

Between Hopes and Despair:

Women, Youth and
Marginalised Groups
in Lumbini Province



Author

Dr. Isha Gharti

Editors

Bikash Koirala

Dr. Debendra Prasad Adhikari

Pragya Shah

Copy Editor:

Michael Raj

Designer:

Camikara Yuwono

Fact Finding Team:

Bimal Kumar Phnuyal

Dr. Isha Gharti

Shekhar Dahit

Photographer/Videographer:

Kumar Thapa

Local Assistance:

Bishnu Rokaya

Jugamani Pachaldangya

Manju Tharu

Rupshikha Chaudhariya

Tilak Gharti Magar

Copyright © Asian Forum for Human Rights and
Development (FORUM-ASIA) 2023

The publication is written for the benefit of human rights defenders and civil society organisations and may be quoted from or copied but not modify the contents of the report, so long as the source and authors are acknowledged.



www.forum-asia.org



[/FORUMASIA](https://www.facebook.com/FORUMASIA)



[forum_asia](https://twitter.com/forum_asia)



[ForumAsiaVideo](https://www.youtube.com/ForumAsiaVideo)



[forumasia.humanrights](https://www.instagram.com/forumasia.humanrights)



Sign up to our newsletter here

Bangkok Office

S.P.D Building 3rd Floor, 79/2 Krungthonburi
Road, Khlong Ton Sai, Khlong San, Bangkok,
10600 Thailand

Tel: +66 (0)2 1082643-45

Fax: +66 (0)2 1082646

Geneva Office

Rue de Varembe 1, 2nd floor,
1202 Geneva, Switzerland

Tel: +41 (0)22 740 2947

Jakarta Office

c/o KontraS

Jalan Kramat 2 No. 7, Senen

Jakarta Pusat 10420, Indonesia

Tel/Fax: +62 (0)21 391 9006

Kathmandu Office

c/o INSEC

Syuchatar, Kalanki ,

Kathmandu, Nepal

Tel: +977 (0)1 521 8770

Email: info@forum-asia.org

Acknowledgements

The Asian Forum for Human Rights and Development (FORUM-ASIA) would like to extend its gratitude to Community Self Reliance Centre (CSRC) for conducting the field work and for putting together this informative, meaningful report. We would also like to thank the lead researcher and the research associate for efficiently conducting the fact-finding mission and gathering data. This report would not have been possible without the valuable insights and active participation of stakeholders who agreed to be a part of discussions and interview processes. We would like to extend our gratitude to United States Agency for International Development (USAID) and The Asia Foundation for their continuous commitment and efforts towards improving the status of Women, Youths and Marginalised groups especially in the context of their fundamental freedoms and participation in civic space. Our sincerest gratitude also goes to USAID Civil Society and Media (CSM) program for financially supporting this endeavor.



The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond.

It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu.

Foreword

At FORUM-ASIA, we are committed to empowering civil society and marginalised communities by promoting and protecting human rights, civic space and democracy in the region and building a resilient Asian civil society. Additionally, in the context of Nepal, with the support of member organisations through continuous research, capacity building and advocacy efforts, the organization identifies the status of Women, Youth and Marginalized groups, their achievements and their struggles specifically in the domain of exercising fundamental freedoms and civic space.

In Nepal, Women, Youth and Marginalised groups have been placed at vulnerable situations owing to multiple factors which include traditional practices, social exclusion and systemic failure. With the collaborative efforts of multiple stakeholders ranging from stakeholders on the ground to authorities at the top positive changes, concrete achievements to improve their situation have been made possible. The Constitution of Nepal guarantees rights and freedoms that aims to protect and promote the welfare of its citizens. There are also specific constitutional provisions that are enshrined keeping in mind the interest of these groups. Laws and policies have also been formed particularly to protect the interests of Women, Youth and Marginalised groups and prevent them from further vulnerability.

This report attempts to unpack factors that have played a crucial role in creating a conducive environment for their overall development, as well as factors that pose risks and challenges to them and identify collective strategies to create a fair and inclusive society.

Mary Aileen Diez-Bacalso
Executive Director
FORUM ASIA

List of Acronyms

CSOs	Civil Society Organisations
CEIDP	Commission of Investigation on Enforced Disappeared Persons
FPTP	First-Past-The-Post
PR	Proportional Representative
FFM	Fact Finding Mission
FGD	Focused Group Discussion
GEDSI	Gender Equity Disability and Social Inclusion
HR	Human Rights
INSEC	Informal Sector Service Centre
KII	Key Informant Interview
NLRF	National Land Rights Forum
MAHURI Home	Madhes Human Rights Home
NFDN	National Federation of Disabled Nepal
NHRC	National Human Rights Commission
PwD	Persons with Disability
SWAN	Social Welfare Action Nepal
CSRC	Community Self Reliance Centre
TRC	Truth and Reconciliation Commission
UNDRIP	United Nation Declaration of the Rights of Indigenous Peoples
UDHR	Universal Declaration of Human Rights
WYM	Women Youth and Marginalised Community

Table of Contents

Foreword	5
List of Acronyms	7
Executive Summary	11
1. Introduction	15
Contextual Background in Lumbini	16
Key objectives:	19
Data collection Method	21
2. Methodology	21
Quality Control and Data Protection	22
Limitations	23
3. Human Rights Framework	25
4. Challenges to Human Rights, Fundamental Freedoms, and Civic Space	29
4.1 Women	30
4.1.a Gender-Based Violence and Discrimination	30
4.1.b Unequal Access to Education, Healthcare, and Economic Opportunities	33
4.1.c Underrepresentation in the Decision-Making Processes	34
4.2 Youth	36
4.2.a Suppression of Youth Voices and Limited Participation in Governance	37
4.2.b Barriers to Quality Education, Employment, and Personal Development	38
4.2.c Restrictions of digital rights and online spaces	41
4.3. Marginalised Groups	43
4.3.a Deep-Seated Discrimination and Maginalisation	43
4.3.b Limited Access to Essential Services and Opportunities	44
4.3.c Vulnerability to Human Rights Abuses Due to Intersecting Identities	45
5. Promoting Human Rights, Fundamental Freedoms and Civic Space	49
5.1 Women	49
5.1.a Women’s Empowerment and Leadership Promoting Human Rights	49
5.1.b Women as Advocates for Human Rights	51
5.1.c Gender-Responsive Policies and Programmes - They Matter	52
5.2. Youth	53
5.2.a Youth-Led Initiatives Promoting Human Rights	53
5.2.b Youth-Driven Campaigns for Social Justice and Positive Change	55
5.2.c Intergenerational Dialogue to Foster a Culture of Human Rights	55
5.3 Marginalised Groups	57
5.3.a Marginalised Communities and Their Fight for Their Rights	57
5.3.b Collaborations Between Marginalised Groups and Civil Society Organisations	58
5.3.c Importance of Cultural Preservation and Recognition	59

6. Civic Space and Participatory Governance	61
6.1 Civic Space and Its Role in Democratic Participation and Human Rights Advocacy	61
6.2 The Significance of Civil Society Organisations in Promoting and Protecting Rights	62
6.3 Successful Civic Initiatives Involving Women, Youth, and Marginalised Groups	63
7. Recommendations	67
7.1 Policy Recommendations	67
7.2 Recommendations of Strategies for the Local Government	68
7.3 Recommendations for CSOs, International Partners and Private Sector	69
8. Conclusion	71



World Peace Pagoda in Lumbini



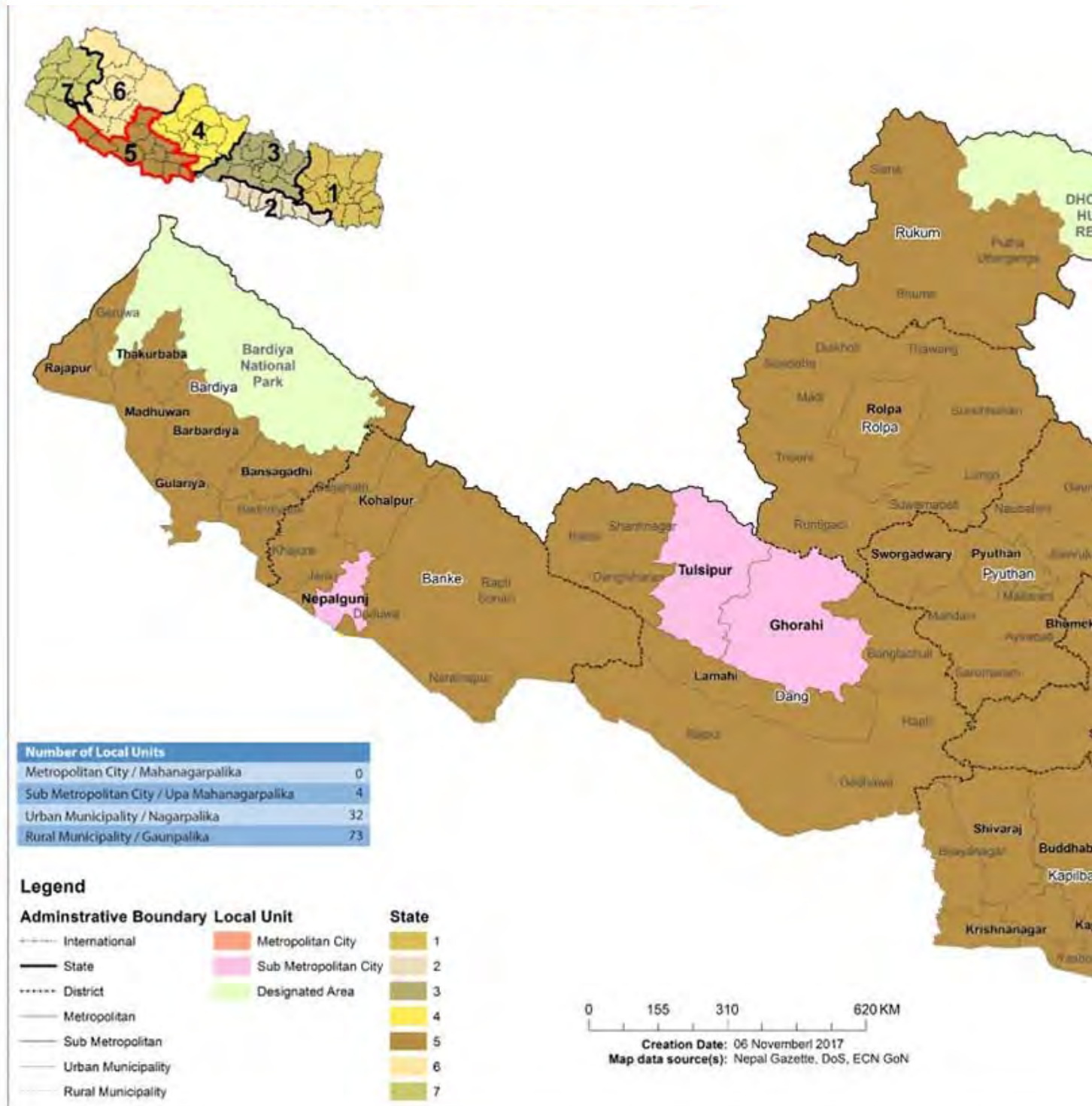
Executive Summary

The Lumbini Province experienced a record number of human rights violation cases in the year 2022, with the majority of cases relating to the Women, Youth, and Marginalised (WYM) population. This situation shows how different aspects of a person's identity, such as their gender, caste, ethnicity, religion, job, family background, community, and where they live, all come together to affect them. It also proves that even though there have been some improvements in society and the law, women and marginalised groups still face a lot of discrimination and exclusion.

These violations of WYM's human rights, fundamental freedom and the shrinking civic space threaten the very foundation of an inclusive and democratic society. Our goal is to unearth some of these human rights violations and abuses related to fundamental freedom, human rights, and civic space, in a bid to identify challenges and opportunities for advancing human rights and civic engagement.

WYM experiences perpetual human rights violations streaming from new forms of hierarchy and power-dynamics that prevaricate the socio-political and legal transformation of the past few decades. Patriarchy, unequal power locations, and systemic violence has continued gender-based violence and discrimination, violated their right to education, health and economic standing, and perpetuated their under-representation in the decision-making and problem-solving processes. Youth voices are similarly suppressed due to bias against their age and their unequal power location in public and private spaces that limit their participation in governance. Structural inequalities limit their access to education, employment, and personal development, and also restrict their digital rights which further limits their exposure and access to opportunities. Discrimination and marginalization of historically disadvantaged groups, deeply ingrained in our institutions and culture, persistently harm their dignity and exclude them from mainstream social and political activities. These vulnerabilities become even more pronounced when their multiple identities intersect with existing structural barriers that continue to hinder their progress.

Lumbini Province Map



WYM, despite hurdles, are promoting human rights, fundamental freedom and civic space. Women and girls within their context, are fighting to be empowered and are rising as leaders for their cause. Gender responsive policies are aiding women and girls closer to asserting their rights, ensuring meaningful participation and breaking rigid structural barriers, albeit gradually. Women and girls are thus becoming champions for their own cause driving the very fabric of social transformation. Youths are increasingly taking charge in defending and disseminating human rights and fundamental freedom and social causes.

In the context, fostering intergenerational dialogue will further encourage and motivate youths to break the barriers that impede their exercise of human rights. Marginalised communities are standing up to defend their dignity and rights. Together with civil society organisations, they are challenging the status quo and asserting their rights. As such, WYM are caught between limits set by the socio-political structures and their inherent desire to live a life of freedom and equality.

Within this paradoxical entanglement of hope and despair experienced by the WYM multipronged approach can be adopted. One of which can be in the domain of policy. Formation of policy is a positive approach towards tackling and regulating issues but an equally significant step is its implementation. It is crucial to draft policies in alignment with the international policies and treaties that a country is signatory to. This step can play a greater role in indicating a meaningful commitment towards tackling local issues in alignment with the international standards. With the change in the scenarios, it becomes important to amend the existing policies to cater to the needs of the situation.

Another approach can be taken from the side of local level government by taking up initiatives to introduce and adopt strategies preventing marginalized group from vulnerabilities which may include organizing awareness raising campaigns, setting up mechanisms in place to ensure access to basic entitlements, organize need based skill trainings for youths, and improve collaboration amongst multiple stakeholders. Improved collaboration between stakeholders from diverse sectors like - NGOs, Private sectors and international bodies can help facilitate advocacy at local, provincial and national level.





Rosan Kumal, Gadhawa RM-6, Dang, Lumbini Province



Introduction

The last few years have seen unprecedented ominous moments for human rights in Asia, despite most of its countries' ratification of many of the human rights treaties¹. The condition of minorities in the countries that make up the region of South Asia—home to a fifth of humankind—is also rather grim. This is the outcome of poor commitment of South Asian States in protecting and promoting human and minority rights, and poor implementation of the measures that do exist². With the shrinking civic space in South Asia, the principles of democracy, universal human rights, and the rule of law are under increasing attack. Rising authoritarianism, fundamentalism, nationalism, gender, racial and ethnic discrimination are all contributing to the threats to human rights and democracy, fundamental freedom and contraction of civic space in many places. The myriad of laws, policies and decision-making processes at all levels – local, national and international – that afford more power and privilege to a particular section of population than to people, often exacerbate the narrowing of civic space and the very fabric of inclusive society. The condition in Nepal echoes these violations.

Gender based violence in and outside the home has persisted with 65 percent of women experiencing some form of domestic violence, where 90 percent of the perpetrators are male. 31 per cent of women are married before they reach the age of 18, and 7 percent of women are victims of polygamy³.

1 Ideas, Peiró, Ana Ballesteros “Human Rights in Asia”, March 10, 2021, <https://revistaidees.cat/en/els-drets-humans-a-lasia/>

2 Reliefweb, “South Asia State Minorities Report 2022: Weakening human Rights Commitment and Its Impact on Minorities”, February 13, 2023, <https://shorturl.at/rsIQ8>

3 WOREC, “Annual Factsheet on Gender Based Violence Against Women and Girls”, Accessed September 5, 2023, <https://shorturl.at/iDP14>

40.8 percent of the country's population is categorised as 'youth'⁴, and in 2022 the unemployment rate was 11.1 percent. Despaired by the disappointing state at home, 740,000 youths have obtained permits to work abroad⁵. 1,000 dead bodies arrive home from The Gulf and Malaysia each year⁶, and a total of 1,492 bodies of migrant workers were received in the first nine months of the year 2022⁷. Despite reports of harrowing working and living conditions abroad, the concern of these migrant workers have not yet been addressed and is still a matter of concern, their contribution to the economy is a whopping 27 per cent⁸.

The law also has not guaranteed protection from forced eviction for those living in informal settlements and has not defined key terms such as homelessness and security of tenure neither has it been able to protect indigenous peoples right to land and resources. Wrongful arrests during peaceful protests⁹ are on the rise. There was no progress made towards delivering truth, justice and reparation to the tens of thousands of victims of grave human rights violations committed by the state security forces and Maoist rebels during the 1996-2006 internal armed conflict, and has failed to resolve a single case¹⁰. These snippets of human rights violation cases in Nepal continue to pose threats to the democratic values of the country and the vision of an inclusive and just society as stated in the Constitution of Nepal (2015) where everyone enjoys human rights, fundamental freedom and civic space.

The constitution of Nepal was promulgated in 2015 after a long struggle towards equality, assurance of fundamental freedom and vibrant civic space. The vision of an inclusive society as enshrined in the constitution is to recognise and build development policies around the diversity of their members and enable everyone's full inclusion and participation—regardless of their status¹¹. An inclusive society aims at empowering and promoting the social, economic, and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion, economic, or other status, and leaves no one behind¹². It is promoted by social policies that seek to reduce inequality and create flexible and tolerant societies with a thriving civic space¹³.

