Tracking Cases of Gender-Based Violence in Nepal:

Individual, institutional, legal and policy analyses

2013

This report provides the result of a study undertaken by the University College London (UCL) in partnership with the Centre for Research on Environment, Health and Population Activities (CREHPA). The overall purpose of this study was to map women's experiences of seeking care, support and redress when they have been the victims of Gender-Based Violence (GBV), and thereby to identify barriers and opportunities to both women's care seeking, and to improving the policy and programmatic environment.

Disclaimer

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ABBREVIATIONS

CDO	Chief District Officer
CEDAW	Committee on the Elimination of Discrimination against Women
CREHPA	Centre for Research on Environment Health and Population Activities
DAW	Discrimination Against Women
DAO	District Administration Office
DDC	District Development Committee
DFID	Department for International Development
DPHO	District Public Health Office/ Officer
DRG	District Resource Group
DVAW	Discrimination and Violence Against Women
ESP	Enabling State Programme
FIR	First Information Report
FWLD	Forum for Women Law and Development
GBV	Gender Based Violence
GBVIMS	Gender Bases Violence Information Management System
GECU	Gender Empowerment and Coordination Unit
GRR	Gender Role and Rights
HMIS	Health Management Information System
ICJ	International Commission of Jurists
IDI	In-depth Interview
LDO	Local Development Officer
MoHP	Ministry of Health and Population
MWCSW	Ministry of Women, Children and Social Welfare
NAC	National Advisory Committee
NDHS	Nepal Demographic and Health Survey
NGO	Non-governmental Organization
NPA	National Plan of Action
NWC	National Woman Commission
OPMCM	Office of Prime Minister and Council of Minister
SLC	School Leaving Certificate
UCL	University College London
UNICEF	United Nations International Children's Emergency Fund
UNFPA	United Nations Population Fund
UN Women	United National Entity for Gender Equality and the Empowerment of Women
VAWG	Violence Against Women and Girls
VDC	Village Development Committee
WCDO	Women and Children Development Office
WHO	World Health Organization
WOREC	Women's Rehabilitation Center

Table of Contents

Page No.

Abbreviations i

Executive Summary 1

CHAPTER 1 5

INTRODUCTION 5

1.1 Background 5
1.1.1 Country context - the extent of violence against women in Nepal 6
1.2 Justifications of the study 8
1.3 Study objectives 9
1.4 Study methodology 9
1.4.1 Legal and policy review 9
1.4.2 Review of secondary data sources 9
1.4.3 Media analysis 9
1.4.4 Identification of 'emblematic' GBV cases and in-depth interviews 10
1.4.5 Stakeholder mapping and analysis 13
1.4.6 In-depth interviews with District level stakeholders 13
1.4.7 Interviews with National level Stakeholders 14
1.4.8 Assessing resource allocation and utilization 14
1.5 Research instruments 14
1.6 Recruitment and training of study team 14
1.7 Data collection 15
1.8 Data management and analysis 15
1.9 Research governance 15
1.10 Ethical considerations 15
1.11 Challenges 16
1.12 Report structure 16

CHAPTER 2 17

FINDINGS 17

2.1 The overarching legislative and policy framework 17
2.1.1 International laws and obligations 17
2.1.2 National laws addressing GBV 18
2.1.3 Gaps in current laws 18
2.1.4 Implementation of laws and policies 19
2.2 Analysis of secondary data sources 19
2.3 Media content analysis 22
2.3.1 Quantitative findings 22
2.3.2 Qualitative findings 22
2.4 Experiences of Violence – interviews with survivors of GBV 23
2.4.1 Socio-demographics 23
2.4.2 Knowledge of laws, policies and women's rights to a violence-free life 24
2.4.3 Root causes of violence 24
2.4.4 History of violence suffered and its consequences for women's lives 25

2.4.5 Coping and care-seeking 28
2.4.6 Barriers to care-seeking 28
2.5 Stakeholder mapping 32
2.6 Perspectives of District Level Stakeholders on Addressing GBV 33
2.6.1 Chief District Officers 33
2.6.2 Women and Children Development Officers (WCDOs) 34
2.6.3 Local Development Officers 35
2.6.4 District Public Health Officers 35
2.6.5 Local media representatives 36
2.6.6 Representatives from the Women's Cell 37
2.6.7 District Attorneys, District Judges and District Bar Association 37
2.6.8 Staff of Non-Governmental Organisations 38
2.6.9 UN Staff 39
2.7 Interviews with National Level Stakeholders 40
2.7.1 Women's risk of GBV and their care-seeking practices 40
2.7.2 The legal and policy environment 40
2.7.3 The institutional environment 41
2.7.4 Agents of change 41
2.7.5 Recommendations for change 42
2.8 Resource Allocation 43

Chapter 3 44

Discussion, Limitations and Recommendations 44

Study Limitations 44
Legal and policy context 44
Accountability 49
Summary of recommendations, actions, and proposed institutional responsibility to achieve the recommendations 52

References 54

Executive Summary

This report presents the results of a survey of individual, institutional, legal and policy responses to experiences of violence against women and girls (VAWG) in Nepal. Through a detailed understanding of the experiences of 6 women who have suffered violence, we have reviewed how and where women seek care and support, and explored reasons for not seeking care. We have reviewed the mechanisms for institutional accountability, collaboration and co-ordination, and have engaged with multiple stakeholders to understand the barriers and opportunities for improving institutional responses. In addition, we have looked in detail at the legal and policy environments which, in theory, both protect and promote the rights of women and girls to live a life free of violence, and ensure they have a right to care and support when needed.

