other as Dalit or indigenous women.

Amidst the emergence of democracy, existing political parties maintain, sustain and reinforce the dominance of the Hindu culture. This goes against the concept of democracy and the characterization of Nepalese society as diverse in caste and ethnicity, religion, language, region, ecology and culture. It is still present in society that certain classes dominate others in the different aspects of life. For instance, the Chhetris dominate the other castes, *pahadiyas* in the regional level; men have higher status than women and Nepali as the official language of the country. Other spheres such as politics, bureaucracy, police, military, education, medicine, engineering and culture also experience the hegemony of a particular group.

Cultural Diversity: Nepalese society is socially and culturally diverse. This characteristic has a significant impact on attitudes towards women and gender relations. More specifically, it is manifested in caste and ethnicity, language, and religion.

The population is mainly divided between two ethnic groups: the Indo-Nepalese and Tibeto-Nepalese. The former is further distinguished into castes and sub-castes. Those who do not belong to any caste or to any Hindu ethnic group are discriminated.

Women who belong to other nationalities like the Madhesis and Muslims who speak their own mother tongue are discriminated by the state.

Hindu women are more privileged than non-Hindus such as Animists, Buddhists, Lamaists, Islam and Christians. Those living in far-western, mid-western development regions are more disadvantaged compared to women living in western, central and eastern development regions because the latter have more access to education and health services and information.

B. Key Gender Issues

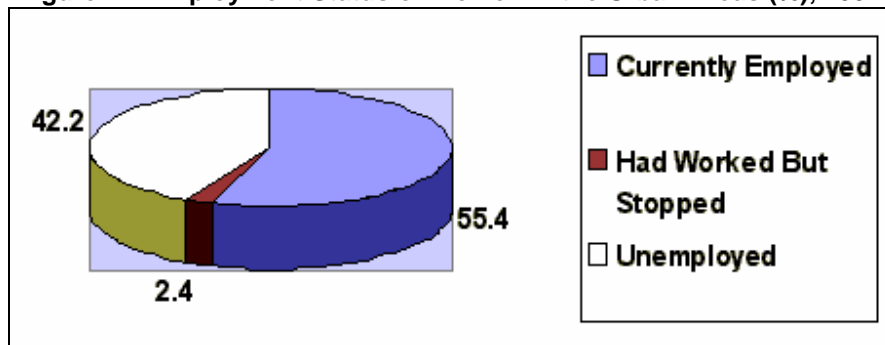
1. Women and Economic Activity

Women's status varies from one ethnic group to another. For example, the Tibeto-Nepalese women are relatively better off, in terms of mobility and access to capital, compared to Indo-Nepalese women. Those who are part of lower caste enjoy more autonomy and freedom than those in the Indo-Nepalese grouping. The senior female member in a Tibeto-Nepalese household has an influential role in decisions regarding planting and harvesting and determining the expenses and budget allocation. However, their lives are still centered on their traditional roles – taking care of the household, doing farm chores and fetching water.⁹²

The Constitution of Nepal guarantees the right “to carry out any profession, occupation, trade or industry” and equal pay for men and women for equal work. Moreover, the constitution's Directive Principles and Policies of the State contain a number of policy recommendations related to labor and employment, including increasing overall participation in the labor force and guaranteeing the right to work; providing opportunities for women through special provisions for their employment; and making provisions for the employment of “socially and economically backward tribes and communities.”⁹³

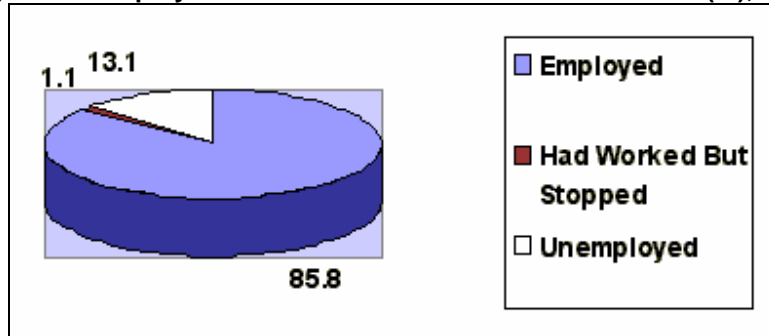
In 2005, 85 percent of women participated in the labor force compared with 92 percent of men in Nepal.⁹⁴ Only 9 percent of women were involved in managerial and administrative occupations while the majority, 45 percent, belonged to the agricultural labor force.⁹⁵ Moreover, women in Nepal were largely responsible for reproduction, management of the household and employment. They worked for longer hours than men, had much lower opportunity for gainful employment and received less pay than men for equal work especially in agriculture.⁹⁶

Figure 11. Employment Status of Women in the Urban Areas (%), 2001.