Civic space enables people to participate meaningfully in every aspect of their democracy, from social and political issues to even the economy and culture. However, challenges in respecting and ensuring fundamental freedoms and civic space have been observed across the country. The trends have been most severe in the Lumbini Province, which ranked highest among the 7 provinces of Nepal, in terms of human rights abuses and violations in 2022¹⁴.

Contextual Background in Lumbini

Women and children were mostly affected in the documented incidents. Similarly, people from the Dalit community, students, housewives and journalists were found to be vulnerable amongst others¹⁵. Domestic violence especially against

4 Kumar, Brabim, "County of The Young", The Kathmandu Post, August 12, 2015, <https://kathmandupost.com/opinion/2015/08/12/country-of-the-young>

5 My Republica, "Over 740,000 Migrant Workers Get Permits for Foreign Employment In 11 Months of Current FY", July 4, 2023, <https://shorturl.at/biC49>

6 The Guardian, "Families Mourn 'Devastating' Suicide Rates Among Nepal's Migrant Workers", Accessed September 5, 2023, <https://shorturl.at/owxYZ>

7 Khadka, Sabita, "Number of Deaths Of Nepali Migrant Workers Abroad on The Rise Despite Govt Efforts to Curb It", My Republica, September 20, 2023, <https://shorturl.at/amoU6>

8 The Kathmandu Post, "Nepal's Remittance Earnings Continue to Grow, Reaching Rs689.88 billion", March 12, 2023, <https://shorturl.at/oqJ24>

9 Khatiwada, Nishan, "Nepali State's Commitment to Free Speech in Doubt", The Kathmandu Post, March 24, 2023, <https://kathmandupost.com/national/2023/03/24/nepali-state-s-commitment-to-free-speech-in-doubt>

10 Amnesty International, "Nepal 2022", Accessed September 5, 2023, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/nepal/report-nepal/>

11 UNHR Office of The High Commission, "Empowerment, Inclusion, Equality: Accelerating Sustainable Development with Human Rights", Accessed September 5, 2023, <https://www.ohchr.org/sites/default/files/Documents/Issues/MDGs/Post2015/EIEPamphlet.pdf>

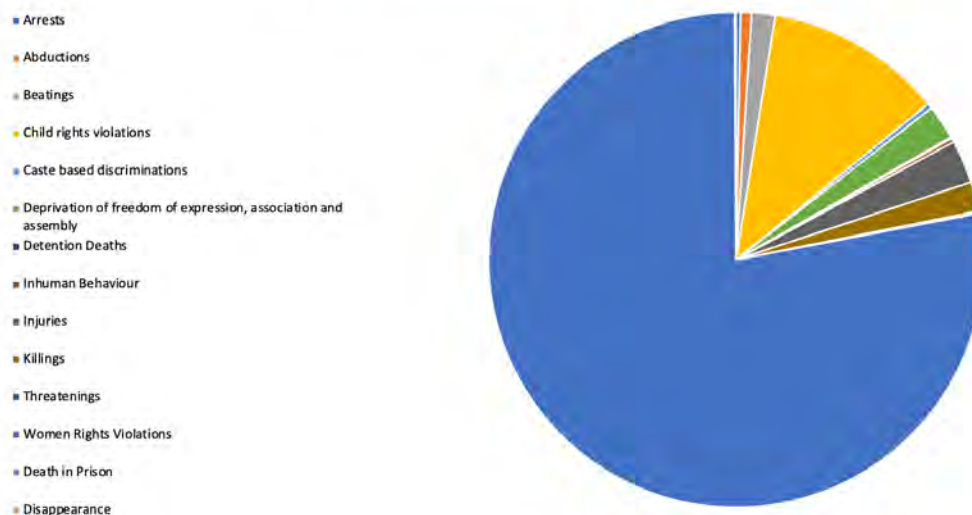
12 UN.org, "Vision for An Inclusive Society", Accessed September 5, 2023, <https://www.un.org/esa/socdev/documents/compilation-brochure.pdf>

13 Fact Sheet No.2 (Rev.1), The International Bill of Human Rights, <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf>

14 INSEC Online, "Two Thousand And Eighty Four Victims Of Human Rights Abuses And Violations Documented In Lumbini Province In 2022", February 19, 2023, <https://inseconline.org/en/news/two-thousand-and-eighty-four-victims-of-human-rights-abuses-and-violations-documented-in-lumbini-province-in-2022/>

15 Ibid

Human Rights Violations in Lumbini Province, 2022



single women¹⁶, wage disparity based on gender¹⁷, child marriage¹⁸, insecurity, challenges with foreign migration¹⁹, constituted major violations of human rights in the Lumbini province.

The Lumbini province is very ethnically diverse²⁰. Madhesi Dalits, Muslims, indigenous communities, minorities and endangered castes live here, out of which, the living standards of minority communities such as Natuwa²¹, Patharkatta, Badi, Kumal, Kinggiriya, Chidimar, Kushbadiya²² are at high risk.

16 My Republica, "Single Women in Rolpa Facing Domestic and Social Violence", February 12, 2018, <https://myrepublica.nagariknetwork.com/news/single-women-in-rolpa-facing-domestic-and-social-violence/>

17 My Republica, "Women Workers in Rolpa Continue to Suffer Wage-Discrimination", May 1, 2018, <https://myrepublica.nagariknetwork.com/news/women-workers-in-rolpa-continue-to-suffer-wage-discrimination/>

18 Dangi, Kashiram, "Child Marriage Still Rampant in Rolpa", The Kathmandu Post, March 6, 2022, <https://kathmandupost.com/province-no-5/2022/03/06/child-marriage-still-rampant-in-rolpa>

19 Gahatraj, Rupa, "Beset By Poverty at Home, Banke Women Face Horror Abroad", The Kathmandu Post, March 2, 2023, <https://kathmandupost.com/province-no-5/2023/03/02/beset-by-poverty-at-home-banke-women-face-horror-abroad>

20 Census Nepal, "National Population and Housing Census 2021", Accessed September 5, 2023, <https://censusnepal.cbs.gov.np/results/population?province=5&district=50&municipality=8>

21 Shrestha, Laxman, "Lifestyle and Struggle of The Nomadic Nat Community: A Study of The Nat Community In Sarlahi, Nepal", Nepal Journal Online, December 26, 2022, <https://www.nepjol.info/index.php/irjmmc/article/view/50741>

22 INSEC, "Nepal Human Rights Yearbook 2022", Accessed September 5, 2023, https://www.insec.org.np/wp-content/uploads/2022/02/NHRYB2022_english.pdf

The youth in Lumbini province, like in the rest of the country, is finding it hard to gain employment in their region. Each year thousands of youths leave for employment opportunities abroad. Fueled by hopelessness, problems related to drug smuggling and drug use are on the rise in Lumbini province especially in Banke²³ and Kapilvastu.

The alarming situation of fundamental freedoms and civic space in Lumbini Province, especially for women, youth, and marginalised (WYM) communities on the ground, is complex and depends on various factors such as gender, caste, ethnicity, religion, occupation, family history, and the specific community and location. A strong intersectional lens is required to assess the unique needs and challenges of WYM to promote and protect their fundamental freedoms and civic space in their respective locations. Similarly, WYM holds a wealth of indigenous knowledge, expertise, and skills which remain to be tapped and amplified.

23 Nepal News, "Drug Issues on The Rise in Banke", June 26, 2022, <https://nepalnews.com/s/issues/drug-issues-on-the-rise-in-banke>



FGD, Marginalization (Badi) Community, Dangisharan RM-6, letar, Dang



While governmental and non-governmental organisations have increasingly pivoted towards a bottom-up and participatory approach, the remnants of a traditional grant-recipient relationship have excluded the most vulnerable and marginalised from within the WYM group, in turn establishing new forms of hierarchy and power-dynamics in communities.

As a result, narratives around human rights violations and abuses, as well as accountability, are largely shaped by certain groups with access and control over resources, media, and power-centers at the local, provincial, and federal-level. This fact-finding mission aims to reach WYM working in or for fundamental freedoms and civic space in the provinces to unearth human rights abuses, violations, and accountability issues which have not (adequately) been covered by mainstream media, intervened by civil society organisations, and neglected by policy-makers. The mission includes various organisations from civil society, grassroots groups, networks, alliances, coalitions, and human rights defenders who are dedicated to advancing and safeguarding the human rights, basic freedoms, and civic engagement of communities led by women and young people.

Key objectives:

1. Unearth human rights violations and abuses related to fundamental freedoms of expression, association, and peaceful assembly faced by WYM and CSOs, grassroots networks, and non-traditional actors working for WYM in Madhesh and Lumbini Provinces.
2. Identify opportunities, indigenous knowledge, expertise, and skills of CSOs, grassroots networks, and non-traditional actors led by or working to protect human rights and fundamental freedoms of WYM.



Fact Finding Mission Planning meeting between FORUM-ASIA and Research Team members



Methodology

This research examines the state of basic freedoms and civic participation in Lumbini Province, covering four districts; Rolpa, Dang, Banke and Kapilvastu. It aims to discover the potential, indigenous wisdom, expertise, and skills of various organisations, including civil society groups, grassroots networks, and unconventional actors, all of whom are led by or working to safeguard the human rights and fundamental freedoms of women and young people. The district has been selected on the basis of reports of human rights violation cases. Rolpa was the epicenter of the CPN (Maoist) armed conflict the likes of which were never seen in the history of the nation. The remnants of the armed conflict is still visible in the lives of inhabitants there.

The government, along with the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappearance Persons (CIDP), has established a rehabilitation programme for survivors of the conflict. However, many people in the district have been impacted by the armed conflict and still face its consequences. Unfortunately, they are not receiving the support they need because they are not officially recognised as survivors of the armed conflict. Kapilvastu, Dang and Banke are riddled with human rights violation cases spanning the private and public life of women, youth, and marginalised communities. The communities were selected out of these districts in consultation with local resource persons, staffs of CSRC, a member organisation of FORUM-ASIA, and corroborated with data provided by government and non-government sectors.

Data collection Method

The research primarily employs qualitative methods, although quantitative data was consulted from secondary resources to complement the findings of the study. The primary methods of data collection were Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs) supported by case studies. The study has been able to establish facts on the basis of evidence from the field together with examples and real-life experiences of the respondents.



Orientation, Dang, Lumbini Province

The marginalisation and oppression of WYM depends on their intersectional identities. Thus, a strong intersectional lens was employed to assess the unique needs and challenges of WYM who are active in promoting and protecting fundamental freedoms and civic space in their respective locations. The research is largely qualitative information and quantitative data derived from secondary sources that have been embedded as and when required in the research report. We have conducted 25 FGDs with 396 respondents and conducted 27 KIIs with civil society leaders, journalists, human rights activists, ministers, government officials, academia and constitutional bodies.

To ensure the participation and representation of the most marginalised and vulnerable communities, the utmost care was taken in employing intersectional lenses. The participant list was finalised with consultation with resource persons and government representatives. Similarly, KIIs were conducted with those CSOs, government representatives and grassroots organisations who worked on the areas that were identified during the FGDs. Those were identified on the basis of FGD participants, resource

persons and local representatives according to the objective of the research. Case studies were conducted on the basis of FGD discussions.

Quality Control and Data Protection

All the FGDs, KIIs and case studies were recorded (with prior consent of the participants) to provide the highest standard of quality assurance. Alternatively, the data collected was encrypted and stored to ensure transparency, with limited access to individuals outside the direct research team to safeguard confidentiality and ethical standards. The data will be stored according to the data protection policy of the implementing partners.

- **Sensitivity to Cultural Contexts:** The modality and questions were constantly modified and improvised to suit local contexts without compromising the core essence of the mission objectives. Prior to the FGDs, KIIs and case studies, study was done on basic cultural practices. The data collection team ensured compliance and adherence to local and cultural norms and contexts.



- **Voluntary Participation:** Participants were notified of the voluntary nature of their participation. They were also briefed that they had the right to refuse, at any time during their involvement, to respond to any questions without pressure. This commitment was communicated before the start of all FGDs, KIIs and case studies.

Limitations

The study focuses on only a few of the most vulnerable communities. While extreme caution has been taken to ensure that the site, community directly correspond to the objective of the study and represent the most vulnerable and marginalised even within the community. The study is small in its scale to represent all the issues of WYM. Additionally, while efforts are made to ensure a diverse range of participants, certain voices like those of gender and sexual minorities may remain underrepresented. Further each of the participants were pre listed ensuring intersectional lenses. However, these are still limited in their scope as these samples may not be enough to represent all the pertinent issues of an entire heterogeneous province or even a district. Nevertheless, the rich data collected are anticipated to ignite renewed and much needed focus on the situation of WYM.

- **Language:** Research Associate and enumerators/facilitators were selected from the target districts who were well versed in local language (Tharu, Awadi) and context. FGDs and other primary qualitative data collection was done in the local language to ensure that participants comprehended the context and were able to share their experiences with ease.
- **Informed Consent:** The research sought verbal consent from FGD participants while for KIIs and case studies, written informed consent was taken. The time, duration and details of the FGDs and KIIs were communicated to the participants.
- **Privacy and Confidentiality:** The data collection team, apart from a general introduction, did not record any personal details. The names of all the participants in the FGDs have been kept anonymous. Personal details of participants in the FGDs were not shared with anyone, except authorised representatives, for data quality purposes.

सहमति-पत्र

व्यक्तिको नाम: योग ३०३ ०७७७७७७७७७७७

फोन नम्बर: ९८८९०३८६२

म यस तथ्य खोज एवं अभिलेखन मिसनले तिन केसस्टडी सघनाको प्रयोग बारे जानकारी छ। यस सहमति पत्रको आधारमा मेरो अन्तर्वार्ता, मिडियो, फोटो लिनको लागि पूर्ण सहमति प्रदान गर्दछु। मैले उक्त फोटो, मिडियो र अन्तर्वार्ता प्रकाशन र प्रसारण गरे वापत अहिले वा भविष्यमा पनि कुनै किसिमको दावी वा भुक्तानी प्राप्त गर्ने छैन। यो सबै सहमति मैले प्रकाशन अघि खारेज गर्न सक्दछु।

.....

सहमति गर्ने व्यक्तिको सही

मिति: ०३/०३/२०२२

सहमति-पत्र

व्यक्तिको नाम:

फोन नम्बर:

म यस तथ्य खोज एवं अभिलेखन मिसनले तिन केसस्टडी सघनाको प्रयोग बारे जानकारी छ। यस सहमति पत्रको आधारमा मेरो अन्तर्वार्ता, मिडियो, फोटो लिनको लागि पूर्ण सहमति प्रदान गर्दछु। मैले उक्त फोटो, मिडियो र अन्तर्वार्ता प्रकाशन र प्रसारण गरे वापत अहिले वा भविष्यमा पनि कुनै किसिमको दावी वा भुक्तानी प्राप्त गर्ने छैन। यो सबै सहमति मैले प्रकाशन अघि खारेज गर्न सक्दछु।

.....

सहमति गर्ने व्यक्तिको सही

.....



FGD, Marginalize women, Banganga RM-10, Kapilbastu, Lumbini Province



Human Rights Framework

Universal Declaration of Human Rights (UDHR) is a milestone document that asserts fundamental human rights to be universally protected. It has inspired more than 80 international conventions and treaties, as well as numerous regional conventions and domestic laws. It has been the catalyst for improving human rights protections for groups such as disabled people, indigenous peoples and women. It asserts civil and political rights/freedom from torture and other cruel, inhuman or degrading treatment or punishment, fair trial, rights to freedom of thought, religion and expression privacy, home and family life, equality and non-discrimination; economic social and cultural right-education, fair and just conditions of work, an adequate standard of living, health, and social security.

Nepal has ratified UDHR and is also a party to six of the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)²⁴. Nepal having ratified a series of human rights treaties and a member State of the United Nations, is obligated to abide by the principles of the conventions and uphold the values of fundamental human rights, and ensure equal rights of its citizens²⁵. The Charter of the UN imposes a duty on member States to promote 'universal respect for and observance of, human rights and fundamental freedoms of all without distinction as to race, sex, language or religion²⁶.' Article 51(b)(3) of the Constitution of Nepal, 2015 obligates the State to pursue policies related to 'implementing international treaties and agreements to which Nepal is a state party'.

24 International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force Mar. 23, 1976. Nepal acceded to the ICCPR on May 14, 1991.

25 Preamble of the UN Charter. https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

26 Preamble of the UN Charter. Article 55 https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

Similarly, Section 9(1) of the Nepal Treaty Act, 1990 states:

'In case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws.'

These two provisions require Nepal to follow the principles of international law, which Nepal has agreed to as a party. Nepal has ratified a number of human rights treaties which can be studied in the table below.

SN	Treaties and Conventions	Date of Ratification
1.	International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	January 30, 1971
2.	Convention on the Rights of Child (CRC)	September 14, 1990
3.	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	April 22, 1991
4.	International Covenant on Civil and Political Rights (ICCPR)	May 14, 1991
5.	International Covenant on Economic, Social and Cultural Rights (ICESCR)	May 14, 1991
6.	Convention on the Rights of Persons with Disabilities 2006	May 7, 2010
7.	Optional Protocol to the Convention on the Rights of Persons with Disabilities, 2006 7/5/2010	May 7, 2010

If there were inconsistencies between international law and domestic legislation, the international treaty would prevail. Therefore, adequate consideration has been given to the importance of complying with international law. Nepal has not made any reservations (except in CERD) while ratifying, adopting or accessing international treaties; therefore, all provisions of all human rights treaties are applicable without any precondition. Nepal's 2015 Constitution, under the section titled 'Fundamental Rights and Duties' (Part 3, Articles 16-46), aligns with the fundamental human rights outlined in the Universal Declaration of Human Rights (UDHR), as well as with various human rights mechanisms and international humanitarian law, as per the UDHR and subsequent treaties and conventions.