The findings from the report make for sobering reading. It is well documented that women and girls in Nepal face multiple burdens of violence – physical, sexual, emotional and structural. Moreover, it is understood that these same women may face discrimination and suffer stigma, shame and social isolation if they seek care and support for the violence they suffer. What we have documented in this report are the accounts of six women who have suffered abuse (ranging from trafficking through accusations of witchcraft, to dowry-related violence) and who came into contact with service providers who were mandated to provide help to them.

While there were positive stories of institutional accountability, not all women received the help to which they were entitled. Thus, while the perpetrator of trafficking was finally sentenced to a lifetime in jail, the men who sexually assaulted one woman were fined by an ad-hoc village committee who promptly kept half the money for themselves.

Our review of the legal and policy environment for addressing both the drivers of and responses to violence against women and girls in Nepal highlights that there are a wide variety of legal provisions designed to protect and promote women and girls against violence, discrimination and abuse. However, as the two examples above illustrate, women's experiences of the formal support systems are, at best, unpredictable – and sometimes were found to be obstructive and unhelpful too.

The report is divided into three main sections – the first, introductory, chapter gives background information on what is known about the situation of violence against women and girls in Nepal, and describes the study methods. These include both quantitative reviews of reported cases of GBV (assessed through media reports as well as reviews of institutional record-keeping, mainly at national level), and qualitative interviews with the six women as well as with a number of key stakeholders at national and district levels. Interviews with policy makers focused on reviewing institutional perceptions of opportunities for improving responses to VAWG, while district level interviews focused more on understanding individual and institutional roles and responsibilities.

The second chapter presents the key findings. Our review of both international commitments and national laws and policies to address VAWG finds that there is a generally protective and supportive environment to promote and protect the rights of girls and women. Through constitutional provisions, legal provisions, special laws and procedural provisions, these rights include the rights of all people to live a life free from violence. However, the mechanisms for implementation, monitoring and ongoing evaluation of these laws and policies are not well implemented. Although institutional accountability mechanisms do exist (see, for example, Table 2.2 which highlights which institutions are responsible for implementation of which law), they are poorly implemented.

A key finding in the second chapter relates to the lack of standardized monitoring, collation, evaluation and dissemination of data around cases of VAWG. Major institutions have developed their own systems for record-keeping: thus making cross-institutional comparisons very challenging, and resulting in a

fragmented understanding of the exact burden of VAWG in the country or the effectiveness of any interventions to address the problem.

Our interviews with women were undertaken to understand what factors might have precipitated their experiences of violence, and how they made decisions around care seeking and support. In general, women's vulnerabilities to violence were already well known in Nepal – but were starkly illustrated in some of the women's life stories of lack of knowledge around their rights, or agency to realize their rights. Women often hid their suffering from others for a long time, and when they did finally seek care, it was often from family and friends rather than through formal support mechanisms. Once in the formal care system, as noted above, women had unpredictable experiences – some good, some bad. The lack of a predictable pathway of care is a cause for concern.

Key stakeholders at national and district levels were selected on the basis of a stakeholder mapping exercise which assessed respondents on their likely level of power, interest and commitment to address the problem of VAWG. Stakeholders at district level ranged from Chief District Officers, to public health officials. The national level stakeholders were often in senior positions in Government Ministries or autonomous institutions with a key role in policy and practice to address VAWG. Interviews focused on understanding respondents' knowledge of their roles and responsibilities, institutional mechanisms for monitoring and evaluation of case management, collaboration with other institutions, and suggestions for improvements in the current system.

In general, while interviewees were aware that VAWG is a problem in Nepal, and were keen to address the problem, at District level in particular, they were often lacking in knowledge about their own (institutional) responsibility to act. Thus, for example, awareness of institutional policies and guidelines for dealing with cases of VAWG was often lacking. Record keeping was generally poor, and few respondents at District level were aware of any evaluation or analysis of the records/data that they did keep.

Mechanisms for accountability to ensure that cases of VAWG were dealt with effectively (and according to principles of equity and fairness), were notable by their almost universal absence. At national level, while mechanisms for collaboration and co-ordination among agencies were noted, these did not extend to inter-agency agreement on such basic concepts as standardized case definitions, centralized monitoring of cases, or implementation of accountability mechanisms.

In summary, VAWG is a pervasive and persistent problem in Nepal, and our study has confirmed that individual women suffer prolonged abuse and humiliation and fear societal retribution and "shame" if they make their sufferings known to others. Social norms (including gender norms) may be acting to perpetuate women's vulnerability. While institutions and organisations mandated to provide care and support to women and girls (either to prevent violence, or to care for those who have suffered violence) are plentiful, recommendations for improvements in the implementation of existing laws, policies and guidelines have been highlighted in the final section of this report – discussion, limitations and recommendations. We identify three key areas for action:

(1) addressing women's level of knowledge about their rights and increasing their agency to act;

(2) promoting gender-transformative social norms that focus on men's roles and responsibilities for ensuring girls and women live a life free of violence;

(3) strengthening mechanisms for monitoring, evaluation and institutional accountability.