Source: NDHS, 2001

Figure 12. Employment Status of Women in the Rural Areas (%), 2001.

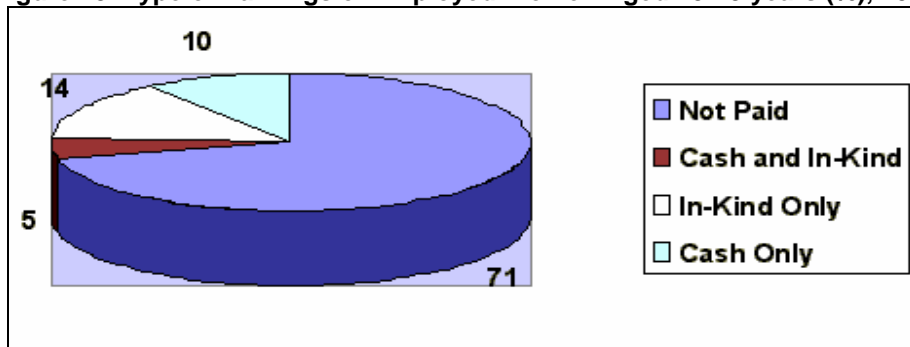


Source: NDHS 2001

Figures 11 and 12 show the employment status of women in urban and rural areas. More than half of the female population in the urban areas was employed while 2.4 percent were working before but stopped temporarily. The data also revealed that 42.2 percent were unemployed. On the other hand, 86 percent of women in the rural areas were employed and they were mostly found in the agricultural sector. Only a small portion stopped working and were unemployed compared to those in the urban areas.

Moreover, the 2001 NDHS was able to determine the type of earnings of employed women aged 15-49 years. Majority, 71 percent were not paid for the work they did. Most were employed in the agricultural sector. Only 15 percent earned cash and in-kind (Figure 13).

Figure 13. Type of Earnings of Employed Women Aged 15-49 years (%), 2001



Source: 2001 NDHS

2. Women and Access to Credit

Women's access to credit is limited in both formal and informal credit institutions because they do not have any collateral to support their loan application. All credit institutions seek tangible collateral for loans. Thus, they are excluded due to the fact that they have little access to inherited property. Village moneylenders, in contrast to formal institutions, are interested in earning a high interest or acquiring a debtor's property than helping people in need.⁹⁷

The women's access to credit is further hindered by their confinement to household activities, their lack of mobility and their low level of awareness of economic opportunities and low educational attainment. With limited information, they are more prone to fall prey to exploitation by village moneylenders.

According to the Nepal Rural Credit Review Study (NRCRS) by the Nepal Rastra Bank (NRB), in 1991-92, from the total number of female-headed sample households, almost 35 percent borrowed from one or other sources compared with 39 percent of male-headed households. For the females, only 15.4 percent borrowed from institutional sources like the Agricultural Development Bank and 84 percent from non-institutional sources. Almost 40 percent borrowed from moneylenders (Table 20).

Table 20. Borrowing From Formal and Informal Sources (%), 1991-92

| Source of Credit | All Households | Male | Female |
|--------------------------|----------------|-------|--------|
| Institutional | 29.7 | 30.4 | 15.4 |
| Agricultural Dev't Bank | 15.9 | 16.4 | 4.9 |
| Commercial Bank | 11.6 | 11.9 | 7.4 |
| Others | 2.1 | 2.1 | 3.1 |
| Non-institutional | 70.3 | 69.6 | 84.6 |
| Friends and Relatives | 24.5 | 24.2 | 30.5 |
| Moneylenders | 28.4 | 27.9 | 38.9 |
| Landlords | 0.9 | 0.9 | 1.0 |
| Merchants/Traders/Others | 16.5 | 16.6 | 14.2 |
| Total | 100.0 | 100.0 | 100.0 |

Source: ADB, 1999. Women in Nepal.