The Constitution of Nepal contains provisions for the protection of individual rights, including the right to freedom of speech and expression, the right to form unions and associations not motivated by party politics and the right to freedom of professing his/her own religion. The relating policies, regulations and directives are thus required to be gender responsive and based on human right-based approaches.

Gender responsive and inclusive human rights approaches are cornerstone to protecting rights of the women, youth and marginalised communities. Integrating gender equality and human rights approaches to policies and plannings are a driver of positive change towards gender equality and inclusion. Gender-responsive and human rights-based approaches aim to examine the inequalities embedded in the social and political structure. They also aim to rectify discriminatory practices and unfair power imbalances that hinder the ability of citizens, especially the most vulnerable and marginalised groups like women and young people, to fully enjoy their fundamental freedoms.

WYM are often caught up in a perpetual cycle of violence, disadvantage and marginalisation that are institutionalised within the overall structures of society. They are disadvantaged by political, legal, economic, or cultural traditions. Because they are deeply ingrained and interconnected, long-standing inequities and hierarchical structures often resist change and result in severe violations of fundamental human rights. These abuses include the loss of dignity and respect, inadequate access to shelter, food, education, healthcare, and limitations on freedom of speech, association, and peaceful assembly. They also manifest in the enormous gap between people who have influence and material resources and those who are relatively powerless.

Often, these forms of structural violence become ingrained within the socio-cultural framework and are even internalised by the WYM communities themselves. In addition to these hidden forms of harm, many women and members of marginalized communities also face direct physical, social, and economic forms of violence. These types of violence are often condoned or justified by the existing social structure. Gender-responsive and human rights-based approaches can empower these vulnerable communities to understand and assert their rights. These approaches also enhance the capacity and responsibility of individuals and institutions responsible for respecting, protecting, and fulfilling these rights.

They aim to eliminate or at least diminish the impediments of existing exclusion and discrimination within the implementation of any policy or project²⁷. Human rights-based approach has proven monumental to the lives of the people around the world^{28,29}. In Nepal, following the adoption of a constitution dedicated to safeguarding the rights of vulnerable communities, there is a significant opportunity to ensure the fundamental freedoms of women and young people, especially those with multiple marginalized identities. However, without the effective implementation of these legal provisions, women and young people, particularly those with intersecting identities, still encounter challenges related to human rights, fundamental freedoms, and civic participation.

27 NHRC Nepal, "Human Rights Approach to Sustainable Development Goals and The Process of Voluntary Review", October, 2020, https://www.nhrcnepal.org/uploads/publication/SDGs_HRBA_VNR_Book_compressed.pdf

28 OHCHR, "Showcasing Human Rights Success in Daily Lives", January 18, 2019, <https://www.ohchr.org/en/stories/2019/01/showcasing-human-rights-success-daily-lives>

29 UNDP, "15 Success Stories About The Achievements of Civil Society In The Development of Democracy And Human Rights In Ukraine", May 24, 2022, <https://www.undp.org/ukraine/news/15-success-stories-about-achievements-civil-society-development-democracy-and-human-rights-ukraine>



FGD, Muslim women, Mayadevi RM-6, Baiskunda



Challenges to Human Rights, Fundamental Freedoms, and Civic Space

The socio-political changes and the subsequent legal reforms have come as much relief to the WYM communities. The changes are now reflective in the encouraging changes in the socio-political arenas with considerable representation from these traditionally overlooked communities. However, a massive fraction of the WYM continue to suffer under the rigid and unforgiving traditional structures that encompass and complicate social realities of diverse WYM on the basis of their intersectional identities.

Thus, bringing evident and sustained protection of human rights and fundamental freedom of WYM requires looking at the unique challenges of WYM through an intersectional lens. Intersectionality argues that individual identities such as gender, race, sexuality, and others, overlap and intersect and reflect macro-level forms of oppression and privilege, such as sexism, racism, and heteronormativity³⁰. It understands that oppression and privilege can shift depending on the context, and that all experiences of marginalisation are relevant³¹. Discrimination intersects on different axes of identity but are not experienced independently of one another, but together compound the experience of discrimination in the lived reality of a particular individual^{32,33}.

30 Crenshaw K. 1991. Mapping the margins: intersectionality, identity politics, and violence against women of color. *Stanford Law Rev.* 1991;43(6):1241–99. <https://doi.org/10.2307/1229039> Doi:citeulike-article-id:9698013 <https://blogs.law.columbia.edu/critique1313/files/2020/02/1229039.pdf>

31 BMC, “‘Doing’ Or ‘Using’ Intersectionality? Opportunities And Challenges in Incorporating Intersectionality into Knowledge Translation Theory and Practice”, August 21, 2021 <https://equityhealth.biomedcentral.com/articles/10.1186/s12939-021-01509-z>

32 EduBirdie, Experiences and Realities Used by Intersectionality to Understand Marginalised Groups and Individuals. (2022, March 18). Edubirdie. Retrieved August 22, 2023, from <https://edubirdie.com/examples/experiences-and-realities-used-by-intersectionality-to-understand-marginalised-groups-and-individuals/>

33 EduBirdie, “Experiences and Realities Used by Intersectionality to Understand Marginalised Groups and Individuals Accessed September 5, 2023, <https://edubirdie.com/examples/experiences-and-realities-used-by-intersectionality-to-understand-marginalised-groups-and-individuals/>

This allows us to understand why certain communities are more privileged than others, and even within those communities why certain individuals are at more advantage than others. For the analysis of the situation of WYM, the use of intersectional lens has been pivotal in considering historical, social and political contexts while recognizing unique individual experiences resulting from the confluence of different types of identity.

4.1 Women

4.1.A GENDER-BASED VIOLENCE AND DISCRIMINATION

The constitution ensures rights of women as fundamental rights. Further there are a number of Acts including Domestic Violence (Offence and Punishment) Act, 2009, Safe Motherhood and Reproductive Health Right Act, 2018, Sexual Harassment at Workplace (Prevention) Act, 2015, National Penal Code, 2017 that ensures women's right against gender-based violence. However, in the province, polygamy, domestic abuse and separation made up the majority of the cases.

Scenarios Leading to Early Marriage

Women in all the districts stated many women still have to undergo domestic and gender-based violence. Nationally, the cases of child marriage have gone down but it remains a prevalent practice in the Madhesi and Muslim community, although there are also cases in the hilly community. During the FGD in Nepalgunj, participants shared, last year some people from the Madhesi and Muslim community held a strike at the local, municipal, district administrative office in Nepalgunj demanding the right to marry their daughters at a young age. They believed their demands were justified because they pointed out several challenging factors.

These included the economic burdens associated with fulfilling the responsibilities of being a daughter, the high risk of inter-caste marriages, soaring dowry rates, fathers wanting to expedite rituals like Kanyadaan (giving away the daughter in marriage), concerns about delayed marriages, and a growing worry about the misuse of communication and social media by young

people. Children are often enticed by things like bicycles and money, which leads them to agree to early marriages. In Rolpa, child marriages primarily occur due to a lack of awareness about the consequences of early marriage and parents' neglect in raising their children.

On the other hand, in Kapilvastu, Dang, and Banke, the practice of dowry seems to be a significant factor contributing to child marriages. It could be inferred that a girl's family is forced to spend a large sum of money to get their daughter married. If a girl is educated, the practice is they usually have to find a match who is more educated than her. The more educated and prospective the groom is, the higher the dowry tends to be. One participant in Kapilvastu shared that he went abroad to work in Gulf countries, enduring extremely difficult conditions, just to save money for his daughters' dowries. He spent all his earnings on the weddings and is now left with nothing. Child marriage has significant implications, especially when young couples become parents without being fully prepared to care for their children, leading to potentially disturbing situations.

Gender Identity Restricting Access to Citizenship Certificate

The pain and plight of women are further complicated with intersectional identities intermingled with cultural and religious ideologies and practices. The women in Banke feel that Hindu women have relatively more freedom than other women. They feel they comparatively have freedom to mobilise and participate in programmes. In contrast they feel some conservative communities and Muslim women are still dictated by the norms of their culture. As human rights activist Maimoona Siddique informed, Madhesi women and especially Muslim women, are still limited to their homes and are under constant surveillance of their in-laws and husband.

Gender-based violence and discrimination that occur within households spill over into the public sphere, particularly in terms of women's restricted access to information and entitlements, including citizenship certificates. For instance, Madhesi and Muslim women tend to obtain citizenship certificates later in life, as their paternal families believe that it is the husband's responsibility to allow them to acquire citizenship in his name.



FGD, Marginalize women, Banganga RM-10, Kapilbastu, Lumbini Province

Furthermore, the discussion revealed that in many cases, a woman's access to citizenship depended on the dowry she brought into the marriage; the larger the dowry, the faster she would be granted citizenship.

During a focus group discussion, one participant from Kapilvastu expressed disappointment, saying, 'Muslim women have nothing to look forward to at any age, whether they are young or old.' In practice, the citizenship bill is surrounded by complexities. As the government itself was in a state of limbo concerning the citizenship bill for over a decade, the local authorities themselves were hesitant to provide services regarding the citizenship with mother's citizenship. Despite the citizenship amendment bill, many obstacles still exist for women who want to obtain citizenship for their children under their own names, as pointed out by Chitra Bahadur Shahi from the Bar Association in Nepalgunj.

The patriarchal mindset, and fear and suspicion of foreign men has forced the state to sideline genuine applications for citizenship in women's name for far too long. For instance, in Rolpa a woman who worked in the brick kiln and bore

a child outside of marriage could not acquire citizenship for her son despite the existing legal provisions. The issue of identity and citizenship is quite complex in the Badi community³⁴.

Identity is often spoken of with pride and a major force of dignity, and the citizenship certificate authenticates it. Yet for the oppressed, abused and discriminated community like Badi who are subaltern everywhere, identity is nothing more than a burden which they are forced to carry throughout their life.

One story is particularly illuminating. A young district level sports person from Dang shares her story of carrying the heavy burden of the Badi identity. Her grandparents were sex workers and travelled from one place to another with musical performances and were looked at with suspicion and possible moral depravity. She feels even though that has long stopped, her life looms around the 'legacy' of her forefathers. She feels her struggle as a Badi will always continue as a recent event demonstrated. She used to stay at a hostel where her teachers treated her very well.

³⁴ Is a Hill Dalit community in Nepal. Badi are categorised under "Hill Dalit" among the 9 broad social groups, along with Damai, Sarki, Kami and Gaine by the Government of Nepal.

However, that quickly changed when one of her male teachers found that she was in fact a Badi and not Khatri Chettri (K.C) that she had led people to believe fearing discrimination against the Badi community. Women also spoke of discrimination that a person who acquires citizenship in the name of the mother has to face. As one participant exclaimed: The roots of patriarchy are much too strong to be removed just by introducing some policies.

Gender Identity Pushes Conflict Survivors Towards Further Vulnerability

In Rolpa, women who were directly involved in or affected by the conflict are not viewed favorably, as stated by Gokarna Pun Magar, Assistant Campus Chief in Rolpa. The situation becomes even more complicated for single women. These women feel that there are no specific provisions for them, especially those who lost their spouses during the ten-year-long Maoist armed conflict. In the absence of spouses, single women have to take care of chores inside and outside the home. The perception of single women and widows hasn't truly evolved; they are still seen as bad omens, which often results in their exclusion from auspicious events.

The treatment that the former Deputy Mayor of Khajura Municipality, who is from the Dalit community, received at her daughter's wedding serves as evidence of how society treats single women. Because some guests considered her presence as inauspicious, they requested that she not perform the Kanyadaan ritual for her daughter. She strongly objected to this request. For single Badi women, the situation becomes even more challenging due to the additional burden of marginalization and indignity they face.

Patriarchy continues to exert its influence across all aspects of society. Despite numerous legal reforms, women's concerns have been marginalized, and it appears that authorities are not fully committed to creating an environment conducive to the comprehensive development of women. This perspective is shared by Laxmi Acharya, a Women's Rights Activist in Dang, as well as Dwarika Adhikari from NHRC Nepalgunj and Maimoona Siddiquee of the Fatima Foundation.

The capacity of women is always questioned. Elected female leaders echoed that the capacity of women is constantly doubted and men try to override their decisions and capacities. A teacher at a government school in Kapilvastu, spoke of discrimination at the workplace. She shared that her work often demanded frequent travel and she commuted on shared rides where she was looked upon with suspicion of 'immorality'. Rita Kumari Chaudhary, Deputy Mayor of Kapilvastu, remarked, 'The public perceives women representatives differently than men, and we are constantly required to demonstrate our capabilities.'

Women's Issues Deprioritised Leading to Delay in Accessing Justice

Women and girls in the research districts, especially from the Terai region, experienced direct forms of violence every day. Although security has improved after the insurgency, there are increasing cases of assaults against women, including rape. During discussions, a series of incidents was shared, and the victims are still awaiting justice. Human rights defender Ravi Thakur informed that in Kapilvastu, there was a recent case involving a politician who allegedly repeatedly raped a 15-year-old Muslim girl for over two months. There was no justice for the girl.

Similarly, a doctor sexually assaulted a girl and here too no justice was served. In Rolpa a girl child was raped by her own father, and the local government could not provide justice. Again, in Rolpa, a girl was burnt by her in-laws (allegedly) and there was no justice served. Many girls who were once employed as Kamlari have suffered from sexual abuse and assault, as noted by Krishna Kumar Chaudhary from SWAN. These victims are still awaiting justice to this day. And even when women have not directly experienced such assaults, they shared that the sense of insecurity does not only come from the happenings in the local area, but the incidents reported in social media platforms also creates fear within them. As stated by Laxmi Acharya, Women's Rights Activist in Dang, 'We have encountered numerous cases that have been awaiting justice for an extended period. Among these cases, sexual assault and rape incidents have been particularly challenging to resolve. Additionally, justice in everyday life matters has not received adequate attention.'

Furthermore, many individuals lack the financial means to pursue justice effectively. Accessing the justice system remains a difficult path, especially for marginalized communities.'

The situation is particularly alarming for sexual violence survivors during the civil war. In 2015 the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CEIDP) were established to ensure transitional justice. Yet people in Rolpa, especially the women, do not have hopes of getting justice. Rolpa was the epicenter of armed conflict, and women were raped, sexually assaulted, and tortured, as a consequence of which many of the women bore children. These women have neither received justice nor have they received any form of support like counseling, rehabilitation, or reintegration into the society.

The fear of social stigma, further hinders them from seeking justice. Moreover, the children of rape victims face difficulties in obtaining citizenship and leading a decent life. There are also cases involving social welfare issues, such as the single women's allowance, affecting women whose husbands or sons disappeared during the armed conflict, as pointed out by Dwarika Adhikari from NHRC Nepalgunj. The men were involved from top to bottom during the transitional justice processes, issues of women were silenced and sidelined, remarked Tirtha Acharya, a Human Rights Activist from Rolpa. Surendra Thapa, the Mayor of Rolpa said, 'Real victims and fake victims are hard to differentiate. They come with unreasonable evidence, so it is hard to validate. There are many fake martyrs.'

The Judicial Committee is a three-member local justice delivery body headed by the deputy mayor in municipalities and by the vice-chairperson in rural municipalities who deliver justice on specific disputes. The Judicial Committees in most research areas were reportedly limited in their functioning. To begin with, many women were unaware of the Judicial Committee and those who were aware preferred to solving their problem amongst themselves. The primary reason being distrust towards the authorities due to its highly political structure. A case in Rolpa further substantiates this observation where a man who had three children from his first wife married another woman after he returned from overseas, after which his first wife filed a petition in the Judicial Committee, but

the committee sided with the man because of his political affiliations, denying the woman her rights to justice.

An FGD Participant in Rolpa said, 'The Judicial Committee is filled with political people. How can they be impartial! All the people responsible for fair and neutral trials are in some way associated with political parties; how can a free and fair trial take place in such a condition?' Another FGD Participant from Kapilvastu said, 'Three to four men get together and ask us to compromise, when they say compromise [resolve family issues] it means the women has to accept the dominance.' Women in Rolpa felt that the new governance structure is also derailing women's issues. Formerly there was a designated Women and Children Development Office which often invited women for various programmes. Now there is a single department which has also been assigned multiple other tasks which limits its focus on women's issues.

4.1.B UNEQUAL ACCESS TO EDUCATION, HEALTHCARE, AND ECONOMIC OPPORTUNITIES

Status of education

The literacy rate in Nepal has been rising³⁵ and girls and women are attending education institutions more than ever in the research areas. However, for many women with intersectional identity, access to education remains a challenge especially for the older generation. Many women participants from the older generation were barely literate. This had practical implications on their lives. For instance, their mobility still remains restricted as they are not allowed to travel to big cities. It also becomes a matter of dignity for some as society discriminates against illiterate or uneducated people. An FGD participant from Rolpa stated, 'Education needs freedom and freedom needs education.'

Many girls couldn't attend school because of their precarious financial situations. Some were hindered by customs like Goth Pratha in Rolpa, where they're required to live in animal sheds away from home to care for animals, thus denying them their right to education. Additionally, Muslim women have faced difficulties accessing government services due to

35 My Republica, "Nepal's Literacy Rate Rises to 76.3 Percent", March 24, 2023, <https://myrepublica.nagariknetwork.com/news/nepal-s-literacy-rate-rises-from-65-9-to-76-3-percent/>

language barriers and restrictive cultural practices, as explained by Maimoona Siddique from the Fatima Foundation.