Each of these areas is explored in the final chapter in detail, and key actions to achieve each recommendation, along with institutional responsibility, are detailed as follows:

Key recommendations arising from the study

1. Address gaps in laws and policies

- Amend the Domestic Violence Act
- Review the timeframe and processes for filing rape cases
- Review punishments for some forms of violence
- Introduce legal provision for violence associated with accusations of witchcraft

Action by: Parliament, Prime Minister's Office, Ministry of Law and Justice, Ministry of Women, Children and Social Welfare, Attorney-General's Office

2. Improve women's access to and experience of the justice system

- Conduct research to improve understanding of 'compromise' deals and work with the justice system to reduce the incidence of out of court settlements
- Include GBV in pre-service training for police officers and ensure there is at least one officer in every police station who is trained to deal with cases of GBV
- Pilot and introduce fast track courts for cases of GBV

Action by: National Women's Commission, donors, UN agencies, women's rights organisations, police service, Ministry of Law and Justice, Supreme Court, Attorney-General's Office, Nepal Bar Association, district courts

3. Improve awareness of laws, policies and guidelines among key district stakeholders

- Review all relevant sector guidelines for provision of GBV-related services
- Ensure policies and guidelines are available in relevant institutions and train district staff
- Support exchange of experience between districts performing well and less well

Action by: Ministry of Women, Children and Social Welfare, other relevant ministries and their district level line agencies, UN agencies, donors

4. Strengthen district coordination and implementation

- Establish clear guidelines and standards for coordination, orient district level concerned authorities, and monitor implementation of coordination mechanisms
- Establish guidelines for referral between e.g. health, police, justice systems, NGOs, women's shelters, women's human rights organisations
- Monitor expenditure against budget and introduce incentives to use allocations for GBV action
- Increase budget transparency so civil society actors can hold district authorities to account

Action by: Ministry of Women, Children and Social Welfare, Ministry of Home Affairs, other ministries and their district level line agencies, Ministry of Finance, civil society, media

5. Strengthen mechanisms for monitoring and accountability of service delivery

- Agree a set of indicators for monitoring service delivery, quality and outcomes across all sectors
- Consider how systems used to learn from mistakes and improve service delivery in other sectors e.g. Maternal Death Review, could be adapted for cases of GBV, and pilot case reviews
- Strengthen district capacity for monitoring, reporting and data analysis

- Engage the media in monitoring service delivery and outcomes

Action by: GECU, Ministry of Women, Children and Social Welfare, UN agencies

6. Increase women's awareness of laws, rights, services, and how to complain about poor service

- Implement a national multi-media campaign using radio, TV, theatre, SMS, including stories of women whose cases have been handled well to encourage others to seek services
- Evaluate 'open surgeries' where women's rights defenders and officers from women's police cells meet the community and, if effective, support scale up of this approach
- Expand school interventions to educate boys and girls about laws, rights and services
- Train female community health volunteers to conduct GBV awareness programmes
- Identify lessons learned from efforts to address shame and stigma associated with HIV and TB

Action by: Ministry of Women, Children and Social Welfare, Women and Children Development Officers, Human Rights Commission, media, NGOs, women's organisations, human rights defenders, paralegal committees, national and district education and health sectors, UN agencies, donors

7. Strengthen action to prevent violence against women and tackle harmful social norms

- Work with men and boys to raise awareness and promote 'zero tolerance', of violence against women, through advertising, media, community and school-based interventions
- Promote awareness of women's legal rights to property and inheritance
- Conduct analysis of the economic cost of gender-based violence

Action by: Ministry of Women, Children and Social Welfare, Ministry of Education, paralegal committees, women's human rights defenders, political and community leaders, NGOs, media, Ministry of Finance, UN agencies, donors

8. Improve the evidence base

- Establish a working group to agree on standard definitions to be used by all relevant agencies
- Develop and implement a common framework for recording and reporting cases of GBV
- Identify an institutional lead to collate, analyse, report on and disseminate national data on GBV
- Review the evidence for 'what works' for gender transformative approaches to addressing and preventing violence against women in Nepal, with a focus on the role of men and boys

Action by: GECU in the Prime Ministers' Office with relevant ministries and agencies

This report is the result of four intensive months of research, but builds on many years of individual and institutional experiences grappling with the issue of VAWG in Nepal. We hope that the recommendations may go some way to achieving a more flexible and responsive environment for women and girls at risk of/suffering from violence, and, ultimately, towards reducing their risks in the first place.

CHAPTER 1

INTRODUCTION

1.1 Background

Violence against women and girls (VAWG) is well recognized as a human rights violation. The Convention for the Elimination of Discrimination against Women (CEDAW) and the UN article that prohibits torture (UN, 1984) have both brought VAWG out of the private and into public spheres globally and in doing so have recognized VAWG as an infringement of women's basic human rights. The impact of VAWG as a public health problem with legal, social, cultural, economic and psychological dimensions has been increasingly articulated (UNFPA, 2010). In 1996, the World Health Assembly declared VAWG to be major public health problem that urgently needed to be addressed by governments and health organizations (WHO, 1996).

Violence against women (in its broadest sense) can occur throughout women's lives over the course of the lifecycle, irrespective of class, caste/ethnicity, social status, race, nationality or any other defining features (CRDC, 2002). It is estimated that globally one in three women is abused during her lifetime, and 8-26% of women and girls report having been sexually abused as children or adults (Holden, 2003). VAWG that occurs in the domestic sphere and is perpetrated by their intimate partners, including spouses, is a particular problem, with between 13% and 61% of women worldwide reporting physical domestic violence in their lifetime (Crowell et al 1996; CRDC, 2002; Kishor et al 2004).

A global review of the scope and magnitude of VAWG identified a number of types and perpetrators of violence – these included episodes of violence in the domestic and societal realms, violence by individuals, and institutional and organisational violence perpetrated by state actors and others (Watts and Zimmerman, 2002). Different types of violence against women were found to be prevalent throughout the life-cycle of women, and violence was found to be a global phenomenon.