Those who are able to establish a business of their own are mostly involved in home-based industries such as food processing, garments, hosiery and crafts. However, these businesses are gradually closing due to competition from imported products, or are being replaced by organized formal units. Aside from low access to credit and increased competition, women entrepreneurs face problems and challenges such as:

- Lack of access to land and property and reduced risk-taking capacity;
- Lack of access to modern technology;
- Lack of personal security and risk of sexual harassment;
- Low level of self-confidence; and
- Social and cultural barriers such as exclusive responsibility for household work, restrictions on mobility, etc.

To remedy these problems faced by women entrepreneurs, the government introduced micro-credit programs, particularly for low-income women in rural areas. With this, authorities believe that they can enhance women's socio-economic status and expand their limited access to credit. An example of this is the Women Development Programme (WDP) that covers 540 village development committees in 67 districts of the country where almost 67,000 rural women benefit from its lending operations. No collateral is required for obtaining loans from the program. Important components of the program include group and community saving schemes and training in various issues, including savings and credit management, reproductive health, leadership and entrepreneurial skills. The program has trained almost 316,000 women in approximately 15 disciplines. It has also implemented a "revolving fund" initiative, which extends credit to women's groups for activities in ten districts.⁹⁸

3. Women and Legal Status

Women constitute slightly more than half of Nepal's population. Traditionally, their status compared to men has always been low. In recent years, this has been changing and the status of women is improving.⁹⁹

Laws and policies relating to women's legal status not only reflect societal attitudes that shape the landscape of their rights but also impact on their ability to exercise them. Issues such as the respect and

dignity a woman commands within marriage, her level of education, and her vulnerability to violence affect her ability to make decisions about her well-being.

The constitution of Nepal establishes the right of all citizens to equality; equal protection of the law; and non-discrimination in application of the law on the basis of religion, race, sex, caste, tribe or ideology. It also allows for “special provisions...made by law for the protection and advancement of the interests of women, children, the aged or those who are physically or mentally incapacitated or those who belong to a class which is economically, socially and educationally backward.”¹⁰⁰

The Directive Principles and Policies of the State enjoin the government to “eliminate all types of economic and social inequalities.” The government should specifically adopt a policy of encouraging women’s participation in “national development” through special measures for their education, health and employment.¹⁰¹

Box 5. Nepal: Country Code (11th Amendment) Bill and Women’s Rights

In Nepal, customs, social systems and state made laws discriminate against women. The existence of the discriminatory laws against women even after a decade of the restoration of multi-party democracy raises serious questions about our commitment towards the democratic system at the national as well as the international level. Thus, in the twenty-first century, it has become essential to repeal all kinds of discriminatory laws against women.

In the twentieth session, the Parliament House of Representatives passed the Country Code (11th Amendment) Bill with some amendments which had been under consideration since the eleventh session of the parliament. The Bill must again be passed by the House of Representatives because it was not passed by the National Assembly. Some of the discriminatory laws have been repealed in the Bill and women are entitled to some significant rights. Nevertheless we should not neglect the continued existence of discriminatory laws.

Reforms incorporated in the Country Code (11th Amendment) Bill:

Daughters are accepted as heir: The Bill accepts the concept that daughters as well as sons are entitled to have inheritance rights by birth to the ancestral property. Previously it was provided that only an unmarried daughter above the age of 35 has this right.

Full right to widow in inheritance: It has removed the provision that a widow attain the age of 30 to live separately before taking her share of property. A widow is entitled to use her share as she wishes even if she gets remarried.

Right of wife in husband’s property: The Bill removes the condition that women must attain the age of 35 and complete 15 years of marriage before she can live separately and take her share from her husband.

Box 5. Continuation

Right of upbringing of the daughter: Only the son has the right to upbringing and daughters were denied this right. The Bill grants the right to food, clothing, appropriate education and health treatment to daughters as is provided for sons.