Access to Health

Women's access to health has improved with the introduction of several initiatives from the side of the government and non-government organisations. However, women still continue to face barriers in accessing these services. Traditional practices like period detention are still continued in most research sites with places like Rolpa having sporadic cases of Chaupadi³⁶. Women's reproductive health is also largely compromised due to restrictive cultural practices. For instance, Maimoona Siddique, human rights activist stated that lack of citizenship and also restrictive cultural practices prevented many Muslim women from getting maternal care and having their children vaccinated. The government has recommended at least eight regular visits to the doctor. However, as the FGD participants in Banke shared Muslim women usually visit hospitals only for delivery. Women from remote Rolpa still do not have access to basic healthcare. Badi women often experience malnutrition and reproductive health related issues.

Status of Employment

Women are mostly involved in agriculture especially in the absence of male members; most of whom migrate for work. However, the agricultural tools, as explained by the women in Kapilvastu, are not women friendly and take a heavy toll on their body. There is also an issue of pay disparity in terms of wage workers in all the communities. Women who go to do daily wage work not only get less pay, but they also have to repeatedly suffer due to not being paid on time. Additionally, wage work is seasonal work, hence the income is unstable. Some of the women participants in Banke shared that they make a living by collecting and selling leaves and firewood, which doesn't pay much.

The extreme weather conditions especially in districts like Banke makes it very difficult for the agricultural labour to work in the field.

³⁶ Tradition of monthly isolation during menstruation practiced mostly in Mid and Far Western sides of the country <https://www.actionaid.org.uk/our-work/period-poverty/chhaupadi-and-menstruation-taboos#:~:text=Chhaupadi%20is%20an%20ancient%20tradition,bad%20luck%2C%20or%20ill%20health>

Moreover, due to the government's conservation policies that does not address issues of indigenous populations' dependence on forest resources for livelihood, it is difficult to access leaves and firewood from the forest. It is particularly challenging for elderly, single, landless women who depend on forest for livelihood to find alternate employment options such as wage work because their age limits their job prospects.

In some cases, due to the limited opportunities available within the district, women and young girls from Rolpa are compelled to work in brick kilns, which exposes them to an unsafe working environment. For household led by single women this means that the children are left unattended, opening up more spaces for their vulnerability, according to Tirtha Acharya, a Human Rights Activist in Rolpa. Many women who go abroad to work share painful stories of hardships and broken families. For instance, a woman in Banke left for work leaving her young daughter behind. While she struggled to get acquainted to get used to the demanding work abroad, her husband mentally tortured her to return and divorce him as he was having an affair with another woman. When she returned her situation at home hadn't changed much. She now lives separately from her husband and is struggling to make ends meet as her savings have dried up.

4.1.C UNDERREPRESENTATION IN THE DECISION-MAKING PROCESSES

Women have indeed become more visible in government and the workforce. However, the deep-seated patriarchy and discrimination against women continue to create a significant gap between the goals of reform initiatives and their actual impact on the ground. In all the research areas, women's representation often appeared to be symbolic, with little substantial change in the power structure. In some instances, women were put forward as representatives while their spouses controlled the actual workings of their office. This issue was particularly evident during one of our visits to Kapilvastu, where the husband of the deputy mayor of Taulihawa municipality mistreated local government bureaucrats. In response, the bureaucrats protested and temporarily halted services.



FGD, Youth Duduwa RM-5, Jabdawa, Banke

This suggests that while in principle women have rights guaranteed by the constitution, those rights are twisted according to the demands of patriarchy and people in power. This has resulted in limited access and lack of meaningful participation of women. A discussion participant from Rolpa pointed out that in the local government, if the chairperson is male and vice chair is female from a different political party, the woman would be completely sidelined. Further, as men are overwhelmingly in control, they do not give tickets to capable women. And if there are women in positions of power, they have a limited role in allocation of budget.

Nepali politics and political parties are not exempted from patriarchy. The recent coalition between the two major political parties of the country is a good example of how women have continued to be marginalised and sidelined. Dwarika Adhikari, from NHRC Nepalgunj said, 'Due to the coalition both mayor and deputy mayor in Banke are now men, and women do not feel comfortable in raising their issues.'

Female participants expressed that they have less knowledge about their own rights and fundamental freedoms. They believe this lack of awareness is why women, despite having representation at the

local, provincial, and federal government levels, still struggle to engage meaningfully and secure decision-making roles. Meaningful participation and representation are also affected by the lack of adequate and on time information flow at all research sites. In Rolpa, the local government typically shares information on Facebook, which creates challenges, particularly for women who have limited digital or other forms of education to access it. This situation also applies to Muslim women, most of whom are sent to madrassas or religious schools with restrictions on their mobility. This has restricted their involvement in numerous programs, thereby reducing their chances to stay informed and access information regarding events organized by the local government. The majority of women indicated that they were unaware of the budget allocation process and the specific budget allocated for them. Although a few programs directly aimed at women, such as training sessions, the majority of the budget allocated for women was used for infrastructure projects.

Obilal Basnet, Ward Chairperson of Sunil Smriti of Rural Municipality Rolpa said, 'The budget is very limited. Women, Dalit and marginalised communities live in mixed communities, so we allocate a budget for road construction which also benefits women and marginalised communities.'



4.2 Youth

Youth are the forerunners of political, economic, social and cultural transformation and the driving force of change. In Nepal, the population of 16 to 40 years age group is 40.3 per cent of the total population³⁷. The National Youth Policy 2066 BS was issued to promote loyalty to the nation and the fulfillment of basic needs, recognition of democratic values, protection of language, culture and environmental heritage among the youth. The National Youth Policy 2072 BS was revised after five years as guided by the same policy.

The policy guarantees free higher secondary level education for the youth, scientific and practical, skill-based, and an education system linked with labour. The government had set up the Ministry of Youth and Sports in 2065 BS for the development and mobilisation of the youths. Likewise, the National Youth Council was formed in 2072 BS with the objective of developing youth leadership and capacity, promoting entrepreneurship and self-employment of youths, ensuring youth's access and participation in the national goal of building a prosperous Nepal. The Youth Self-employment Fund has also been set up for the promotion of self-employment among the youths.

³⁷ UNFPA, "For Young People, By Young People", August 12, 2023, <https://shorturl.at/amwxy>



FGD, Youth, Tulasipur, Dang, Lumbini province

Despite this, Nepal ranked 145³⁸ in the World Youth Development Index. Nepal's youth development index seems to be the weakest even when compared with the countries of South Asia. According to the International Labour Organisation, the full unemployment rate is 19.2 per cent, and the partial unemployment rate is 28.3 per cent. Approximately 36 per cent of Nepal's youth population remains disconnected from economic production and skill development. Within this group, unemployment rates are particularly high among marginalised individuals, minorities, indigenous communities, and young.

38 The Commonwealth, "Youth Development Index (YDI), Accessed September 5, 2023 <https://thecommonwealth.org/innovation/youth-development-index>

4.2.A SUPPRESSION OF YOUTH VOICES AND LIMITED PARTICIPATION IN GOVERNANCE

Young people encounter discrimination and hurdles in fully exercising their rights because of their age, which restricts their enjoyment of human rights and fundamental freedoms. Young women, in particular, face vulnerabilities because of patriarchal cultural norms that can hinder their access to education, food security, and reproductive rights. Youth engagement in both public and private domains is considered unsatisfactory by young people themselves. According to them, participation in local government is highly restricted and limited – they are not well-informed about local government activities, and there are few youth-focused programs in the districts.

There is a high degree of partisanship within the local level government and usually only youths close to the political party in power are often rewarded with contracts for work. This lowers the quality of work and service deliverance capacity and has increased levels of corruption and quality of projects. Youths in all the FGDs reported that the political parties also misuse youth as they recruit them during elections and neglect them afterwards. In some places like Dang and Banke youths are also disappointed with corruption and embezzlement of funds meant for the youth.

Even though youth are capable of leadership, political parties are not willing to hand them any real powers as there is a bias against their age and experience. A young person in Rolpa, despite their desire to participate in local development and other initiatives, is frequently questioned with the inquiry, 'What is your status?' Youths are discouraged from going to the local government offices to enquire or to access services. People from different parties are often ignored hence disappointments are rampant.

A participant in an FGD from Kapilvastu mentioned that the National Youth Policy and the Youth Vision for 2030 have not been given priority by the government. Similarly, the local government has struggled to tailor the needs of youth to the local context. The division of youth along party lines has hindered their unity. Municipalities like Narainapur, Nepalgunj and Kohalpur have drafted youth strategies for many years, but these are yet to be endorsed, and has almost diminished youth involvement in the local sectors. Additionally, as most of the youths are away, their participation cannot be ensured.

"How can there be any meaningful participation of youth when youths are not in the village? Those who can afford, go to the USA, Australia, Japan, Canada, others go to Saudi Qatar. Some even go to other districts like Manang Mustang for seasonal work the rest of the youth are left behind. There is no sustained plan for youth.", said an FGD participant from Rolpa.

Some of the participants and one youth leader from Rastriya Swatantra Party in Dang stated that one of the biggest ways out of the logjam is for the youth to get involved in politics. He said, 'Youth have much more exposure, are technically educated, technological advanced and have

an idea of how things are done in developed countries. The coming of Mayor Balen (Kathmandu) has been monumental for the youth.' As the young leader suggested, the youths are positively motivated by the increased interest in politics among the youth.

4.2.B. BARRIERS TO QUALITY EDUCATION, EMPLOYMENT, AND PERSONAL DEVELOPMENT

Education - Financial Constraints, Limited Scholarship Opportunities, Lack of Regular Teachers

The right to education is guaranteed by the constitution of Nepal, and the youth policy guarantees free education until Grade 12. However, there are many barriers to education for youths. To start, even though basic education is theoretically free, in practice, it is much more complicated. There are many miscellaneous costs which make the cost of education high, especially for low-income households. In Banke, a local single woman shared the school her children go to ask between NPR 500 to 600 for uniforms and books, which is extremely difficult for a low-income household like hers.

In low-income households without a stable source of income, many children are unable to attend school. Youth in the community have shared that, in some cases, they cannot pursue education to the extent they desire due to a lack of scholarships or other forms of support. Their parents are unable to afford education expenses. Consequently, they are forced to work to pay for their education, and in some instances, they have to compromise on their education when they receive limited financial assistance from their families due to economic hardships. There are limited scholarship opportunities for children and youth from marginalised communities. Only Rolpa Municipality offers scholarships, but accessing them is a challenging process due to bureaucratic hurdles and favoritism. Dalit participants from Kapilvastu revealed that obtaining a scholarship recommendation from the local government is extremely difficult. Furthermore, the provincial government has discontinued the Madhesi quota scholarship in Lumbini province.

Due to the government's failure to hire teachers on time, there are additional issues related to contractual teachers. The school covers the extra expenses associated with contractual teachers by requesting parents to contribute financially. In rural Rolpa, the cost for each household to support a contractual teacher was NPR 2,500 per month. This is an additional burden for a marginalised community, and some suggested they have even incurred debts to pay off the expenditure. The local government has even listed people receiving social welfare funds from which they deduct NPR 2,500 in advance. The elected leaders had promised that they would make the necessary arrangement to pay for the teachers but have not followed through.

Miscellaneous costs in school have been another major barrier for accessing education especially for marginalised communities. In an FGD with the Natuwa community of Kapilvastu, a young man pointed at his son who was raggedly dressed and had old school bags and exclaimed, 'The education is free but is my son dressed dignified enough to go to school in this way? The school requires school supplies and dresses, how can we do that when we barely make ends meet?' Poverty and marginalisation intersect to create barriers to education. An impoverished community from Banke that was evicted out of their temporary settlement now lives on the sides of the highway. Apart from other vulnerabilities, their children's right to education is compromised as they have to travel far to get to school.

Similar to other areas, schools and colleges in the region are affected by political interference, leading to compromised teacher quality and education standards. Although teachers are employed by the government, their extensive involvement in private schools is enabled by political protection and insufficient oversight. There is also a shortage of incentives and inadequate investment in teacher training. In Banke, due to the government's failure to hire enough teachers, local schools have resorted to hiring teachers by diverting funds from the children's lunch budget. Most notably, young people perceive the education provided by schools as lacking practical usefulness and insufficient in imparting life skills or practical knowledge. Somnath Subedi, from NHRC Butwal said, 'The government has very few mechanisms to oversee the quality of education as a result there are various qualities of education being accessed by children

and youth.'

A youth in Rolpa stated there is limited information about fundamental freedom, civic space and civic duties in the school and college curriculum. This might be a reason why youths are unaware about their own rights and responsibilities. There are no avenues to discuss the events of the local or provincial government, or to get involved. Cultural practices and demanding domestic needs are also violating the right to education. In Rolpa there is a tradition of having an animal shed far from home called Goth Pratha. Youths are specially involved in these practices. Usually, these sheds are close to the forest or away in the field. The young girls talked about how they felt unsafe at night while taking care of the animals. They also have no access to electricity, safe drinking water or even toilets while they are in the shed. Crucially, the youth emphasised that this practice demands a significant amount of time and labour, often preventing them from attending school or engaging in other activities.

Employment Opportunities

Unemployment is a significant issue in the districts. There are a few projects designated for youth, but they do not align with the desires or needs of the youth. The youths in Rolpa stated that even though the local government has some projects for youth, they mostly cater to youths who can make big investments like Partridge farm, livestock and not to general youth who might need it the most.

The rights of migrant workers are protected and guaranteed under the constitution and various national laws of Nepal. The constitution of Nepal guarantees the fundamental rights, whereas domestic laws protect other labour-related rights of migrant workers. In this regard, the primary instruments governing the rights of migrant workers include: The Constitution of Nepal, the Foreign Employment Act, 2007, Foreign Employment Rules, 2017 and the Foreign Employment Policy, 2012. But these focus on the procedural aspects rather than ensuring the rights of migrant workers.

Youth also criticised the local government for favoring their political supporters and relatives. There are a few instances where opportunities have been provided to young people, including those with disabilities. In Rolpa, with the introduction of the Prime Minister's employment programme, some

youths have been hired but have not yet received payment. The local government's perception of development still focuses primarily on traditional areas, such as infrastructure development like roads and bridges. Additionally, the utilisation of bulldozers and heavy machinery in construction has reduced employment opportunities for young people. An FGD participant from Rolpa stated, 'What we need is encouragement with investment.' Youth entrepreneurs are disappointed by the lack of motivation from the government's side. A lot of youths are involved in daily wage work but there is no regulation for the sector. It is a high-risk occupation, but the government has done little more than stipulate a wage rate at NPR 17,000 per month; there is no insurance or oversight. Rocketing inflation is making it difficult to run a business. These events are pushing the youths to go abroad for work.

According to a participant of FGD in Banke, around 8,000 youths in Lumbini Province have applied for labour permit to work abroad. Many youths, particularly those from Banke, are engaged in drug use and smuggling activities, especially along small border crossings with India like Rupaidiha. But these alarming cases have been overlooked by concerned authorities. For most of the youth participants, going abroad for work is a matter of compulsion forced by the dire situation at home. Some people have been engulfed in a vicious cycle of loans incurred by themselves or their family members. Due to a severe lack of employment opportunities, young people are compelled to seek work abroad in conditions that often violate fundamental freedoms and human rights. This choice is more out of necessity than a desire. An FGD participant from Dang said, 'If we were able to earn 20 to 30 thousand here, why would we go abroad?'

The practice of going abroad to earn money has indeed improved economic conditions for many, but it has also fractured family systems. This trend has led to instances of children being neglected and, in some cases, even violent conflicts within families. Additionally, some individuals have struggled to repay loans taken for migration expenses. Furthermore, due to a lack of proper cultural sensitisation for work abroad, many migrant workers have faced difficulties. For example, a woman from Nepalgunj was sent to work in a Muslim country. However, her left-handedness (considered inauspicious in Islamic

culture) led to her employer refusing to consume the food she prepared. Moreover, she was not permitted to assist with other tasks, ultimately resulting in her termination.

She had incurred a loan to go abroad which she was unable to pay back. Returning workers do not usually have encouraging situations at home. There were only a few youths who have returned from abroad to start dairy, vegetable farms or shops. In the absence of investment opportunities or schemes, participants pointed out that when young people return from working abroad, they often spend their money on consumer goods like mobile phones, motorcycles, cars. An FGD participant said, 'It (migrant work) is at least one alternative for now, but this cannot be a permanent solution.'

Lumbini Province has announced jobs for 200,000 youth in the area of agriculture, handicraft and entrepreneurship. The Home Minister of Lumbini province, Santosh Pandey, is optimistic that this will encourage youths to stay in the country and generate income here.

Personal Development

Both at the household level as well as at the public sphere, youths have minimum outlets for personal development. There are neither sufficient youth related budgets nor any other programmes targeted towards them. In Banke the youths said the ward did not even have a sports ground. While other research areas had youth clubs and sports grounds, they were hardly functional. In Kapilvastu, there are almost 20 organisations working for the youth. However, apart from awareness raising programmes, rallies, and dramas, there are no platforms for youth. According to Mahesh Pariyar, President of Youth Club in Rolpa, there are more than 65 clubs there but none of them have a sustained vision for youth's personal development and are heavily politicised.

Moreover, while almost all municipalities and wards are investing in agriculture, most youth participants confirmed they would like diversity in investment. Even when the government has introduced Youth Vision 2030, it has not been implemented. An FGD participant from Banke said, 'The slogan of sports for health, sports for nation is

FGD, Marginalize (Tenant) Community, Dangisharan RM-4, Sukdewa, Dang, Lumbini Province



limited only as a slogan.'