Further evidence of the extent of violence against women comes from a multi-country study which collected data from over 24,000 women across 15 sites in 10 countries. Between 15 and 71% of women reported ever having experienced sexual or physical violence perpetrated by an intimate partner in their lifetime, while violence from a non-partner ranged from 5-65% (WHO, 2005). The WHO study found a number of characteristics associated with a higher prevalence of violence; these included: individual level attributes (young age, limited education, lower socio-economic status); partner attributes (alcohol or drug use limited education); family attributes (economic stress, male dominance); community attributes (gender inequality, lack of cohesion); and societal level variables (regressive gender norms, lack of female autonomy, restrictive laws) (WHO, 2005).

Violence against women as a sub-category of broader gender-based violence (GBV), is typically enmeshed in a complex web of institutionalized social relations that reinforce women's vulnerability. For example, women may endure men's violence because they see no acceptable alternatives, and their lack of alternatives is often part of a larger cultural logic that sanctions violence. Violence against women prevents women from exercising their legal rights to property inheritance, constrains their ability to take advantage of economic opportunities and keeps them in their homes. Moreover, there is concern that if and when women/girls do seek care and support in the formal sectors (e.g. in the legal, police, health or other social sectors), they may not be able to fully actualize their rights to service support and provision.

Gender based violence causes a host of health problems that limit women's growth and productivity, impede the well-being of families and communities, strain health systems' resources, and hinder governments from achieving their national goals related to health and women's advancement. For

example, studies show links between domestic violence against women and their emotional and physical health (Watts and Zimmerman, 2002). Physical abuse is associated with acute and lasting mental illness (NRC, 2003; Mullen et al, 2000; Danielson et al 1998), stress-related physical illness (Butterwith 2004; Campbell et al, 2002; Sutherland et al 1998), gynecological problems (Butterwith et al 2004; Coker et al 2000; Letoourneau et al 1999; Golding, 1996; Wingwod et al 2000 and Johnson et al 2004), underweight (Plichta and Abraham 1996) and risk factors for chronic illness (Pilchta and Abraham, 1996; Bailey and Daugherty, 2007). In pregnancy, such violence is associated with poor nutrition (Lemon et al, 2002), low maternal weight gain, smoking and alcohol use, infections, anemia (Kearney et al, 2003), and maternal mortality (McFarlane et al, 1996). Children's exposure to domestic violence against women also has important adverse effects. Studies show that violent arguments between parents are associated with children's non-organic failure-to-thrive, lower caloric intake, higher risks of wasting (Pilchta and Abraham, 1996) and poorer growth in infancy and into childhood. Women who have been physically or sexually assaulted also tend to be intensive long-term users of health services but may also have lower use of important preventive services, such as prenatal care (Rao, 1998).

1.1.1 Country context - the extent of violence against women in Nepal

Women and girls in Nepal are exposed to a variety of forms of violence, many of which are suffered by women/girls globally, and others which are more commonly seen in Nepal than elsewhere. Empirical studies in Nepal have documented the prevalence of sexual violence suffered by 12% to 50% of women (SAATHI, 1997; WOREC, 2002; Deuba et al 2005; Puri et al, 2007; Puri et al 2010, Puri et al, 2011, Puri et al, 2012). Violence against girls and adolescents is also prevalent: a recent study, *Sexual Violence Assessment in Seven Districts of Nepal*, revealed a high prevalence of sexual violence against adolescent girls in Nepal. The study found almost one in ten girls (9.8%) reported experiencing sexual violence. This figure is substantially higher than the rate reported in the same age group in the Nepal Demographic Health Survey 2011- 4.6% of girls aged 15-19 years reported experiencing sexual violence (MoHP, New Era and International Inc 2012)[Himalayan Human Rights Monitors/PPCC supported by the Enabling State Programme (ESP/DFID), December 2012)], but both figures highlight the common nature of the problem.

Physical violence is also widespread. The 2011 Nepal Demographic and Health Survey found that more than one in five (22%) women age 15-49 years reported experiencing physical violence at some point since the age of 15 years; among whom 9% were physically assaulted in the last year, either regularly (2%) or infrequently (7%). Older, married, rural and Terai women were more likely to report physical violence than other groups of women. Moreover, 12% of women in the DHS reported ever experiencing sexual violence (NDHS, 2011). '*A study on Gender Based Violence conducted in selected rural districts of Nepal*' conducted by OPMCM/TAF/CREHPA revealed that almost half of women (48%) had experienced violence at some time in their lives, and 28% had experienced violence in the past 12 months; where emotional violence (40.4%) was most commonly reported type of violence followed by physical violence (26.8%), sexual violence (15.3%) and economic abuse/violence (8%) (OPMCM, 2012). The Nepal DHS 2006 also questioned men in the population, and found that 21% of male respondents feel that a husband may be justified for beating his wife (NDHS, 2006).

Previous studies in Nepal have identified a variety of factors, including legal subordination, economic dependency, cultural obligation and social position of women, that construct and reinforce male dominance and female subservience so thoroughly that neither the violence nor the failure to complain about it are unusual (Paudel, 2011). Furthermore, women's lack of autonomy, high economic dependency on their husbands, men's perceived entitlement to sex, lack of education and knowledge of sexuality, marriage practices (particularly early marriage), lack of family and legal support to women, and husband's use of alcohol, are all noted to contribute to risk of violence (Deuba et al 2005; Puri et al, 2007; Puri et al 2010; Puri et al, 2011; Puri et al 2012; OPMCM, 2012).