Effectiveness in judgment execution in the case relating to share: To address the problems that may arise in the execution of the judgment relating to partition and to make such execution effective, the Bill provides for imprisonment up to one to five years or a fine of up to five thousand or both to the party who denies giving the details of property.

Inheritance right to divorced woman: In the existing law, a woman is denied the right to property from both her parents and from her in-laws in the case of divorce. The Bill has provided that partition must be made between the husband and wife at the time of divorce. Likewise, if a divorced woman wants to have yearly or monthly expenditures instead of taking her share, the court may set such expenditure on the basis of husband's property and level of earnings. A woman can have such expenditure until she gets remarried.

A married woman may adopt a son under some conditions: The Bill changes the provision that women whose husbands are still living or who have living sons of their own or of co-wives are precluded from adopting a child. It provides that a wife who has separated from her husband after taking her share of property may adopt a child, if she does not have her own son.

Repeal of the concept of *Dolaji*: The discriminatory provision that only if there is no son and there is a daughter, such daughter shall be kept as the *Dolaji*. This concept has been repealed.

Right to divorce in the situation of sexual intercourse with third person: The Bill provides that a husband or a wife shall have the right to divorce, if he or she has sexual intercourse with any other person. At present, only husbands have the right to divorce on this ground.

Adoption is restricted in case of one daughter: The Bill prevents parents from giving the child up for adoption if they have only one daughter as it is restricted in the case of one son.

Equal right in intestate property to unmarried daughter as of son: The Bill has provided the equal right to unmarried daughters as of son by reforming the existing discrimination in the matter of priority for getting the intestate property.

Women's right to abortion up to 12 weeks of pregnancy: The Bill provides that any pregnant woman may procure an abortion up to 12 weeks of pregnancy upon her voluntary consent.

Abortion right in case of rape and incest: The Bill provides the right to an abortion up to 18 weeks in case the pregnancy is due to rape or incest. Currently abortion is not allowed even in case of rape and incest.

Abortion right at anytime in special situation: The Bill provides for the right to perform abortion with the advice of medical practitioner at anytime, in case any pregnancy poses danger to the life of the pregnant woman or to her physical or mental health or it leads to the birth of a disabled child.

No abortion on the basis of sex identification: No one shall conduct an aminocentesis test to perform an abortion on the basis of sex. The Bill establishes punishment of imprisonment of three to six months if the person conducts or causes to be conducted such aminocentesis test and additional punishment of one year imprisonment to the person who performs or causes to be performed an abortion on the basis of sex.

Box 5. Continuation

Increment of Punishment in Rape Case: The Bill increased the punishment in rape. It provides for 10 to 15 years punishment in case a victim is under the age of 10 years, imprisonment of seven to 10 years in case a victim is above the age of 10 and under the age of 16 years and imprisonment of 5 to 7 years in case a woman is 16 years or above.

Appropriate sensitivity toward the rape case: Bill requires that the victim's statements be taken only by female police officers. Additionally, during the hearing, only certain people will be allowed to appear before the court.

Equal punishment to men and women in bestiality: The Bill provides that there must be equal punishment of imprisonment of up to one year or fine up to five thousand for both men and women who commit bestiality.

Increased punishment for child marriage: The punishment for child marriage has been increased up to three years and a fine up to ten thousand to discourage child marriage.

Equal punishment in marriage by misrepresentation: The Bill provides for a fine of up to ten thousand rupees for a man or woman who commits marriage by misrepresentation.

Additional punishment for gang rape and rape against a pregnant and disabled woman: The Bill provides for additional punishment of five years imprisonment for the crime of gang rape and also for the rape of pregnant or disabled woman.

Punishment and compensation for pedophilia: The Bill regards pedophilia as rape and provides for an additional year's punishment over the sentence imposed for rape and appropriate compensation for the victim.

Equality in age for marriage: The Bill provides for equality in age for marriage for both men and women. Both sexes have to be 20 years old to marry without parental consent. Men and women can marry at age 18 with the consent of their parents.