There is also no encouragement for athletes. Athletes like Ravi Thapan in Kapilvastu who is capable of competing at the international level has been neglected by all levels of the governments. Similarly, in Rolpa, a national martial artist stated that his brother who helped team Nepal secure 3rd place in the international tournament in Kabaddi³⁹ but has not been given encouragement by the government. A young female Judo player in Banke shared that she was recently selected to go to China for a sports event, but at the last minute she was (allegedly) replaced by one of the relatives of a powerful politician. This has greatly discouraged her. She now no longer wants to continue Judo and would like to go abroad to pursue an academic career. Even though she had all the support of her family, the interference and favouritism in sports has immensely discouraged her.

Som Gurung, President of the National Youth Council, Nepalgunj, said, 'There is a lot of potential for youth in the country, especially in the tourism sector. We have been organising social platforms to unite the youth and motivate them, but the government does not seem serious about

39 A contact team sport played between two teams of seven players

translating policies into action. Whenever the country is in crisis it is the youth that steps in. During COVID-19 youth provided services and donated a lot from abroad. However, when many of them lost their jobs and had to return home, the government did nothing for them. This has highly demotivated them. The youth can be used to oversee the government. They can be used to develop entrepreneurship and agriculture. The government must take our agenda seriously.'

4.2.C RESTRICTIONS OF DIGITAL RIGHTS AND ONLINE SPACES

In a digital age of unending information and limitless horizons, the idea of independence and freedom has undergone a deep transformation. Digital technologies provide youths with access to information, resources, and opportunities for education, communication, self-expression and self-assessment. On the flip side, they expose them to potential risks such as cyberbullying, online gambling, and access to inappropriate content, which can undermine their right to safety and privacy. Recent events around the country involving youth in cyber-crime, bullying, theft, harassment⁴⁰ are all too telling.

40 Ojha, Anup, "How Nepal's Vulnerability Grows Amid Changing Nature of Cyber Crimes", The Kathmandu Post,

As the youth of today navigate their paths through this information-driven age, these foundational principles take on entirely new dimensions that warrant a comprehensive exploration of their implications and significance. Online spaces are their new way to connect to the world and access information that was not available to them before. It is a path that exposes them to the world, to possibilities and to knowledge and to connect with people far and wide. However, there is no denying that these are used for cybercrimes, cyber bullying and distractions. These contradictory aspects of the digital world have contributed to the restriction of youth's digital rights and online space.

The threat to youth's digital freedom originates from both private and public spheres. In the private sphere, youths face restrictions due to several factors, with the lack of access to broadband internet and necessary digital devices being prominent issues. A significant digital divide exists in the country, and young individuals living in remote areas often lack essential digital skills. Moreover, marginalized communities frequently encounter language barriers, leaving them lagging behind in harnessing the opportunities offered by digital technologies.

These advantages encompass access to education, training, job opportunities, as well as access to government and private sector services. These benefits can play a crucial role in breaking intergenerational cycles of poverty and provide access to news and information sources that help safeguard their health, safety, and rights. For example, young people from marginalised communities such as Natuwa, Gandharwa, or those living in remote areas like Rolpa often face challenges in affording or accessing digital devices and platforms. Additionally, they struggle to overcome language barriers. Furthermore, there is a generation gap in digital knowledge and literacy that hinders young people from fully exercising their digital rights.

Intergenerational gap, cultural practices and interpersonal misunderstanding also create a barrier to digital freedom. Youths in all research areas suggested that they are accused of being unproductive and misusing technology. Access to social media is seen as an evil that is causing many mishaps online and also has effects on

family. In Banke and Kapilvastu, FGD participants complained of how youths are misusing social media and inviting conflict in the community. Some participants blamed social media for increasing child marriage and some accused youth's involvement in online platform has increased crimes in the area.

One participant from Banke noted that young people are highly skilled in technology, but some of them misuse it and become involved in cybercrimes and cryptocurrency activities. There have been instances of violent and inappropriate behavior, including the use of offensive language and actions to gain more viewership on various platforms, resulting in numerous cybercrimes. Some individuals have even expressed the opinion that the constitution provides too much freedom. They mentioned that people of a certain age group, both men and women, create inappropriate content on platforms like TikTok and make offensive statements on social media. This misuse of freedom of expression has contributed to an increase in cybercrimes, particularly those targeting women.

At the national level, cyber bullying, hate speech, violent and perverted acts are on the rise. The proposed Social Media Directive 2021, would compel social media companies to register in Nepal and abide by the country's laws. However, the proposed directive has been widely criticised for its intent to regulate content on social media, opening the door for further State censorship. By laying out only a vague idea of what constitutes illegal content, all those who criticise power structures, or use humor and sarcasm against the State, may face punishment. The directive also targets anonymity, threatening people's free expression. The main purpose of the directive is to control online discourse, minimise public engagement in controversial State affairs, and neutralise voices critical of the government⁴¹. These restrictions at national as well as personal level are seriously undermining youths' digital rights and their access to online space.

41 APC, "Towards Digital Authoritarianism In Nepal: Surveillance, Data Collection, And Online Repression", December 5, 2022, <https://www.apc.org/en/news/towards-digital-authoritarianism-nepal-surveillance-data-collection-and-online-repression>.

4.3. Marginalised Groups

4.3.A DEEP-SEATED DISCRIMINATION AND MARGINALISATION

Articles 24 and 40 of the Constitution of Nepal guarantee fundamental rights including education, health, and land. Nepal enacted the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 that criminalises all forms of caste-based discrimination. The election system has ensured Dalit representation in all three tiers - Federal, Provincial, and Local governments. However, deep rooted and unremitting caste-based discrimination and other socio-cultural hierarchies and the overall unequal structural arrangement have not translated into expected transformation.

Our (Discriminatory) Culture is More Resistant than the Laws (FGD Participant, Rolpa)

Many participants from marginalized communities, particularly Dalits, have observed positive changes in the last two decades, especially in terms of reduced overt discrimination against these communities. In some places like Kapilvastu, inter-caste marriages including arranged marriages between different castes has also been on the rise. But some of the participants implied that while on the surface it looks like discrimination has died down, but underneath it is still prevalent. In Rolpa, there are harrowing cases of murder based on inter-caste marriage (allegedly). Within the villages in the research sites there are still cases of segregated living based on caste. Many inter-caste marriages have been difficult as the couple are often socially ousted. There was a recent case in Rolpa when a Magar⁴² man in Rolpa invited a Dalit inside his home, they were both brutally beaten up by the community. It was made to appear as though they were beaten due to the commotion and noises they had been creating all day, but the actual reason was much more sinister.

Likewise, a Dalit woman in Kapilvastu shared that during communal gatherings, the 'upper caste' individuals typically drink the water first and only then pass it to Dalit people at the very end, ensuring that no one else has to drink after them. This perpetuates the long-standing tradition of untouchability. Dalits also mentioned that even when they are invited to community meetings and similar events, their voices are seldom heard.

Discrimination takes extreme forms when they intersect with various identities, including occupation. Kushbadiya are an endangered community often known as Pattharkatta elsewhere. They make their living by crushing stones, making mortar, weaving strings, making holders out of plastic, and of late, wage work. Kushbadiya children in Banke are often discriminated against by their peers. They are called dirty and asked to sit at the back and other kids aren't allowed to play with them. Teachers also add to the discrimination and (allegedly) give them less food than others. Such behaviors are forcing the Kushbadiya children to drop out. As a result, according to the participants, the highest level of education among the Kushbadiya community is 9th standard. Furthermore, marginalised communities themselves are often blamed for the perpetuation of their marginalisation. Surendra Thapa, Mayor of Rolpa stated, 'The consciousness of marginalised people has not been raised, that is why we want to introduce the idea of human development.'

Similarly, there is rampant discrimination against PwDs. There is a widespread stigma associated towards PwDs and their parents and caregivers. They are often targets of ridicule, superstition and discrimination. They are also looked on as people with no capabilities. Moreover, due to issues related to infrastructure accessibility and the availability of teachers capable of addressing the special needs of PwDs, they rarely attend school, and college or other public spaces are even less accessible to them. Additionally, most local governments lack effective programs for PwDs. Furthermore, PwDs are reportedly vulnerable to sexual assaults, particularly when they have to travel on public transportation. A PwD participant in Rolpa said, 'The dream of equity that we once had is nowhere close to materialising.'

Badi community members are still looked on with suspicion and gossiped about. They are under moral scrutiny when they mingle in society. Some

42 One of 59 identified indigenous communities in Nepal <https://www.lawcommission.gov.np/en/wp-content/uploads/2018/10/national-foundation-for-upliftment-of-aadibasi-janjati-act-2058-2002.pdf>

of them find it very hard to find a spouse while others have to hide their surname in order to rent a room in the cities. Likewise, even after so much development in terms of social, civic and political rights, not much has changed for landless and Mohi⁴³. In addition to not getting their rightful share of land, the landlords are still oppressive towards farmers. To plow their fields in the case of *Adhiya Bataiya*⁴⁴, the farmers still need to perform household chores.

4.3.B LIMITED ACCESS TO ESSENTIAL SERVICES AND OPPORTUNITIES

While access to services like life event registration has improved in general, most participants from marginalised communities were unaware about the availability of government services specifically meant for them. And as there is still limited representation of many marginalised communities in the local government, their issues are rarely heard or addressed. Additionally, in places like Rolpa and Kapilvastu, despite having some facilities allocated for them, marginalised communities and PwDs are not able to acquire them easily due to issues of remoteness and lack of accessibility respectively.

Nepal has ratified the Convention for the Rights of People with Disability (CRPD) which promotes, protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. It vouches for accessibility, reasonable accommodation, education, employment, health and dignity of PwD. An FGD participant shared that the ward office in Rolpa claims that most of the budget allotted for PwDs was used to make disability cards.

But the process of accessing basic services like acquiring identity cards is difficult for PwDs which is further complicated by the lack of understanding about categories of disabilities by the service provider as well as the general public. The GoN has categorised 10 types of disabilities⁴⁵ that are eligible for welfare, including psychosocial disability.

43 Mohi – Land Tenant

44 Adhiya Bataiya sharecropping regime in which landowner or state takes half the produce

45 BMC, "Accommodation and Disability-Specific Differences in Nutritional Status of Children with Disabilities in Kathmandu, Nepal: A Cross-Sectional Study", February 13, 2023, <https://shorturl.at/uAB59>

However, in the research districts, there was misconception about who qualified for such services. The situation of people with disabilities was well-illustrated in the Kumal community of Dang. One local resident had a severe case of psychosocial disability, but the local government declined to provide welfare services, claiming that he was physically fit. Similarly, there was a case of a youth in his twenties with a psychosocial disability who was denied services by the local government on the grounds that he could walk and talk, and thus, was not considered a PwD.

Marginalised communities feel that the local government continues to be discriminatory towards them. Badi women in Banke complained that they are still denied citizenship in spite of legal reform. There is also reportedly undue discrimination between educated and uneducated service seekers. Furthermore, there is a gap between the needs of people and what the government is providing for the marginalised community. For instance, in the past, the local government in Banke has trained 12-15 Kushbandiya people in Mortar (Silauto) making and has also given them tools to do so. However, the people felt that the training courses were not effective, and that they should be given training that has wider application.

Most of the participants agreed that at times when the local government does provide subsidies and help, but they are biased. Marginalised communities in Banke stated that the local government in the past has provided fertilisers, seeds, tin roofs from the ward office but the access is largely dependent on nepotism and favouritism of the ward representatives. Importantly, marginalised communities also felt that there is lack of transparency at local level. Landless and Mohi in places like Dang, Kapilvastu and Banke have not been able to get justice even after 46 to 47 years of struggle.

In Nepalgunj, Aala Nagar, there has been a settlement since 2026 but is yet to get any certificate of ownership (Banilam Tharu, NLF Banke). Similarly, most of the former Kamaiya Kamlari in Dang are still homeless and landless. Promise of entitlement to land and rehabilitation is still a distant dream.

Marginalised communities, due to their lack of access to education, legal mechanism, and representation, continue to be denied justice on

a regular basis. For example, in Banke, a female participant shared her experience when her house caught fire. She recounted that she approached the police, the ward office, and the municipality seeking assistance. At one point, a ward officer informed her that the ward office had received some government assistance. However, despite taking her fingerprint as receipt for the assistance, she apparently never received anything.

Despite bearing a heavy burden during the armed conflict, Rolpa still has thousands of direct and indirect victims who have not received any form of justice. Displaced individuals, families of the disappeared, and survivors who were excluded from the registration process are disheartened by the neglect they have experienced from all levels of government. The lengthy and politicised registration process has derailed the transitional justice efforts. Child soldiers have not been rehabilitated. 'The hostility during the armed conflict has not died down completely', said Gokarna Pun, Assistant Campus Chief of Rolpa. Importantly, the government has completely overlooked sexual violence survivors.

4.3.C VULNERABILITY TO HUMAN RIGHTS ABUSES DUE TO INTERSECTING IDENTITIES

Intersecting identities amplifies vulnerabilities and marginalisation. When a lack of access to resources combines with socio-cultural hierarchies, unequal power dynamics, and geographical location within the community, it leads to a never-ending cycle of exploitation and marginalisation. Krishna Kumar Tharu of NLRFB Banke said, 'The air is free, water is free but why isn't the land free to use?'

Oppressed, Landless and Voiceless

The majority of landless individuals in Dang, Kapilvastu, and Banke belong to marginalised and Dalit communities, and they lack even the most basic means of sustenance. According to Bhandarilal Ahir, Agriculture Minister of Lumbini Province, the provincial government says it is committed to solving the problems of the landless and is working with the Land Commission. However, the problem of shelter remains one of the most pressing issues for the marginalised community. Similarly, caste-based and occupation-based discrimination

and marginalisation spanning decades have pushed the Badi community to the margins of mainstream society.

The Badi community in Dang were able to settle in Ailani⁴⁶ land after much struggle, and despite the government's many commitments, they are yet to get their land certificates. Similarly, the government announced land for former Kamaiyas under Bonded Labour Act (Prohibition Act, 2002) and in the year 2021 former Kamaiya were allotted land. However, many former Kamaiyas in Dang were left out of the process. They believe that their former landowners who were and are still in powerful positions at the national and local level left them out of the process. They constantly fear eviction from the Ailani land they live in and await a permanent certificate. Similarly, 22 Natuwa households in Kapilvastu are also living in Ailani land. The local government has not addressed their problem. Similarly, in Banke 46 households of mixed marginalised community (Madhesi, Dalit, Tharu) community are cramped up in seven Kattha⁴⁷ land. During COVID-19 they did not receive fair treatment from the government.

These vulnerabilities of landless people become more pronounced when they are evicted from their temporary settlements and have no means of restitution. In Banke, an informal settlers' community used to live in Ailani land in Faram Basti. When the government decided to construct an open prison there, the community was inhumanely evicted. The majority of the community lost all their belongings and were compelled to settle alongside the road on the city highway. Living conditions there are extremely challenging. Women feel highly insecure and are often subjected to assault, but due to the stigma associated with it, they are not very forthcoming about reporting such incidents. Furthermore, the absence of permanent housing hinders their access to other necessities. There is no provision for water or toilets, and stray animals frequently enter their homes, sometimes eating their food or making the place dirty. There is also no access to drinking water, so school-going children have to bring water from school.

46 Cultivable but uncultivated land which is not titled https://csrcnepal.org/wp-content/uploads/2019/07/2dpV2BZ0IsM4luC-cB_L2A00gEbYm-U.pdf

47 Kattha = 3645 sq. ft https://csrcnepal.org/wp-content/uploads/2019/07/2dpV2BZ0IsM4luC-cB_L2A00gEbYm-U.pdf



FGD, Marginalize (Kumal) Community, Gadhawa RM-6, Dang

Vulnerabilities associated with landlessness amplify when gender and lack of economic opportunities come together. Women in Banke who live in Ailani land have had a lot of experience with these vulnerabilities. Due to lack of permanent housing, the government and NGOs have limited investment in the community. There is no water supply, and the community's wells have run dry. Although the government has provided a water tank, the residents in the community need to buy water pipes on their own to access the water. Unfortunately, it is challenging for them to afford these pipes.

Moreover, in areas like Kapilvastu, landless women have shared their conflicts with the district forest department concerning access to forest resources. This has instilled a fear of eviction from the Ailani land they inhabit. Additionally, the increasing

water levels in nearby water bodies have added to their stress. As stated by an FGD Participant in Rolpa, 'Without home we are nothing more than a corpse.'

The environment is still not conducive for marginalized people and victims to seek justice. There exists a significant hierarchy between service providers and recipients, and even among the service providers themselves. Raju Srivastava, an Advocate from Kapilvastu stated, 'Most of the authority is concentrated in the senior-most positions, which hampers service delivery.' Moreover, marginalized communities lack trust in authorities responsible for safety and security. As a result, the majority mentioned that they rarely visit the police station due to a fear of prosecution, despite being victims themselves. They face issues like the community evicted from Faram

Identity, Livelihood and Suppression

Vulnerabilities related to livelihood are prominent amongst indigenous peoples and communities whose traditional occupations are under threat due to policies and globalisation. The Badi community, traditionally reliant on fishing, musical shows, and entertainment, now faces significant challenges to their livelihoods. The electrification of rivers and the introduction of electric musical instruments, television, and mobile phones have gradually replaced their musical skills and performances. Some of them still make Madal drums (a Nepalese folk music instrument), which requires materials from the forest that are usually restricted by the military. Of late they rely on wage work, farming, agriculture and the likes. But they are not satisfied with this profession due to a lack of land ownership, unavailability of irrigation facilities, fertilisers.