As a result of determinants operating the level of individuals, families, communities and the wider society, women and girls in Nepal suffer from a variety of types of violence including: sexual exploitation (trafficking, forced sex, sexual harassment), domestic violence (i.e. spousal abuse), family abuse (polygamy, child marriage, widow abuse, dowry related violence, emotional and mental abuse), accusations of witchcraft (*Boxi*) and bonded labour (*Kamalari*).

Although the Interim Constitution of Nepal gives every citizen the right to practice their own cultural customs and rituals, Nepali law prohibits some harmful customs and rituals. Nonetheless, pervasive traditional practices contribute to women's risks of violence. For example, within the *Badi* community (in mid-western Terai district) many women are forced into commercial sex work, with 30-40% reported to be girls below 15 years. Trafficking of young women from Nepal to India for sexual exploitation is a particular problem. Between5,000 to 7,000 Nepali girls are trafficked every year across the border to India. Most end up as sex workers in brothels in Mumbai, Calcutta and New Delhi (Simkhada, 2008). It is estimated that a total of 200,000 Nepali girls and women have been sex trafficked to India (Sethuraman, 2008). Half of those trafficked are under 16 years of age when trafficked and one quarter are below 14 years of age (Hasselman et al, 2006).

The *Deuki* tradition involves families offering young girls to temples for ceremonial purposes; however girls often experience sexual exploitation and may enter sex work to earn a living (ESCAP, 2009). Similarly, the *Jhuma* are Sherpa who traditionally send second-born daughters to monasteries as an offering to ensure the well-being of the girls' family. Dalit (traditionally categorized as "untouchable") women face multiple discriminations, including a higher risk of being accused of witchcraft than the rate seen among non-Dalit women. Menstrual seclusion (*Chaupadi*) is a social tradition for the Hindu women in the mid and far western part of Nepal that prohibits them from undertaking the usual activities of daily life during the time of menstruation because they are considered impure. The women are kept out of the house – usually living in outdoor sheds/barns. This lasts ten to eleven days when an adolescent girl has her first period, and four to seven days for every following one.

The context of GBV, driven by social, cultural, religious and gender norms, is compounded by years of political conflict which increased risk of violence (Dhakal, 2008). The decade of armed conflict in Nepal contributed to GBV, particularly through rape, trafficking, sexual slavery, displacement and economic hardship, however the evidence base on the extent of this problem is not robust (OPMM, 2012). The abuse of women in armed conflict is rooted in a culture of discrimination that denies women equal status with men. Social, political and religious norms identify women as the property of men, conflate women's chastity with family honour and legitimize violence against women. Women's financial dependence, subordinate social status and a lack of legal support rendersthem vulnerable to continued abuse.

1.1.2 Addressing the problem of gender-based violence in Nepal

When and where women seek care and support if they have suffered from violence will depend on characteristics at a number of levels: the individual woman (her level of autonomy in decision-making, her socio-economic status, etc); the family and community (cultural norms around the "expectation" and "acceptability" of violence against women); and institution-level responses (the ability of institutions to respond appropriately to the needs of women). Each of these variables can be influenced, to a greater or lesser degree, by social and political pressures and the wider legal and policy environments.

The most recent DHS in Nepal (NDHS, 2011), found that three quarters of women who had experienced physical or sexual violence at some point in their lives had not sought any help – and two thirds had never mentioned the violence to anyone. The problem of not seeking care was particularly acute among women who had experienced sexual violence – only 7% had reported the assault. Even when care is sought, it is rarely from the state sector – only 4% of DHS respondents who sought care had

been to the police, and 3% to medical services. The majority of the care-seeking women had relied on friends and family for care and support (NDHS 2011). These findings led the DHS authors to conclude that "despite the efforts of the Ministry of Women, Children, and Social Welfare and nongovernmental organizations to cater to victims of violence, the data suggest that few abused women are accessing these services" (NDHS, 2011).

The Government of Nepal has been seen to be taking the issue of gender-based violence (GBV) in general, and violence against women in particular, seriously. The issue carries a high level of political salience, as witnessed by the establishment of a Prime Ministerial Unit to address GBV, and the formulation and implementation of a National Action Plan along with a National Steering Committee. These actions are supported by a legal and political environment which, in theory, is protective of gender equality, promotes the notion of equal rights for women, and punitive towards those who are violent to others.

Nonetheless, although high on the political agenda, there are still widely recognized gaps in both the evidence base concerning the extent of GBV in Nepal, and the effectiveness of the response mechanisms.

The purpose of the study detailed in this report is to address some of the current gaps in the evidence base in Nepal by undertaking a comprehensive review of the responses (institutional, social, political) to high profile cases of GBV in Nepal.

1.2 Justifications of the study

On 25 November 2009, the International Day for on Elimination of Violence against Women and the beginning of the sixteen days of activism against gender based violence, the former Prime Minister of Nepal declared 2010 the year to end GBV. As part of this announcement, the former Prime Minister established a GBV unit (now it is called GECU-Gender Empowerment and Coordination Unit) within his office to monitor and collect data on GBV. A National Action Plan (2010) was launched, and a National Steering Committee-chaired by the Chief Secretary and co-chaired by the Secretary, Ministry of Women, Children and Social Welfare, was formed to monitor the implementation of the Action Plan. Sectoral Implementation Plans to support the National Action Plan have subsequently been developed.