Discriminatory Provisions Prevailing in the Country Code (11th Amendment) Bill:

Daughters should return her share after marriage: Although the daughter is recognized as heir equally as the son, the Bill provides that daughters should return her share to the heir in case she gets married after taking her share.

Discrimination among the daughter on the basis of marital status: The Bill discriminates among daughters on the basis of marital status or between married and unmarried daughters in partition, intestate property and in transaction of property etc.

No provision about the impact of bigamy: In case of bigamy, the first wife, son and daughter must share their property with the second wife and her children. This has significant impact on the share of the first wife and her children, which the Bill does nothing to remedy.

No provision about interim relief: Women need interim relief during the pendency of hearings on partitions and domestic violence but the Bill does nothing to address these concerns.

Only the men are entitled to divorce, in case of not having children: The Bill established that men are entitled to divorce if it is proven by the Medical Board recognized by HMG that they have no children within 10 years of their married life.

Box 5. Continuation

A married woman is not entitled to adopt a child except in limited situation: The husband has the first right to decide about the adoption of a child. Except in limited situations, women whose husbands are still living or, who have a living son of her own or of co-wives are precluded from adopting a child.

While adoption, it should be from men's relatives: The Bill has not been able to change requirement that when adopting, the child should be from men's relatives as far as possible.

Daughter should return intestate property after her marriage: The provision in the Bill that daughter should return intestate property after her marriage is more discriminatory than the existing law where a daughter is not required to return intestate property once she gets it.

No provision regarding the women who are imprisoned for abortion: The Bill does not have any provision to release women who are in prison or in detention on the charge for conducting abortion.

Narrow definition of rape: The definition of rape is very narrow and incomplete. It should be defined comprehensively according to changing situations and as it is comprehensively defined in various countries.

Marital rape is not included in the Bill: Marital rape is regarded as an offence in various countries. The Bill does not include it. All types of unconsensual sexual contact must be included within the definition of rape.

Assumed rapist as husband: The existing law presumes that a rapist is a husband, though it was proposed to replace the phrase in the original Bill, the current version of the Bill did not reform it.

No provision to invalidate bigamy: Bigamy should be strictly prohibited without exception. No second marriage should be legally recognized unless the spouses are divorced or one is dead. The Bill did not reform it.

No provision to invalidate bigamy: Bigamy should be strictly prohibited without exception. No second marriage should be legally recognized unless the spouses are divorced or one is dead. The Bill fails to address this.

Source: Women Living Under Muslim Laws. 2002. "Nepal: Country Code (11th Amendment) Bill and Women's Rights. Retrieved from <http://www.wluml.org/english/news/fulltxt.shtml?cmd%5B157%5D=x-157-3355> on August 2, 2006.

4. Education

Over the years, there has been a substantial increase in the literacy rates and access to education. Since adopting a policy of free education, the government has also placed special emphasis on the need to educate girls. As a result of this campaign, the literacy rate of girls increased from 4 percent in 1971 to 25 percent in 1991, and further increased to 27 percent in 1996.¹⁰²

Despite the improvements in access to education and literacy rates, a wide gender disparity exists in schooling levels of boys and girls. Ten percent of adolescent boys aged 10-14 years and 13 percent of boys aged 15-19 years never attended school whereas 28 percent of adolescent girls aged 10-14 years and 38 percent of girls aged 15-19 years had no schooling. According to the 2001 NDHS, only 14 percent of the boys in the 15-19 age group had no education compared to 52 percent of girls in the same age group.¹⁰³

The RHIYA baseline survey also revealed the same result. There were 4,926 respondents and slightly over one-fifth (22.1%) were illiterate, which was higher among females (31.3%) than males (8.5%).¹⁰⁴ A series of focus group discussions conducted by Waszak, Thapa and Davey showed that gender norms influence access to schooling. One of the key findings was that gender inequalities existed especially on who the parents will choose to send to school. Respondents explained that parents were more likely to educate sons than daughters and often kept the girls home to help with domestic chores or look after younger siblings.¹⁰⁵

Parents prefer to keep their daughters at home instead of sending them to school to ensure that they remain chaste until marriage. Even when families have the economic means to send both sons and daughters to school, they often send boys to “good boarding schools” and keep daughters in local schools. One respondent of the focus group discussions explained such an occurrence:

“People have the idea that if they educate a son, he will earn money and look after them later. Some parents feel that there is no use educating a girl, because one day she has to go off to her husband’s place.”(Uneducated woman from urban Baitad)

However, there are also some who change their attitudes towards educating girls. Some participants see that education can help girls become independent and strong. Moreover, access to information and education will help them take better care of their families.