The livelihood of communities like Kumal with a population of only 49,997 in Lumbini province is also at high risk given the obstruction of access to forest resources and soil, and threats to proper housing. Their ancestral profession is making clay pottery. In recent years, changes in the governance pattern have greatly affected their lives. The forest user committee has set restrictions on accessing resources like firewood and soil from the forest. The clay and firewood required for pottery comes from the nearby forest, the access to which is greatly restricted. They are often stopped and abused by security people on their way home carrying clay and firewood. Even when someone else takes firewood they are blamed for it. Furthermore, there is no market for their produce.

The situation as such has discouraged younger generations from continuing this noble profession. The forest department also cut down all the firewood trees and planted trees like Sisau (North Indian Rosewood Tree). In wake of this, they have turned to wage labour as an alternative to their ancestral profession. Moreover, other marginalised communities like Gandharva and communities evicted from Ailani land do not have access to the forest resources due to the high cost of user group membership (NPR 10,000) and lack of housing certificate. This affects their daily life and processes important in Hindu traction.



Basti in Banke. For example, a resident from the community was hit by a motorbike, but he did not file a complaint because none of the witnesses were willing to testify on his behalf. Additionally, he feared prosecution from the police since he is living in a restricted area. He had to spend more than NPR 100,000 for his treatment and has given up hope of being compensated.

Most marginalised communities rely on their traditional system of justice. The positive side of the traditional justice mechanism is the ownership of the community, and more community-based approach to problem solving. However, there are negatives attached to it too, like the superstition-based Mukhiya system amongst the Gandharwa and Madhesi communities.



Kumal Community, Gadhawa RM-6, Kumal communities, Dang, Lumbini province



Promoting Human Rights, Fundamental Freedoms and Civic Space

5.1. Women

5.1.A WOMEN'S EMPOWERMENT AND LEADERSHIP PROMOTING HUMAN RIGHTS

For most of the women participants, life has been a constant struggle. But many women have come out of adversities and claimed their right to dignity and freedom. In the research areas, women in general were becoming more vocal about their adversities and finding ways to empowerment. Young girls were attending schools and finding ways to be independent. As a young girl in Banke stated, 'We have to be empowered and self-reliant. We can no longer depend on others, not even our own husband. We have to depend on ourselves.' These changes have come from a long struggle of women and men, to ensure rights of women at home and outside. These changes have also come from empowered women who have brought change to their lives and society, and have acted as a role model for other women.

Sophia Khatoon (52) belongs to a marginalised Muslim community in Kapilvastu. She feels even though a lot has changed for the better of Muslim women, there is still a lot that needs to change. When she was younger the situation was even more difficult. She was born in Calcutta and got married in Nepal, was evicted and her family were impoverished. For many years she washed dishes and cooked at restaurants to earn a living. However, it was with her sheer determination that she was able to overcome her situation.

Almost 24 years ago the local government was hiring women health volunteers (Swayam Sewika) for primary healthcare services. In the beginning her husband and community were not very supportive of her decision. She was constantly teased and looked on with suspicion while she went to work but she took it in good stride. She continued working and gradually her work was accepted by the community. Over the years, she has had numerous training courses, discussions

and other social works in coordination with NGOs and CSOs. She has used her knowledge to spread information and provide services regarding medical, reproductive and other government services. She now encourages her daughter as well as her daughter-in-law to venture out of the home and become independent. She believes if you are moral and disciplined, even suspicious voices begin to die down after a while.

In similar ways, some women leaders have transformed adversities to opportunities, like Lal Kumari Oli Pun of Rolpa. During the active rebellion, Lal Kumari, like other children, could not attend school regularly and life was far from normal. Later her father was abducted by the Maoist and when he returned, he was mentally disturbed which put tremendous pressure on the family. Previously, they used to rear sheep but after the incident they suffered severe economic impacts. Despite this, she completed her basic education and started teaching. She also became active in other areas which includes social work, NGOs and later got married.

By this time the armed conflict had ended, but the remnants of violence still lingered. According to her, her husband was wrongfully convicted and had to spend five and a half years in prison. A year after his release he was murdered. When she tried to seek justice, not a single lawyer in the region wanted to fight her case due to the sensitive nature of the case and the power at play. Even the national parliament was withheld for four days following the murder. But all to no avail. The investigation was not strong enough and people feared political repercussions. After her husband passed away it became difficult for her to run her household. But she persisted and now she runs a private school.

She helps people with legal advice that she has acquired over the years. Importantly, she is associated with many local NGOs that are working for the cause of women and children, and has set an example for single women to be determined and not to give up. According to her, she has defied traditional expectations of a single woman. As she states, 'I wear makeup, I wear red. In fact, the color of my uniform in school is red. I strive to become independent and also enjoy life. Even with all the pain one has to live so why not try to live happily.' She thinks single women need counseling more than anything else. They need to be reintegrated into the society. She wants to assist women and

children who are going through trauma and anxiety with counseling. She is also interested in raising awareness on sex education and possible sexual assaults and violence.

In spite of rigid structural and institutionalized violence, women have come a long way. In Rolpa, Tika Adhikari, an elderly lady, shared her story of struggle for education, dignity and independence. Born in a traditional family, she was denied education at her paternal home. Her brother was sent to school while she was tasked to help with the household chores. Keen in acquiring education, she asked her brother to write the basic Nepali alphabet on her room wall. When her father saw it, she was beaten up badly. Her brother tried to intervene, but she could not further pursue her education. Later she was married to a highly positioned government officer. At her husband's home her brother-in-law humiliated her saying she was illiterate. Her husband then encouraged her to get an informal education. With the help of her husband and her in-laws, she was able to complete 10th grade. Her husband was killed in the armed conflict, and she is still fighting for justice. Through years of struggle and learning, she now runs a microfinance, and safehouse for girls and women. She is an advocate for the rights of women and girls. She is also a chairperson of a women's group.

The Natuwa community is one of the most marginalised communities in the country. Kumari Natuwa belongs to the Natuwa community in Kapilvastu who settled in one of the 22 households built on Ailani land. Like most women in her community, she was deprived of education. Most of her life she has begged for food and money to make ends meet. In recent years, she has been advocating for the rights of Natuwa people, especially Natuwa girls and women who face additional gender-based discrimination and threats both inside and outside their homes. She has protested many times against the local government office and raises her voice whenever an opportunity presents itself. She is also advocating against alcohol use in her own community. Despite her efforts, she has not been associated with any CSOs or organisations.

Rita Kumari is a deputy mayor of Baadganga Municipality, Kapilvastu. She has been active politically for over a decade and has been raising issues of minorities and women. As a deputy mayor she chairs the Judicial committee. While

most of the cases she hears are regarding land related issues, there are also increasing cases of domestic violence, separation and conflicts. She feels that being a woman provides a comfort level for women and children to approach her with their problems. She further shared that the community is happy with her work. However, she believes women have challenges at all levels. She often has to face opposition and resistance from her male colleagues. Even the general public questioned her capacity. However, she continues to fight. She feels she is an example for young girls to become leaders and take charge of their destiny.

5.1.B WOMEN AS ADVOCATES FOR HUMAN RIGHTS

The vision of inclusive democratic society demands equal participation of women. Women have long been silenced and overlooked by the various socio-cultural, political and legal structures. It's important to recognize that the women's community is diverse, and women's experiences are influenced by their intersecting identities, including factors like race, class, sexuality, disability, age, gender identity, and other forms of inequality that shape each woman's unique experiences. As such it is important that women from diverse backgrounds and experiences are encouraged to participate in decision making platforms.

This will ensure that policies are not gender-blind but rather gender-responsive. It's based on a human rights approach that recognises that women and girls' experiences differ from those of their male counterparts and also vary among themselves. It also assists in implementing strategies that enhance the transformative power of movements and alliances involving people who have the agency to collectively drive social change. This collective action aims to shift the power balance. The influential role of women in advocating for human rights and the resulting changes were evident in the research sites.

In Rolpa, Tirtha Adhikari has been defending rights of armed conflict survivors. She has been advocating for rehabilitation of women in armed conflict, and justice for the sexual violence they faced. She runs a safe house for women and girls who are ousted from their family, and who are victims of domestic violence and polygamy. She also counsels women and girls who plan to work in high-risk workplaces like brick kilns.

In Kapilvastu, women like Sophia Khatoon are raising the issue of Muslim women which includes lack of access to education, medical services and practices of dowry. In Banke, human rights activists like Maimoona Siddiqui are also fighting for the rights of Muslim women, especially the issue of citizenship amongst Muslim women.

In the Muslim culture of Banke, women usually acquire citizenship after her marriage, and how quickly a woman acquires citizenship depends on the wishes of her husband and his family. These aspects affect the lives of many Muslim women and prevent them from accessing many other services that are directly in relationship with their citizenship certificate like maternity care, vaccinations and other health services. Furthermore, differences in Muslim marriage compared to other marriage processes also restrict women from enjoying other fundamental human rights, such as the right to property and alimony.

Muslim marriages are registered in the traditional manner in the presence of religious leaders and other elders, and are often not registered at the government office. Also, divorce is largely verbal in Muslim communities. If a marriage is not registered at the ward office and the divorce is verbal, there is great difficulty for Muslim women to get alimony and property from her husband's side. In Muslim families there are also cases of polygamy which was also cited as a problem in other districts. Siddiqui and her foundation have been advocating Muslim women's right to acquire citizenship. She has been working with the local authorities and the religious leaders to encourage sending girls to school. Being a Muslim herself, she believes that she understands their experiences better.

Hiramoti Chaudary is another example of how members of the marginalised community are the most suited to advocate for their own issue. She is herself a former Kamlari, and has been advocating for the rights of former Kamlari for almost two decades. She has been on the forefront in the fight for the rights of former Kamlaris. She shares that as much as the government states that it has been providing assistance to Kamlari, many of the Kamlari participants had until now not received much assistance from the government,

and many have been left out of the registration process. However, some of the Kamlaris have done well through their own determination and she has been supporting them. She continues to fight for the rights of Kamlari women and brings attention to the gendered and biased policies of the government. The Bonded Labour (Prohibition) Act of 2002 clearly states that it applies to other forms of bonded labour including Kamlari. However, the provision of land and rehabilitation was given only to former Kamaiya (many were still left out) and former Kamlari had to wait till 2013 to get any restitution from the government.

Furthermore, she states that while the former Kamaiya were granted land to build houses on, no such provisions were given to Kamlari and Bukrahi even though they were very much part of the same system of exploitation. They were limited to superficial remedies of rehabilitation, social reintegration and access to limited education. Moreover, the long waiting period meant that some Kamlari who were married at the time of registration were not included in the process. Even the Bhumi Sudhar Prativedan (land reform initiatives) has recommendations only for the Kamaiya. She further brought to attention to the fact that Kamlari Pratha (practice) is mutating. According to her, in Dang a lot of land owners still ask girls to wash dishes at their home in return for her parents to be able to work Adhiya Bataiya.

Women human rights defenders investigate, gather information, and report on human rights violations. They use common tools such as advocacy strategies, and mobilisation of public opinion to remind the state of its obligations. They also campaign for economic, social, cultural rights. However, human rights defenders, especially women, repeatedly face stigmatisation, harassment and outright attacks that try to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Human rights activists like Hiramoti are not exempted. She recalls how she was humiliated on stage at a recent event by a male organiser of the event.

It's essential to acknowledge that the women's rights advocacy approach isn't merely about advocating for women's rights; it represents a distinct approach to planning and implementing advocacy in general. The articulated priorities of women themselves lie at the core of all actions.

A consistent power analysis throughout any planning process ensures that the methods and processes are inclusive. Consequently, the voices and courage of women and girls have been, are, and will continue to be essential to the movement for the protection of human rights.

5.1.C GENDER-RESPONSIVE POLICIES AND PROGRAMMES - THEY MATTER

In the last two decades there have been a number of progressive legal reforms that have exalted Nepal towards gender equality. The constitution ensures various rights for women, including Fundamental Rights, Citizenship with identity based on descent and gender (mother or father's name), reservation of 33 percent of Federal Parliament seats for women, guaranteed women's representation in State bodies, and provisions for proportional representation in all State bodies. Additionally, there are legal provisions aimed at ensuring women a safe and dignified life, such as the Safe Motherhood and Reproductive Health Right Act of 2018, the Domestic Violence (Offence and Punishment) Act of 2009, the National Penal Code of 2017, and the Local Level Election Act of 2017, which mandates that one candidate for mayor or deputy mayor from a political party must be a woman.

These instruments have been monumental to women rights. At the macro level, women make up more than 33 percent of the legislators at all three levels of government. Similarly, there are 91 women lawmakers elected to the House of Representatives. Out of the 165 lawmakers elected to the House of Representatives through the first-past-the-post (FPTP) category, only nine are women. However, 82 women have been elected through the proportional (PR) electoral system. In Local Level Assemblies, women make up 41 per cent of the members, and out of the 16 Federal Parliament Chairpersons, nine are women. Women also hold 90 per cent of the positions of Deputy Mayor or Vice Chair in Local Governments, and they lead four major sectors: the Judicial Committee, the Revenue Consultation Committee, and the Budget and Programme Committee⁴⁸.

⁴⁸ Ajita, Rijal, "Improved Status of Women in Republic Nepal", The Rising Nepal, May 26, 2023, <https://risingnepaldaily.com/news/27277>

The literacy level among women has also improved, with 69.5 percent of women now being literate⁴⁹. The percentage of women in the formal workforce, although dismal, is also improving⁵⁰.

Similarly, changes have also come for women at the grassroot level. Participants of all the FGDs confirmed that women's lives were getting better in comparison to previous years. Many elders shared that women and girls today do not have to go through the same hardships they once had to endure. In general, girls are encouraged to pursue education, are not restricted only to domestic chores, and are becoming self-dependent and vocal. For most of the participants, the most evident change was the increase in women's mobility outside of the home. While not a significant shift, women and girls are beginning to have more opportunities for self-determination. There is a gradual change in societal mindset, recognising that women can achieve great things if given the chance. In some cases, families are now investing in the education and well-being of their daughters, which many believe has led to a reduction in the disparity between men and women.

Progressive laws like provision of equal property rights for women in the constitution, and joint ownership of property, have helped many women to acquire land. The recent citizenship bill has already helped many children from single mothers and women with foreign husbands to acquire citizenship. As one of the participants in Banke stated, she is married to an Indian man but has been residing in Nepal. The restrictive laws up until now prevented her children from getting citizenship. Her eldest daughter was not able to go abroad for studies because she had no citizenship certificate.

On the day of our FGD with her, following the historic endorsement of the Citizen amendment bill by the president, two of her three children finally got citizenship. In a state of sheer joy, she thanked all the policy makers and advocates who made this possible for her children and many other children like hers. She also shared how her daughters could not stop dancing as they were

49 My Republica, "Nepal's Literacy Rate Rises To 76.3 Percent", March 24, 2023, <https://shorturl.at/depD2>

50 Shrestha, Prithvi Man, "Only 22 Percent of Working-Age Women Are Employed In Nepal", The Kathmandu Post, May 3, 2019, <https://kathmandupost.com/valley/2019/05/02/only-22-percent-of-working-age-women-are-employed-in-nepal>

finally the citizens of the land they had always called home. Similarly, Badi women in Tulsipur also were able to get citizenship with special provision meant for communities like theirs. These laws will help many single women and their children in Rolpa, Badi women in Banke and others.

Laws that promote women's access to education, laws against domestic violence, and provisions for pro bono and free legal services have all played a role in encouraging women to seek justice. However, it's important to note that while there has been progress, the number of women seeking justice is still not very significant. Multiple stakeholders, including advocates, human rights defenders, representatives of the Nepal Bar Association, local representatives, and security personnel, who were consulted during the research, confirmed that there is an increasing number of women now seeking justice.

5.2. Youth

5.2.A YOUTH-LED INITIATIVES PROMOTING HUMAN RIGHTS

Youth play a vital role in safeguarding human rights within a nation. Human rights represent the voice, strength, and aspirations of young people. They have the power to uphold human rights for generations and instill the significance and worth of these rights in the hearts of the people. Youth serve as a bridge between children and adults, and they carry the message of human rights to both of these groups.⁵¹ When motivated and educated, youth around the world, and in Nepal, have been at the forefront of promoting and protecting human rights. In all of the social movements in Nepal, youth were instrumental in bringing socio-political transformation. They have also led many socio-political issues and stood up against national and international injustices. As such they remain important to the promotion and protection of human rights.

51 Your Commonwealth, "Youth Can Take An Active Role In Human Rights", January 5, 2014, <https://yourcommonwealth.org/social-development/youth-can-take-an-active-role-in-human-rights/#:~:text=Thus%20human%20rights%20are%20simply,nexus%20between%20children%20and%20adults.>



Khim Raj Charti Magar, Youth, Sunilsmirti RM, Rolpa

In Rolpa, where the federal and local government have neglected the survivors of the armed conflict, some youths were actively involved in their rehabilitation, integration and encouraged them to have open dialogue. They have also been periodically pressuring the local government to actively engage with the federal government to revive the transitional justice process.

A youth PwD in Rolpa was able to convince the local government to initiate Braille training for the visually impaired. He continues to bring attention to the many challenges of PwDs, especially in remote areas like Rolpa. Dalit youths in Rolpa are also bringing issues of subdued Dalit discrimination to a wider audience through participation in discussion series and workshops. Young girls in Rolpa who are prevented from attending schools due to Goth Pratha are holding discussions with the community about its effect on youth and children, especially girls. Some of the youths are also advocating for agricultural transformations in Rolpa.