Since the Prime Minister's Announcement there have been a number of 'high profile' GBV cases reported in local and national media, including sexual assault and 'witchcraft' cases. These cases, coming on top of a background of persistent and pervasive violence against women, have raised issues including:

- How effective Nepal's national security, judicial, health, psycho-social and welfare systems have been in responding to such GBV cases;
- Whether the new national legal and policy frameworks since 2006, including the Gender Equality Act, 2006, the Interim Constitution, 2007, the Human Trafficking and Transportation (Control) Act, 2007 and the Domestic Violence (Crime and Punishment) Act, 2009 have been effective in helping GBV survivors attain the justice, security, psycho-social care and possible livelihood opportunities they need;
- How informal institutions constrain or support women's protection and access to services and seeking justice; and
- What are the main barriers and challenges in women accessing support, and how these can be addressed.

In order to gain better understanding of how government systems respond to reported GBV cases, the adequacy of the response, and how to strengthen policies for better implementation and response to GBV survivors within these systems, the United Nations Population Fund (UNFPA), the Department

for International Development (UK AID) through the Enabling State Programme (ESP) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) co-funded a study to address these and other issues.

1.3 Study objectives

The overall purpose of this study was to map women's experiences of seeking care, support and redress when they have suffered GBV, and thereby to identify barriers and opportunities to both women's care seeking, and to improving the policy and programmatic environment. More specifically, this research was designed to:

- Understand how and why women make choices and seek support
- Examine the role of key community members in supporting women -
- To assesses interests and incentives of power-holders in key formal and informal institutions
- Understand roles of formal institutions and informal norms and values in working together and independently to support or block women from care-seeking
- Examine the effectiveness of different systems mandated to provide care and support
- Assess operational strengths and weaknesses within and between the systems and institutions.

1.4 Study methodology

A number of qualitative and quantitative research methods were used in this study.

1.4.1 Legal and policy review

A review of the legal and policy framework surrounding gender based violence in Nepal focused on the following areas:

- Outline of laws addressing GBV, including procedural aspects of implementation of the laws and policies;
- Institutional structures for implementing these laws
- Institutional structures for monitoring the laws and mechanisms for accountability

The following documents were included in the review:

- Interim Constitution of Nepal, 2007
- General Code (MulukiAin), 1963 plus amendments
- Domestic Violence (Offence and Punishment) Act, 2009
- Human Trafficking and Transportation Control Act of 2006
- Amendments to the Act to Maintain Gender Equality, 2006
- Social Behaviors Reform Act, 1971
- Regulations for the GBV Elimination Fund
- Public Offence(crime and punishment) Act, 1971

1.4.2 Review of secondary data sources

Using secondary sources (media reports, police reports, court reports and NGO reports), we recorded the number of reports of VAWG over a two-year time frame (2010-2012) in each of the study Districts. The reports were classified according to type of violence that women reported.

1.4.3 Media analysis

The media analysis had two key objectives: a quantitative review of the number of cases of GBV reported in the online and print media within the past yearand a qualitative review of selected cases to be "tracked" during the study.

For the quantitative review we conducted a web-based search on the websites of the following newspapers: Kantipur Daily, Annapurna Daily, The Himalayan Daily, the Kathmandu Post Daily, and Republic Daily. E-news sites were searched using the following key words: 'gender based violence', 'domestic violence', 'trafficking', 'rape', 'sexual violence', 'polygamy', 'widow abuse', 'witchcraft', 'harmful practice', 'early marriage', 'dowry'. In addition we hand-searched the archives of print media looking for stories reporting on VAWG. Cases of VAWG reported in the media were recorded and disaggregated by type of violence.

Qualitative analysis served two purposes. Firstly, the identification of 3 "cases" for in-depth review and interview. These "cases" were selected on the basis of criteria established by the Study's Advisory Group meeting in November 2012. The "cases" selected from media reports were added to those selected by the Advisory Group, giving a total of 6 selected "cases". Media reports on the stories of each of these women were then analysed to review their histories in depth prior to interviews at District level.

The second purpose of the qualitative review of media reports was to analyse the content and direction of media coverage of GBV including VAWG. Editorial direction was analysed, and subjective assessments made of the focus of media reports.

1.4.4 Identification of 'emblematic' GBV cases and in-depth interviews

On the basis advisory group suggestions and supplemented by media analysis, 6 "emblematic" cases of gender-based violence in Nepal were selected. The final selection of cases was based on criteria set out by the advisory group:

- Case must be reported in media and not earlier than the year 2010
- Age of survivors must be 18 and above years
- Case must fit into one (or more) of the following categories:
  - Dowry-related violence
  - Rape including gang rape
  - Witchcraft accusation
  - Trafficking
  - Domestic violence perpetrated by husband
  - Widow abuse
- Willingness to give consent for an interview
- Possibility of access to the people involved

Women were identified in five Districts – see Figure 1.1.

Figure 1.1 Map of Nepal showing the locations of the six women interviewed in the study