5. Political Leadership

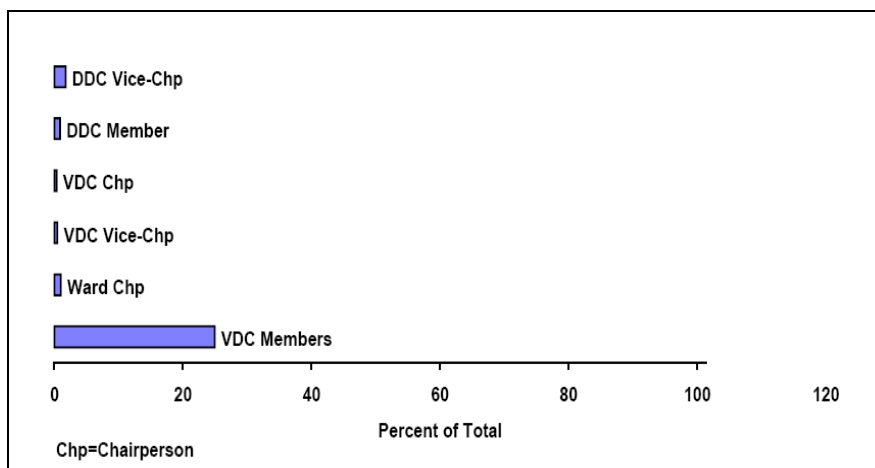
To determine the political participation of women, factors such as access to power and to the decision-making process are important indicators. Since Nepal is a patriarchal and a male dominated society, women are discriminated and their representation in politics is inadequate. The Parliament is represented by 12 women, 7 (3.4%) in the lower house and 5 (8.3%) in the upper house. Most of them belong to the small upper strata of urban, middle class, upper caste (primarily Bahun, Chhetri and Newars) with educated elite background. None originated from the rural, grassroots with low caste background.¹⁰⁶

Most of the women leaders in the higher levels of the government do not have adequate political background. They do not possess an independent political identity. Many of them have been projected by the parties primarily on account of very close family relations such as the widow or daughter-in-law of a senior male leader. The assertive, dynastic and patriarchal factors appear to have deeply influenced the political career of many women politicians.

Through the Act on Local Election, participation and representation of the women in the local government is made possible. It stipulates that all political parties field at least one candidate at the ward level. The representation of women was made mandatory at the VDC and DDC levels. As a

consequence, in the 1997 elections, more than 100,000 women participated in the VDC elections as candidates and more than 36,000 were elected to the village assembly.¹⁰⁷

Figure 14. Percentage of Seats Won By Women in the 1997 Local Election



Source: ADB, 1999.

The low participation and representation of the women in the politics of Nepal are attributed to the following factors:¹⁰⁸

- Patriarchal and male dominated society which treats women as second class citizens and compels them to accept their low and subordinate status in society;
- Low level of literacy and political awareness among women;
- Economic dependence of women on male members of the family as a result of denial of property rights;
- Lack of family support to active participation in politics which compels many women to choose between home and public life;
- Lack of confident, competent and credible women who can act as the models at all levels of society;
- Growing criminalization, and corruption making it difficult for women to participate actively in politics;
- Weak civil society and isolationist as well as divisive tendencies among the women groups and other alternate groups provided a *carte blanche* freedom to the unprincipled and amoral people to misuse political power; and
- Tendency to distance from the political process and obsession with the NGO type projects resulted in loss of credibility for most of women groups, who, otherwise, could have made very useful intervention in the political challenge ahead.

6. Domestic and Sexual Violence

Domestic violence against women is common. Despite its prevalence, there is no separate legislation on it. However, laws under the *Muluki Ain* punishing murder, attempted murder and physical assault are used in prosecuting cases of domestic violence. Another tool is the State Cases Act wherein the state can prosecute for the crimes of murder and attempted murder. Under this law, physical assault is not considered a crime for which the state can be a prosecuting party. In physical assault cases,¹⁰⁹ the victim must bring a private suit through a hired attorney.