The majority of youth in all research sites stated that they lack understanding of basic human rights and fundamental freedom as guaranteed by the constitution. Keeping this in mind, Sahil Ansari, a youth leader in the Lumbini Province parliament, launched the 'Hath Hath Ma Sambidhan' initiative at the provincial level. This initiative aims to provide

a basic understanding of rights to people of all ages in the local community.

Cybercrime relating to money laundering, sexual assault, gambling, cyberbullying, online harassment and grooming is on the rise in the country and is also a major problem in Nepalgunj. Realising this, young men with knowledge of information technology, digital security and social media have formed a small (with four to five members) online group that conducts training sessions on digital law, data protection, e-commerce, cyberbullying and responsible social media handling. They hope this will help curb some of the cybercrime prevalent in the region.

Youths in Tulsipur have turned into a watchdog for the local government. In a recent event, they successfully exposed a corruption case involving NPR 2,000,000 by reporting it to the relevant authorities. They are also actively engaged in protesting against corruption. Youths from all districts have contributed by raising funds and volunteering during the pandemic. However, despite their efforts, young people continue to face barriers to leadership, participation, and decision-making due to their age.

5.2.B YOUTH-DRIVEN CAMPAIGNS FOR SOCIAL JUSTICE AND POSITIVE CHANGE

The youth play an important role in nation building, economic development and social change as they are the future leaders of the country. They have the potential to bring about positive change and make a significant contribution to society, which was also evident in the research sites. In collaboration with the Youth Council, the youth in Nepalgunj are actively working to transform the city into a sustainable and environmentally friendly place. Their efforts include cleaning the main streets and temple premises, planting trees, and monitoring the progress and maintenance of these activities.

Additionally, in response to the frustration stemming from the lack of progress in implementing the Youth Policy and Youth Vision 2030, the youths have taken the initiative to adapt the policy to the local context by drafting a youth strategy for the local level. While significant progress has not been achieved in this regard, the youths remain committed to engaging with the local government to implement these strategies.

As an increasing number of young people return from abroad, some of them have actively started utilising their skills within their home communities. For instance, a young individual who recently completed his master's degree in Europe has taken up the task of educating local children in the community's school. His aim is to provide students with a broader perspective on learning based on the knowledge he gained abroad. However, he has encountered significant challenges due to nepotism and political interference within the school system, which has made it increasingly difficult for him to continue his work.

Furthermore, many youths have turned to agriculture as a means of livelihood. In Rolpa, young individuals have become involved in activities such as vegetable farming and the cultivation of spices like pepper. They are actively engaging with the government to advocate for investment in mechanisation, the commercialisation of agriculture, and the establishment of cold storage facilities.

The Mayor of Rolpa Municipality, Surendra Thapa, stated that these demands from the youth have been included in the yearly plans of the government. In Dang, some youths have leased land for agriculture which has helped them earn extra income to support their education. Similarly, in Kapilvastu, a small group of youth have invested in vegetable farms. They then supply these vegetables and other vegetables collected from nearby to the cities like Bhairahawa and Butwal. They have also started a dairy business that collects and supplies dairy products to nearby areas.

There are some inspiring cases, such as the Dhaulagiri Panchebaja group in Khajura Rural Municipality, Banke, which has formed a musical orchestra to perform during special occasions, festivals, and gatherings. This serves as an excellent example of creativity, income generation, and the preservation of tradition. Furthermore, youths have identified potential areas for engagement, particularly in agriculture. Nepal currently imports a significant quantity of vegetables through the Nepalgunj border.

Youths believe that through the mechanisation and marketing of locally grown fruits and vegetables, tens of thousands of young people could benefit. Additionally, youths see tourism and hospitality as major areas where they can be actively involved.

5.2.C INTERGENERATIONAL DIALOGUE TO FOSTER A CULTURE OF HUMAN RIGHTS

In a hierarchical and patriarchal society like Nepal, youths are often overlooked in terms of expression and decision-making. There is a need for specific protection to tackle discrimination against young people and to remove the barriers that are stopping them from exercising their rights. On one hand, they lack access to proper education, employment, and personal development. On the other hand, they often succumb to social and economic pressures at home.

KII, Mahesh Pariyar, Youth club, Liwang, Rolpa



Additionally, they feel misunderstood by their families. Due to the lack of options, many youths are forced to seek foreign employment, which exposes them to various forms of violence. Often, parents themselves encourage their children to go abroad and earn money, discouraging youth from staying in the country. In places like Rolpa, youths are deprived of basics such as shelter, education, and general security. This has led to a sense of hopelessness among many youths.

A youth FGD participant in Rolpa stated, 'There is still no change in terms of mentality. The roots of traditional mentality must be tackled. There should be respect [for youth] at the house as well.'

In areas like Banke and Kapilvastu, there is a rising prevalence of mental anguish and other mental health-related issues. Many youths, lacking creative outlets and being excluded from the workforce during their most creative and resourceful years, have resorted to drug use. According to participants in Banke, it's primarily the children from impoverished backgrounds who are most affected by this problem. To support their habit and to earn a living, many youths are also involved in illegal drug trade. The lack of communication

between parents and the older generation with the younger generation has contributed to the issue of drug use. Many believe that this issue is also linked to the rising number of suicides in Banke and Kapilvastu.

On average, there are at least two cases of suicide per day in Kapilvastu, and six to seven cases in Banke. Some youths in Banke feel that parents share some responsibility for exacerbating the situation. Parents often do not take the issue seriously enough to help their children overcome addiction. In some cases, parents even support their children's drug use, which appears to encourage the youth. In such cases, promoting intergenerational dialogue between the youth and the older generation could help alleviate the problem.

Intergenerational dialogues are interactive participatory forums that bring together older and younger generations and are intended to create shared knowledge, meaning, and a collective experience. Dialogue across generations is the most effective tool to create common diagnosis and solutions to the problems of the communities. In the research area, this approach could help bridge the gap between youths and their parents

or guardians at home, as well as in public spaces between youths and government representatives and duty bearers. This approach can guide the creation and promotion of public policies that may facilitate a gradual transition from the existing culture.

The difference in value between the older and younger generation in terms of work, understanding of moral values, learnings, worldview, and traditional practices are evident. Therefore, it is of great importance to establish mechanisms that acknowledge the differences in mindsets between older and younger generations. This is not aimed at creating a gap between them, but rather to develop effective approaches that can leverage the input from all generations within the community. These dialogues can emphasise the role of young people and youth organisations in social processes and recognise them as active community members.

It can help the generations form a common understanding on issues such as lack of motivation, social-economic pressure experienced by youths, their interests, aspirations and pressing reasons for drug addiction and suicide. CSOs, government bodies and other relevant organisations could help facilitate these events. Schools and public spaces are also good platforms where the dialogue across generations can begin and further develop⁵². These tools can prove instrumental in building a more robust position of youths not only within their homes, but also beyond which may ensure their participation in policy and decision-making spaces.

5.3 Marginalised Groups

5.3.A MARGINALISED COMMUNITIES AND THEIR FIGHT FOR THEIR RIGHTS

The structural barriers that have kept marginalised communities at the margins of mainstream society are still alive, albeit in lesser intensity. However, the marginalised communities have been active in resisting these discriminations and marginalisation, and asserting their rights. The national population and housing census 2021 states that the total

52 Silva, Paulo, "Intergenerational Dialogue as A Way to Diagnose and Prevent Violence", Accessed September 5, 2023, https://www.un.org/esa/socdev/family/docs/egm11/EGM_Expert_Pape_Paola_Silva.pdf

population of Natuwa is 2896 and Pattharkatta is 3343. However, Pattharkatta are enlisted as endangered but Natuwa are not.⁵³ The National Census 2068 shows the total population of Natuwa was only 3062, this caste was recognised as a minority caste and a detailed list of 98 such castes were published in the Gazette on 11th Baisakh 2074. But under the same list, Pattharkatta, which has a population of 3182, is given an allowance under Social Security as a minority by the government. This has caused dissatisfaction among many members of the Natuwa community. The Natuwa community is thus bringing attention to their dire condition and right to social welfare. Members of the Natuwa community believe that with social welfare, Pattharkatta are able to invest in education and better their life standards.

They believe the same can happen to the Natuwa community if they are also provided with an allowance. As such, they have submitted memorandum to the provincial government a few times and raised their concerns regularly at the local government. Dilip Natuwa, from Kapilvastu said, 'I am not in favor of sending our people, especially daughters and mothers to beg but what options do we really have? We are not educated. We cannot find a decent job. I am not in favour of just asking the government to simply hand out social welfare and we do nothing. But what needs to be understood by everyone is that if you have enough of the basics then only, we can plan for bigger things. If we have some of our costs taken care of then we can invest in things like education.' In a similar vein, the Gandharwa community has been asserting their right to identity.

In the Baadganga area of Kapilvastu, there are 65 Gandharwa households. Traditionally, they have been involved in the profession of crafting and playing the Sarangi, a popular musical instrument. However, this traditional practice and the associated knowledge of crafting and playing the Sarangi are facing a serious crisis due to the influence of Western musical instruments. Last year 90,000 members of the Gandharwa community including the inhabitants of the Kapilvastu joined to celebrate Rishipanchami as Sarangi Diwas. They are now lobbying at the national level to declare it as a national day for Sarangi. They have asserted that Sarangi is integral to the identity and dignity of the Gandharwa community, and the government must act to protect, promote, and preserve it.

53 <https://censusnepal.cbs.gov.np/results/downloads/national>

Similarly, landless and Mohi farmers in the research area are also continuing their fight for rights to land and shelter. In the Baijanath rural municipality, Banke, 44 Katha⁵⁴ lands were eligible for Mohiyani Haq⁵⁵. To date 22 Katha have been transferred in the name of Mohi after 14 years of court case. In Indrapur, a rural municipality, Mohi Asha Ram Ahir has over 52 court cases for 14 Katha lands. The landlord had transferred the land in the name of 14 of his relatives, and sold some. This particular case has also garnered media attention. They believe there is a differential treatment between the Mohi and landlords in the government offices, and yet farmers like 83-year-old Budhai Gudariya are keeping up the fight. Similarly, landless Kamaiya and Kamlari, in Dang, Banke and Kapilvastu are also continuing their fight despite lack of adequate consideration from the government's side.

PwDs in Banke have filed complaints regarding various abuses, including problems related to infrastructure accessibility, at the court. The NHRC (National Human Rights Commission) has also submitted a memorandum to the National Federation of Disabled Nepal (NFDN) in support of their cause. Additionally, they are advocating for their right to employment. Likewise, the Badi community in Banke is actively pursuing their right to citizenship, while the Badi community in Dang is working towards obtaining permanent certificates for their shelters. Throughout these efforts by marginalised communities to assert their rights, CSOs have played a crucial role.

5.3.B COLLABORATIONS BETWEEN MARGINALISED GROUPS AND CIVIL SOCIETY ORGANISATIONS

In developing countries, the State-society driven approach can initiate and implement distributive reform programmes effectively. Furthermore, this approach promotes participatory development as well as good governance in the developing countries of the world. CSOs are also playing a more active role in development through advocacy, raising awareness, and holding the government and other stakeholders accountable⁵⁶.

54 Katha – Land measurement unit, mostly used in the Terai region of Nepal

55 Mohiyani Haq – A law granting tenant partial ownership of the land they were working on

56 SDG Knowledge Hub, "Advancing CSOs' Role in SDGs to Protect Marginalised Communities in Vietnam",

CSOs in Nepal, over the past two decades have already played crucial roles in identifying who is being left behind, undertaking programmes to support them, filling data gaps, and advocating for groups that are not otherwise seen or heard. This has helped to bring about many social transformations in the country, including in the research areas.

MAHURI home, a human rights organisation has been working on various issues of minorities. Children of the Natuwa community are deprived from education due to poverty. Realising this, an activist from MAHURI home, lobbied with the local government to support the Natuwa community. According to Ravi Thakur, Executive Director of MAHURI home, they initiated giving NPR 500 per child (from Natuwa community) per month. The organization received funds from the Ujjawal Jyoti award, which they utilised to supply school uniforms and educational materials to 275 Natuwa children. This initiative has significantly motivated these children to regularly attend school. Furthermore, they are actively engaged in advocating for the establishment of all-girls' schools and colleges, particularly aimed at Muslim and Madhesi girls.

The Land Rights Forum (LRF) has been a pioneer for land rights for landless, informal settlers, Mohi and other issues of land since 2061. According to Banilal Tharu, chairperson LRF Nepalgunj, LRF has also been forerunners in promoting other social justice programmes like elimination of social discrimination. They have also initiated identity cards for landless, which has helped many landless people in research sites to access electricity, water. They have also initiated cooperatives targeted at improving the lives of the landless. Most of the landless in research areas are associated with LRF. The identity card that the LRF advocated for them has helped landless people to access services like electricity which would not be possible otherwise. CSRC, together with LRF has been a champion in leading the cause of landless people.

Granted, a lot needs to be done but they have formed an association of the landless people driven by the people themselves. In Kapilvastu, they were able to help provide land to 367 landless people. In Baijanath rural municipality, 124 Mohi acquired joint land certificates. Mohi from Baijanath have

November 24, 2020, <http://sdg.iisd.org/commentary/guest-articles/advancing-csos-role-in-sdgs-to-protect-marginalised-communities-in-viet-nam/>

been struggling to get their rightful share for decades. Furthermore, people who are involved with the LRF have been successfully associated with political parties, out of which 12 women have been elected at local levels. Further settlements in Baijanath for protected sites were also made possible through collaboration with LRF. They also organised a 27 days demonstration at the national level that activists believe was monumental in many of the achievements related to land rights.

Civil society organisations have actively worked to combat dowry practices and prevent child marriages. According to a human rights activist from Kapilvastu, CSOs like theirs have collaborated with local informants to raise awareness about child marriages, leading to the prevention of several such cases. However, they acknowledged that it can be challenging for these informants to return to their communities. Additionally, free legal services, such as Free Legal Advocate and Pro Bono services, have played a crucial role in offering free legal assistance to Badi women in Banke who are fighting for their citizenship rights.

5.3.C IMPORTANCE OF CULTURAL PRESERVATION AND RECOGNITION

Nepal has ratified UNDRIP, which among other things ensures the right of indigenous people to land, resources and culture. Culture is at the heart of indigenous peoples' identity and livelihood. They are also part of traditional knowledge which involves cultural expression, ecology, agriculture, construction techniques, medicine and environment. They are also part of intergenerational continuity of their sense of belonging and communal sense. These indigenous practices and knowledge formed the basis of life, livelihood and identity in research areas.

In Rolpa, the Magar community has many cultural practices that are very relevant even in this day and age. They have a tradition of Singaru and Sailing dance that are integral to their culture. Participants in FGD for the marginalised community in Rolpa stated that during the armed conflict, songs, dance and other cultural programmes were a very effective medium of conveying the message, and contributing to social change. In this regard, indigenous practices such as Singaru and Sailing are effective means for cultural preservation and

social change. Magars in Rolpa also have the tradition of Thakan basne, where young male and female intermingle and get to know each other. These could be translated into modern-day dating, which helps members of the opposite sex to get to know each other better before they decide to get married.

One of the most important aspects of Magar tradition is Bhume, a practice of worshiping the land. Like many indigenous communities, land is central to the Magar community. On the occasion of Bhume which usually falls at the end of July each year, the community hosts a public celebration and no one in the area works on the land for that day. The philosophy behind it is that nature also needs rest, and that at least for that time, insects and other creatures in the soil are not killed and are respected for their contribution in human life and nature.

Of late, Bhume is becoming more inclusive and people from other communities also participate in the public celebration where land and nature are worshiped. This they believe can play an important role in land and nature preservation as a reminder of our interconnectivity. Additionally, if properly publicised and celebrated it can also serve as a platform for social cohesion and brotherhood. Awadi is one of the major languages and communities of the area. It has its own language, governance systems and traditional knowledge. However, there has been limited efforts to conserve this unique culture and language. Similarly, Muslim and Madhesi communities have their own traditional legal institutions that can be mobilised to provide marginalised communities like theirs with much needed legal service.

The Ghandharwa community bases its identity on musical instruments, especially Sarangi. The manufacture and playing of Sarangi are very nuanced and require a lot of effort. It is also unique to Nepalese culture and integral to Nepali identity. As the members of the community suggested, it is pertinent to conserve musical tradition. Indigenous pottery produced by the Kumal community is sustainable, viable as well as good for health. It is also aesthetically pleasing and also helps curb the use of plastic, glasses and other pollutants. Thus, the government at all levels must recognise these unique cultures and traditional knowledge and make efforts to preserve and promote them.



FGD, Marginalize (Tenant) Community, Baijhanath RM-7, Pidari, Banke



Civic Space and Participatory Governance

6.1 Civic Space and Its Role in Democratic Participation and Human Rights Advocacy

Civic space is a cornerstone of functioning democracies. It is defined as the set of legal, policy, institutional, and practical conditions non-governmental actors need to access information, express themselves, associate, organise and participate in public life⁵⁷. Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: accessing information, engaging in dialogue, expressing dissent or disagreement, and joining together to express their views.

An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for a vision of democratic and inclusive society. An open civic space enables civil society and a wide range of actors to fulfill their roles and act autonomously in pursuit of democracy, inclusive participation, good governance, and human rights. In Nepal, civic space forms the very foundation onto which democratic participation and exercise of human rights, advocacy of citizens, particularly WYM can be based.

In Nepal, over the past year, the authorities continued to intimidate, arrest and prosecute individuals exercising their rights to freedom of expression, association and peaceful assembly⁵⁸.