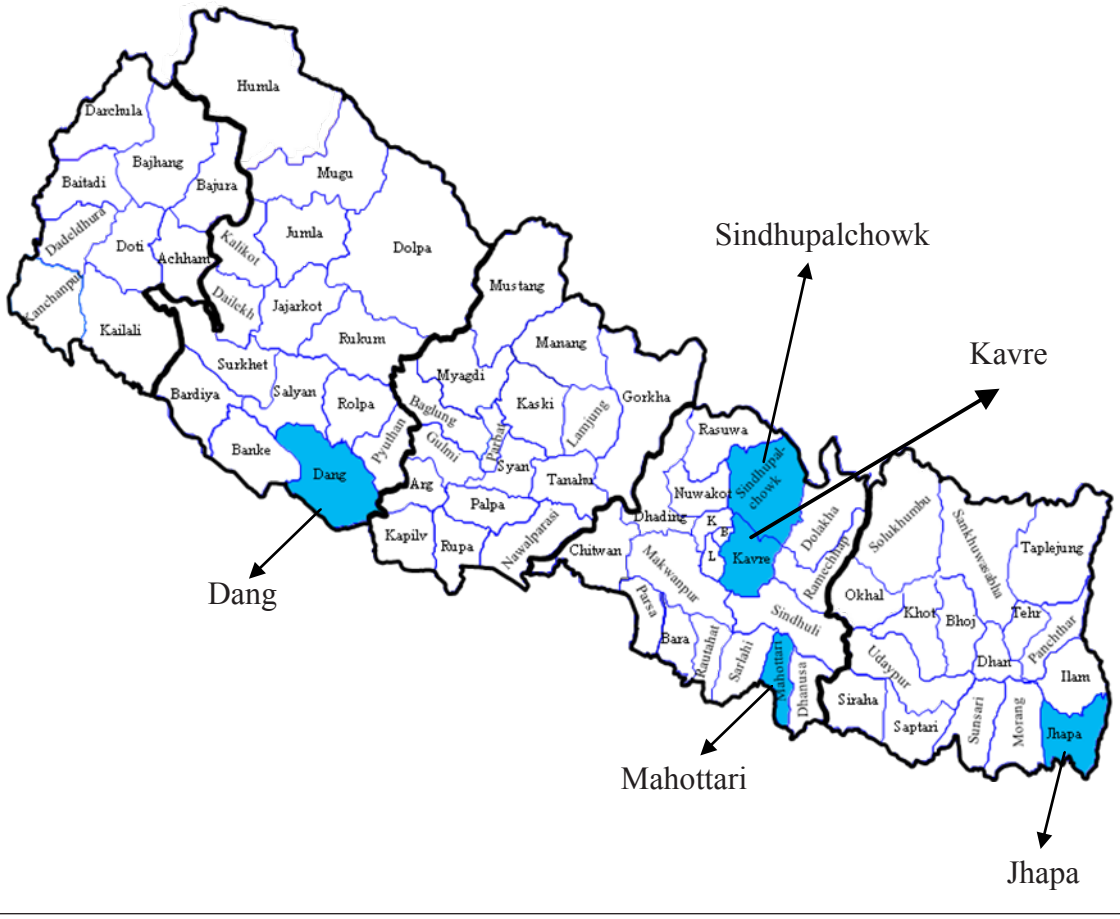


Table 1.1 details general information about the 6 women selected for inclusion in this study.

Table 1.1 List of six cases selected for the study

Types of Violence	District	Date of event	Brief summary of event
Dowry related violence (Tortured)	Mahottari	Dec 2011	Tortured by her in laws for insufficient dowry. The case is registered at the GEC unit at the Prime Minister's Office. WCDO is helping the woman.
Sexual Violence (Gang rape)	Mahottari	Jan 2011	A woman was raped by two local men while she was returning from the bazaar where she was selling fruit– earning her living after the death of her husband. The community meeting decided that she should leave the village as she would set negative example to other girls and the perpetrators should pay a fine of Rs 20,000 each. The meeting also decided that half of the money would be used for community development.
Domestic Violence (burnt by husband)	Jhapa	Sep 2011	A woman aged 23 was burnt by her husband on the grounds of insufficient dowry and giving birth to a daughter.
Witchcraft Accusation	Dang	May 2011	Beaten brutally and accused by her neighbours of practicing witchcraft. She was forced to leave the village. Later, with the help of local police, NGOs and NHRC, she resettled in the village. The perpetrators were made to pay a fine of Rs 5,000 by the district court.
Widow Abuse (physical violence)	Kavre	Mar 2012	A single woman was tortured by her own son and in-laws who blamed her for an illicit relationship with maternal uncle. The case is currently in the district court.
Trafficking	Sindhupalchowk	Jul 2012	An illiterate girl, 19, sold to a brothel in India by a close relative. Escaped from brothel with the help of a customer and returned to Nepal and filed a case against perpetrators with the help of a NGO. District Court has sentenced the main perpetrator to 170 years of imprisonment.

In-depth interviews were carried out with all 6 women by trained interviewers and focused on the following:

- "Story" of violence suffered
- History of care-seeking and coping mechanisms
- Support received, and facilitating factors in receiving that support
- Outcome of support
- Barriers faced, and perceived reasons for these barriers
- Suggestions for changes to reduce GBV and improve institutional responses

1.4.5 Stakeholder mapping and analysis

A stakeholder mapping was conducted in order to identify critical stakeholdersand to map their perceivedinstitutional interests, power and positions. This stakeholder mapping exercise was conducted through a meeting involving key informants who were well placed to understand the GBV/ VAWG landscape in Nepal. Stakeholders were identified separately at national and District levels. These stakeholder maps then formed the sampling frame for the selection of key stakeholders for interview at national and District levels – see sections 1.4.6 and 1.4.7 (below) for further details of these interviews.

1.4.6 In-depth interviews with District level stakeholders

Based on the stakeholder mapping and supplemented by media content analysis, we identified and interviewed 45 District level key stakeholders. Not all stakeholders identified in the mapping exercise agreed to be included in the interviews. Table 1.2 presents the number and types of District level stakeholders interviewed in the study.