According to the New ERA report, the major causes of women leaving the married household are polygamy and subsequent violence against one of the co-wives. Alcohol-related violence in the domestic

arena was reported all over Nepal and across all communities. Aside from this, dowry-related incidents are also found to be causes of domestic violence.¹¹⁰

In 2001 NDHS, women respondents were asked about their attitude toward wife-beating. The survey asked whether a husband would be justified in beating his wife in each of five scenarios: if she burns food, if she argues with him, if she goes out without telling him; if she neglects the children and if she refuses sex with him. This survey was conducted in order to measure women's empowerment. The more reasons agreed by the female respondents, the lower the level of their empowerment (Table 21).

Table 21. Women's Attitude toward Wife-Beating, 2001

| Background characteristic | Husband is justified in hitting or beating his wife if she: | | | | | Percentage who agree with at least one specified reason | Number of women |
|----------------------------------|---|-----------------|------------------------------|-----------------------|------------------------------|---|-----------------|
| | Burns the food | Argues with him | Goes out without telling him | Neglects the children | Refuses to have sex with him | | |
| Age | | | | | | | |
| 15-19 | 6.3 | 11.2 | 12.5 | 28.0 | 3.2 | 32.1 | 941 |
| 20-24 | 5.6 | 9.1 | 13.6 | 26.2 | 2.7 | 29.8 | 1,658 |
| 25-29 | 4.5 | 8.7 | 12.4 | 27.6 | 2.7 | 31.0 | 1,666 |
| 30-34 | 3.6 | 7.4 | 10.7 | 25.0 | 3.3 | 28.5 | 1,427 |
| 35-39 | 5.1 | 7.9 | 11.4 | 23.2 | 2.9 | 26.6 | 1,168 |
| 40-44 | 4.6 | 8.0 | 12.3 | 23.2 | 3.8 | 26.2 | 1,030 |
| 45-49 | 6.0 | 9.6 | 12.7 | 20.5 | 3.4 | 25.2 | 837 |
| Marital status | | | | | | | |
| Married | 5.0 | 8.6 | 12.1 | 25.1 | 3.0 | 28.7 | 8,342 |
| Divorced/separated/widowed | 6.3 | 10.5 | 14.7 | 25.8 | 4.3 | 30.0 | 384 |
| Number of living children | | | | | | | |
| 0 | 6.9 | 11.1 | 13.4 | 26.9 | 3.5 | 31.0 | 1,051 |
| 1-2 | 4.5 | 8.2 | 12.1 | 26.3 | 2.6 | 29.7 | 3,101 |
| 3-4 | 4.8 | 8.5 | 12.4 | 25.0 | 3.3 | 28.6 | 3,016 |
| 5+ | 5.2 | 8.7 | 11.4 | 22.1 | 3.3 | 25.8 | 1,557 |
| Residence | | | | | | | |
| Urban | 3.9 | 8.0 | 13.2 | 29.0 | 2.7 | 33.2 | 841 |
| Rural | 5.1 | 8.8 | 12.1 | 24.8 | 3.1 | 28.3 | 7,885 |

Source: NDHS, 2001

Twenty-nine percent of women aged 15-49 years agreed that a husband is justified in beating his wife for at least one reason. One in four women agreed that wife beating is justified if a woman neglects her children, while 12 percent agreed that a husband is justified in beating his wife if she goes out without telling him. Nevertheless, less than 10 percent of women felt that a husband is justified in beating his wife if she refuses to have sex with him, burns the food, or argues with him.¹¹¹

Age has some influence on a wife's empowerment. The older a woman, the less likely is she to believe that a husband is justified in beating his wife for a specified reason. In the case of rural women, they were slightly less likely to agree that wife beating is justified for any reason at all than urban women, and education and employment play a small role in women's attitudes toward wife beating.¹¹²