⁵⁷ What is civic space? <https://civicspacewatch.eu/what->

⁵⁸ Amnesty International, "Nepal 2022", Accessed September 5, 2023, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/nepal/report-nepal/>

Wrongful arrests of peaceful protests against government⁵⁹, a controversial amendment to the telecommunication bill that allows the government to tap phone and social media details are just some instances from many that show a basic violation of the right to privacy, information and freedom of speech and expression.

The government does not seem to have made any progress towards delivering truth, justice and reparation to the tens of thousands of victims of grave human rights violations that took place during the 1996-2006 internal armed conflict. The Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons, which have respectively collected more than 60,000 and 3,000 complaints from victims, failed to resolve a single case⁶⁰. In police custody, there were frequent reports of torture and other ill-treatment being used in pretrial detention to intimidate detainees and obtain 'confessions' or other evidence. These attest to the shrinking civil space in Nepal.

In the research sites, CSOs reported of the increasing difficulty in carrying on with their work in the new governance system. For instance, MAHURI home representatives claimed that when they want to hold a public hearing the local government outright rejects it. As advocate Raju Srivastava stated, there were a lot of threats and challenges when he took a case against domestic abuse and polygamy of the local leader. But he was happy to inform that the case was moving forward and that he anticipated victory for the woman. Similarly, Ravi Thakur, Executive Director of MAHURI home, further stated that with the transformation in the structure of government and decentralisation, it is difficult to collaborate with other organisations. Previously civil societies collaborated on many social and political issues at the district level. Now most of the CSOs are diverted as they are centered at the local level and are being politicised.

Nahakul K.C, Vice Chairman of National Planning Commission, Lumbini Province stated, 'Increasingly, civic space is narrowing, and there is an increase in yellow journalism and very little

59 Khatiwada, Nishan, "Nepali State's Commitment to Free Speech in Doubt", The Kathmandu Post, March 24, 2023, <https://kathmandupost.com/national/2023/03/24/nepali-state-s-commitment-to-free-speech-in-doubt>

60 Amnesty International, "Nepal 2022", Accessed September 5, 2023, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/nepal/report-nepal/>

news about the suffering human rights violation of the marginalised. Journalists and civil society are also joining the political parties.' Further fear of police brutality like in the case of informal settlers in Banke, landlessness in Kapilvastu and Dang, and cases of impunity in Rolpa are narrowing the space for citizens to freely assemble, associate and express themselves.

In Kapilvastu, an ice cream seller who was a Dalit was repeatedly exploited by policemen. They often took his ice cream from him without his consent and did not pay. One day he saw those policemen drunk in their uniform and decided to make a video. After the policemen found out they held him and beat him up inhumanely. Such cases add to the distrust and sense of insecurity among citizens. The conflict between authorities and indigenous communities also leads to a similar situation of distrust in terms of access to natural and economic resources.

Importantly, the traditional grant receipt relation that has defined the unequal power relationship in Nepal has continued albeit in diverse forms. In the field sites, a general trend was reported where the relationship between the duty bearers and the right holders were still characterized by hierarchy. As such, it is pertinent to recognise that only through a vibrant and thriving civic space can the fundamental freedom and human rights of citizens be assured. In this pursuit civil society organisations play a very significant role.

6.2 The Significance of Civil Society Organisations in Promoting and Protecting Rights

The existence of a strong civil society is fundamental for active participation and making public policies and institutions accountable. It fosters a respect for the rights, dignity and privileges of all people, assuming that they fulfill their responsibilities within their society. Civil society is instrumental in the development and support of public policies, raising awareness on fundamental rights, monitors human rights violations, and provides services to vulnerable communities⁶¹.

61 The role of civil society in the recognition of access to information as fundamental human rights https://www.oas.org/es/sla/ddi/docs/publicaciones_digital_XXXV_curso_derecho_internacional_2008_Dario_Soto_Abril.pdf

CSOs devise strategies to engage in the struggle for civic space in various ways—like working multiple circles of power and through multiple entry points, leveraging connections which comprises formal CSOs as well as informal platforms of alliances, campaigns and movements, and helping the government introduce and implement participatory approaches in different development projects⁶². They are also actively involved in monitoring and overseeing both government and non-government activities. In doing so, they work to promote and protect the rights of citizens, especially those of minority groups. Therefore, the role of civil society in advancing human rights in this context is of paramount importance.

CSOs also perform important research to help the government identify needs on the ground and understand and respond to problems. They assist individuals with legal support to ensure their voices are heard and the rights of all are respected. They can empower community members by informing them of the laws and legal provisions that aim to protect the environment, prevent corruption, and uphold human rights. Civil society actors spread knowledge and promote new tools in their work to promote human rights and sustainable development, to empower women and young people, to eradicate poverty, and to maintain peace and security, all under the rule of law⁶³.

In Nepal, after 1990, CSOs supplemented government functions and have made a significant contribution towards social transformation. CSOs currently mainly work in the area of service delivery supporting individuals and communities that are often isolated and excluded. They also provide technical skills and expertise and have promoted a range of social accountability approaches⁶⁴. The ongoing fight of oppressed against the 'improper transaction offense' commonly known as 'meter byaj' offenses and the subsequent policy reform initiatives, the citizenship amendment bills are some of the examples of people driven struggle for justice and protection of their fundamental

human rights. These are also important instances of civil society, and non-traditional actors, grassroots organizations working together to secure the rights of the most marginalized people.

6.3 Successful Civic Initiatives Involving Women, Youth, and Marginalised Groups

According to Dwarika Adhikari, NHRC Banke, CSOs in the research areas have been involved in many civic initiatives involving WYM. PwDs together with their organisations were successfully able to get the government sign a commitment that all the physical infrastructure that will be constructed from now on will be disabled-friendly. They also recommended that the government include sign language interpreters and other services required by PwD to access government services.

CSOs collaborated successfully to establish 42 cooperatives and agricultural knowledge centers, along with exemplary cooperatives valued at NPR 14 crore. These initiatives have significantly transformed the lives of many Kamlari. Additionally, due to advocacy efforts, the local government in Rajpur Rural Municipality, Dang, has employed 6 former Kamlari, and Gadwa Rural Municipality has employed 3 former Kamlari.

Despite initial challenges from local Muslim religious leaders, the Fatima Foundation, a foundation focused on Muslim women, successfully partnered with other organisations to launch the Human Rights with Islam programme. This programme primarily aims to provide education to Muslim women. Initially, Muslim women seldom reported cases of domestic violence and rarely ventured outside their homes. However, this situation has gradually evolved. Over time, they began collaborating with religious leaders and initiated a citizenship movement. In its inaugural year in 2010, this movement successfully facilitated the acquisition of citizenship for 510 Muslim women.

Additionally, the organisation introduced a requirement for women to present their citizenship certificates for participation in training programmes, leading 15 Muslim women to promptly obtain their citizenship certificates. In Kapilvastu, when the local government began to

62 Islam, Rabiul, "Collaboration Between Government and Civil Society: Evidence from The Implementation of Land Reform Program in Bangladesh", *Journal of Humanities and Social Science*, Accessed September 5, 2023, <https://shorturl.at/rwDJS>

63 UNODC, "Act 4 Rule of Law", Accessed September 5, 2023, <https://shorturl.at/qHKMV>

64 Civil Society in a Federal Nepal: A Landscape Study https://www.britishcouncil.org.np/sites/default/files/nepal_cso_landscape_study_final_report.pdf

slow down its effort to curb and contain COVID-19, the CSOs joined hands with locals and others to distribute oxygen concentrators and also collected approximately NPR 7,400,000.

Lawyers and human rights activists are offering pro bono legal services and have actively pursued justice for women and young girls. A recent case in Satbariya, Dang involved a woman accused of witchcraft. Local human rights defenders successfully secured justice for her, resulting in her return to her home and the restoration of her property. Cases of child marriage and polygamy are also mostly successfully solved. Advocate Puskar Bhandari, from Dang, stated that when filed in court, cases of conflicts in marriage, polygamy, child marriage, domestic tensions, evicted from home, no access to property almost always get justice.





FGD, Marginalization women, Liwang, Rolpa



Cugmani Chaudhary- Dangisharan RM-4, Sukdewa, Dang, Lumbini Province



Recommendations

7.1 Policy Recommendations

- Ensure compliance of provincial and local policies with national and international policies and treaties related to the rights of women, youth and marginalised communities catering to their contextual needs like child marriage, polygamy, and dowry.
- Restructure the Judicial Committee to ensure negligible political interference and to ensure justice for the victims. Make policy level changes to establish an independent section to address the issues of women, youth and marginalised communities.
- Formulate context specific effective policies for single women, Badi women, and marginalised communities including amending policies like forest user groups for communities that have traditionally relied on resources for their livelihood.
- Implement policies related to transitional justice to investigate issues of victims of the decade-long armed insurgency (1996-2006). Ensure that issues of female combatants, survivors of sexual violence and single women are at the front and center of the redressal.
- Implement the citizenship bill without further delay to ensure a basic foundation for the enjoyment of the rights of women and children. Ensure guidelines prohibiting discrimination against children acquiring citizenship through their mothers. Raise awareness on the societal level to stop discrimination against children acquiring citizenship through mothers.
- Ensure initiatives to consider Natuwa community in the list of endangered communities.

- Make necessary policy amendments to curb cyber bullying while ensuring freedom of expression. Develop practical guidelines on the use of social media as a mainstream channel to engage with citizens, government, CSOs and the private sector and to disseminate timely and relevant information.
- Strengthen privacy laws to prevent unwanted digital surveillance of activists, journalists, and human rights defenders. Citizens must be able to discuss and share their ideas free of surveillance or fear of retaliation by the state or non-state actors.
- Create guidelines on peaceful protests with the police and organise citizen-government, citizen-police dialogues, working with independent bodies such as the National Human Rights Commission and CSOs to ensure transparency, accountability, meaningful participation and ultimately widening civic space.
- Establishment of the human rights department at the local level to strengthen civil society.
- Promote better collaboration amongst the government, civil society, and the international community for strengthening campaigns through education, mass communication, and cultural exposure for promoting human rights awareness.

and other facilities could be taught in school and through awareness raising programmes. Providing locally contextualised curriculum and moral studies could also help children and young people be more aware of the local contexts.

- Establish safe house for victims of domestic, gender-based and/or sexual violence which can also act as a platform for women to gain knowledge about their rights, services and opportunities to gain skills and counselling.
- Introduce measures to encourage women from marginalised communities like Muslim and Madhesi to acquire citizenship.
- Ensure equal pay for men and women by setting minimum pay standards at the local level.
- Raise awareness and provide services regarding reproductive health and mental health counseling for women especially single women and survivors of civil war.
- Need-based skills training for WYM based on discussion and consultation with them at the local level.
- Establish mechanisms that ensure WYM population can freely come together and influence public policy, participate in planning, decision-making process and be involved in implementation.
- Most of the communities and participants rely on the traditional system of justice and also have more trust in their own community, friends and neighbours. Empower such trusted traditional institutions to ensure a better problem solving and justice mechanism.
- Revive and strengthen public accountability practices like Public Hearing as an exercise to protect fundamental freedom and broaden civic space.
- Commit to advance the protection of the rights of citizens, civil society organisation, and journalists, to have equal access to information and have the freedom to

7.2 Recommendations of Strategies for the Local Government

- Introduce and implement GEDSI strategies, youth-centric strategies, and zero tolerance policies against discrimination of marginalised population at all government and non-government levels to set a foundation for the protection of their fundamental freedom.
- Educate WYM on their rights and legal remedies. Knowledge about fundamental freedom, civic space, civic duties services

- express their beliefs, thoughts, and ideas without fear of censorship or reprisal.
- End the alarming incidents of suicide and drug addiction among WYM communities. Provide awareness raising programmes, platforms for creative outlet and economic opportunities, counselling and rehabilitation programme and a suicide and counselling hotline.
- Raise awareness and provide capacity-building training on digital literacy, e-governance for WYM, especially PwDs.
- Ensure public and private spaces are accessible for PwD. Provide residential schools for PwD and ensure local government employees as well as the locals are aware of the government categorization of 10 types of disabilities and accordingly provide services.
- Create a roster of youth returning from abroad with their skills and integrate them in local work pool.
- Many former Kamlari, Kamaiya, victims of armed insurgency, Mohi, landless, have been left out of the registration process. The local government should collaborate with the provincial and federal government to get them enlisted and advocate for their reparation.
- Regulate schools to stop additional costs for education. Provide education and internship schemes for young students.
- Ruling and opposition political parties must be encouraged to state a clear stand on their party's view on the protection of fundamental freedom, human rights and civic space of WYM communities. They must also ensure their cadres, supporters and rank and file are properly educated on the issues of WYM.
- Build the capacity of service providers in terms of policies, service delivery mechanisms.
- Introduce capacity-building programmes targeted at improving civic and moral knowledge of WYM communities.
- Initiate mechanisms for intergenerational dialogue in coordination with CSOs.
- Regulate the role of the police and increase their accountability during the conduct of citizen assemblies, demonstrations, and protests by introducing oversight mechanisms and introducing laws that limit the excessive use of force.
- Strengthen relationships with a broad coalition of civil society partners, working across different issue areas.

7.3 Recommendations for CSOs, International Partners and Private Sector

- Conduct advocacy at national, provincial and local levels to protect the rights of WYM communities and campaign at the grassroots level to fight against inequality and injustice against them. Engage with WYM-led grassroots organisations and actors to ensure the strengthening of campaigns.
- Collaborate with the government to strengthen and support more systemic participation of WYM communities in government decision-making processes and implement national and local policies.
- Prioritise specific issues of WYM in the development projects.
- Building public private partnership in finding market access and linkages to locally produced goods and indigenous products could help the local economy. The banking sector should partner with the poor, marginalised, women and youth.
- Periodically sensitise the government about violations of human rights, monitor and act as the intermediaries of change.



FGD, Youth, Tulasipur, Dang, Lumbini province



Conclusion

With the transformation of the governance system, there have been many encouraging changes in terms of governance, service delivery as well as the lives of the people. However, despite legal reforms, women continue to face gender-based violence including domestic violence, sexual violence, workplace violence, structural violence, and underrepresentation in decision-making processes in the private and public sphere. They also have limited access to health, education and empowerment. Youth have limited participation in governance and have barriers to quality education, have limited choice in terms of employment and personal development at the local level and also face restrictions of digital rights and online spaces, limiting their choices, association and exposure.

Even with many societal and legal changes, marginalised communities face deep-seated discrimination and marginalisation affecting their rights. Dalits, communities like the Badi, Natuwa, Kushbandiya, single women, landless, Kamaiya-Kamlari are still discriminated against by the communities and the government policies. They have limited access to essential services and opportunities, and their vulnerability to human rights abuses increases because of their intersecting identities.

Even in such adversaries, women are testaments to empowerment and leadership, bringing their experiences and intersecting identities to advocate for human rights. There is also encouraging improvement in women's representation and participation due to policy reform, albeit slowly. Youth are indispensable for promoting human rights as they champion social movements and are the necessary element to break the cycle. Youths have been involved in raising awareness about human rights and fundamental rights, curbing cyber-crime and protection and conservation.

They have also driven campaigns for social justice and positive change. Likewise, marginalised communities are asserting their rights, despite unremitting hurdles. Landless people continue the fight for their rights to land; the Natuwa community is relentless in their pursuit to be enlisted as endangered; and Badi women continue to fight for dignity. They have partnered with civil society organisations to translate change. They have also struggled to continue their indigenous knowledge and culture in the wake of new policies and globalisation.

Civic space, fundamental freedom and human rights are cornerstones of inclusive and democratic societies. They are vital forces that encourage societies to be accommodative to diversity by supporting the right to development, participation, and self-determination. As such they provide checks and balances crucial for the development of society, while allowing for the greatest number of diverse opinions to enter every discourse. They promote universal access to public infrastructure and facilities, and equal access to public information⁶⁵. These vital elements help people get empowered. And people are empowered when they are able to claim their rights and to shape the decisions, policies, rules and conditions that affect their daily lives that will guarantee WYM's right to associate, assemble and express without fear of consequences and retaliation.

Considering the perpetual and continued violation of rights of WYM, there is an urgency for all the stakeholders to unite for protection of human rights, fundamental freedom and civic space of WYM in a bid to create a more inclusive society. There is an urgent need to address structural and legal barriers that contribute to the ongoing marginalization of various groups based on arbitrary factors such as gender, caste, ethnicity, religion, occupation, family history, age, or skin colour.

To achieve this, legal, regulatory, and policy frameworks should prioritise inclusivity and support fair and comprehensive processes in all aspects of implementation. This will ensure equal access to basic education, public spaces, facilities, and information while respecting and accommodating diversity and cultural pluralism. Achieving this acceleration demands exceptional political determination, action, and investment in the battle to safeguard the human rights of WYM.

This is essential to transform international commitments into tangible changes at the national and local levels for these marginalised communities. Although there are numerous challenges ahead, it is crucial to prioritise early progress to achieve tangible and enduring outcomes.

65 Summary of E-dialogue on "Creating an Inclusive Society: Practical strategies to promote social inclusion", organised by DPSD/UNDESA, 23 May - 17 June, 2007. <https://www.un.org/esa/socdev/egms/docs/2009/Ghana/inclusive-society.pdf>



Kumal Community, Gadhawa RM-6, Kumal communities, Dang, Lumbini province

This report is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents of this report are the responsibility of Asian Forum for Human Rights and Development (FORUM-ASIA) and do not necessarily reflect the views of the United States Government, USAID, or The Asia Foundation.





Natuwa community, Sudhodhan RM-1, Pragatinagar,
Kapilbastu, Lumbini province