7. Rape and Indecent Assault

In the *Muluki Ain*, rape is described as an act of sexual intercourse with a woman without her consent or with the use of force, threats, fear or immoral enticement. The law does not expound on the scope and

definition of rape although judicial interpretations have limited it to vaginal penetration. Nepalese courts view that when a woman is raped against her will but does not resist the sexual advances of the rapist, the act does not amount to rape.¹¹³

Existing laws do not recognize marital rape but a landmark Supreme Court decision in 2002 held that failing to recognize rape as a criminal act solely because of the marital relationship of the parties constitutes discrimination and is in violation of the constitution. The *Muluki Ain* prescribes five to seven years imprisonment for an individual convicted of rape if the victim is 16 years or older.¹¹⁴

In relation to marital rape, the 2001 NDHS asked female respondents about their attitudes toward refusing sex with their husband. The survey wanted to know their attitude toward women's right and control over their own sexuality as measured by their option to refuse sex with her husband. Respondents were given four scenarios to agree with: she knows that her husband has a sexually transmitted disease; she knows that her husband has sex with other women; she has recently given birth; and she is not in the mood. The more reasons women agree with, the higher their empowerment in terms of their belief in women's sexual rights (Table 22).¹¹⁵

Table 22. Women's Attitude toward Refusing Sex with Husband, 2001

| Background characteristic | Wife is justified in refusing sex with husband if she: | | | | Percentage who agree with all of the specified reasons | Percentage who agree with none of the specified reasons | Number of women |
|----------------------------------|--|--|--------------------------|-----------------------------|--|---|-----------------|
| | Knows husband has a sexually transmitted disease | Knows husband has sex with other women | Has recently given birth | Is tired or not in the mood | | | |
| Age | | | | | | | |
| 15-19 | 95.8 | 94.1 | 97.2 | 96.4 | 90.6 | 1.1 | 941 |
| 20-24 | 95.8 | 94.0 | 97.7 | 97.2 | 90.9 | 1.0 | 1,658 |
| 25-29 | 95.3 | 93.5 | 97.3 | 96.4 | 89.1 | 1.0 | 1,666 |
| 30-34 | 95.9 | 93.8 | 97.4 | 96.7 | 90.3 | 1.2 | 1,427 |
| 35-39 | 94.3 | 94.0 | 96.8 | 96.1 | 89.7 | 1.5 | 1,168 |
| 40-44 | 94.8 | 94.2 | 97.6 | 96.3 | 89.4 | 1.1 | 1,030 |
| 45-49 | 94.2 | 93.5 | 97.3 | 96.8 | 90.0 | 1.3 | 837 |
| Marital status | | | | | | | |
| Married | 95.3 | 93.9 | 97.4 | 96.7 | 90.1 | 1.1 | 8,342 |
| Divorced/separated/widowed | 94.8 | 93.8 | 95.8 | 94.3 | 88.4 | 2.2 | 384 |
| Number of living children | | | | | | | |
| 0 | 95.6 | 93.6 | 96.9 | 96.2 | 89.9 | 1.3 | 1,051 |
| 1-2 | 95.9 | 93.6 | 97.8 | 96.8 | 90.7 | 1.0 | 3,101 |
| 3-4 | 95.3 | 94.3 | 97.3 | 97.1 | 89.9 | 0.9 | 3,016 |
| 5+ | 93.8 | 93.7 | 96.8 | 95.4 | 89.0 | 1.9 | 1,557 |
| Residence | | | | | | | |
| Urban | 95.1 | 92.1 | 97.2 | 94.6 | 88.5 | 1.6 | 841 |
| Rural | 95.3 | 94.0 | 97.4 | 96.8 | 90.2 | 1.1 | 7,885 |

Source: NDHS, 2001

The results indicated that most women (90%) felt that they are justified in refusing sex with their husband for all four reasons, with little variation by specific reason, background characteristics, or other women's status indicators.

Under the *Muluki Ain*, sexual intercourse with a girl under age 16 is considered statutory rape. Penalties for rape vary depending on the age of the victim, ranging from 10 to 15 years imprisonment if the victim is younger than age ten; seven to ten years imprisonment if the victim is older than age 10 and younger than 16; and five to seven years imprisonment if the victim is age 16 or older.¹¹⁶

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