Table 1.2 Number and types of district level stakeholders interviewed

Types of district level stakeholders	Male	Female	Total
Chief District Officer/acting Chief District Officer	5	0	5
District Police officer/Women's Police cell	1	4	5
Judge of the District Court/ Registar	5	0	5
District Attorney	2	0	2
Officials of District Bar Association/Lawyer	4	0	4
District Public Health Officer	3	0	3
Women and Children Development Officer	4	0	4
Local Development Officers or GBV Focal Person at the District Development Office	3	0	3
District level media personnel	4	0	4
Local NGOs working on GBV/ Women's Human Rights Defenders	2	6	8
Local UN staff	2	0	2
Total	**35**	**10**	**45**

Interviews with district level stakeholders focused on the following issues:

- Understanding of their own and the institutional role in addressing GBV
- Institutional function (who has responsibility to implement existing policy to address GBV; who is held accountable)
- Institutional relationships (e.g. understanding mechanisms of referral)
- Knowledge of legal and policy environment to protect women who have suffered GBV
- Attitudinal assessments on issues such as gender equality, perceptions of human rights, women's empowerment, etc.
- Description of institutional activities and actions to address GBV in the specific 6 'emblematic' cases
- Suggestions for changes to reduce GBV and improve institutional responses and ensure access to justice

All interviews, whether with women or with key stakeholders, were taped and also recorded through note-taking by the interviewer.

1.4.7 Interviews with National level Stakeholders

Interviews with key decision-makers, policy intermediaries and policy-makers were conducted in mid-January 2013. Interviewees were selected from the stakeholder mapping exercise noted above. Again, not all stakeholders identified through mapping were interviewed – participation rates depended on availability and willingness to be interviewed. Interviewees were sent an invitation letter to participate in the study, contacted by email and telephone, and interviewed generally at their place of work. Interviews focused on:

- the salience of GBV policies on national agendas,
- willingness to devote time, resources and political capital to addressing GBV,
- perceptions of the political "palatability" of evidence-informed policy recommendations

Detailed notes were taken (with permission) during each interview, and these formed the basis of the subsequent stakeholder analysis.

1.4.8 Assessing resource allocation and utilization

Measuring resource allocation is a fundamental part of assessing the institutional and policy responses to GBV. We assessed resource allocation through inclusion of questions of resource allocation in the interviews with key stakeholders at both national and District levels. The questions focused on:

- Knowledge of budget allocation to tackle GBV
- Resource availability – human, financial and logistical
- Utilization of resources
- Perceptions of resource sufficiency with justifications/evidence

1.5 Research instruments

The following research instruments were used to collect data:

- In-depth interview guidelines with women
- In-depth interview guidelines for district level stakeholders

The draft research instruments developed during the proposal submission to the ethical committees (of both research organisations – UCL and CREHPA) were reviewed, modified and translated from English to Nepali. These instruments were modified based on comments received from UNWOMEN, ESP/UK AID, UNFPA and the Advisory Group members. A copy of the survey instruments for the interviews with women and with District level stakeholders is attached in. The national level stakeholders were interviewed to better understand the three issues noted above (section 1.4.7). No interview guides, per se, were used, but interviews followed a general pattern of attempting to discern institutional roles and responsibilities for addressing VAWG.

1.6 Recruitment and training of study team

A total of 4 researchers (2 junior researchers and 2 research assistants) who were university graduates and experienced in conducting research on similar issues were hired and trained to collect data. The research assistants were given 3 days of intensive orientation on different aspects of the study, including recruitment procedures, in-depth interviewing techniques, taking field notes, and issues surrounding confidentiality and ethical procedures during data collection. The training involved short lectures, mock interviews, and role-plays. The research assistants were adequately trained in each research instrument and on the administration of specific questions. The training was conducted by

the core research team (including Dr. Sarah Hawkes) at CREHPA. In addition, we hired an experienced legal analyst who reviewed the legal and policy environment for tackling GBV in Nepal.

1.7 Data collection

Fieldwork was carried out between 30 November 2012 and 17 January 2013 by two (female) field teams, each comprising one junior researcher (with law background) and one research assistant. All national level in-depth interviews were conducted by the Principal Investigator of the study supported by a junior researcher. To promote and protect confidentiality, interviews were conducted in private locations convenient to the participants, within a room of their home or workplace.

The field team was closely supervised by core team members to ensure work quality. The core team members reviewed transcriptions of interviews and provided feedback to the field teams. Telephonic communication with the research assistants was maintained to monitor the progress and quality of the data collection.

Tape recorders were used for in-depth interviews (with the consent of respondents) and field notes were also kept. Transcription and expanding of field notes were carried out before moving on to the next interview/discussion. All transcriptions were reviewed by the core team members and word by word translation into English was carried by the translators.

1.8 Data management and analysis

All in-depth interviews with district level stakeholders were tape-recorded with the consent of the participants. Data analysis was guided by the pre-determined theme and research questions. All textual data were transcribed from audio-tape (or expanded from the notebook) in Nepali and translated into English. After reviewing the transcripts, the major themes were identified and summarized ranges of views expressed within themes as well as the relationship(s) between themes were summarized in grid tables with relevant quotations that illustrate the themes. Data were analyzed manually.

Interview notes from the interviews with national level stakeholders were reviewed and analysed manually.

1.9 Research governance

An advisory committee of 11 members under the leadership of the Chairperson of National Women's Commission was formed before the initiation of the study. The committee members were from UK AID, ESP, UN Women, UNFPA, UNICEF, International Commission of Jurists (ICJ), National Women's Commission, Ministry of Women Children and Social Welfare (MWCSW), SAATHI, and Forum for Law Women and Development (FLWD). The role of the advisory group was to engage with the study team at critical milestones, providing information and support and helping to ensure relevancy, essential linkages and quality assurance. The committee met twice - once before the study commencing and another when the draft report was ready for review.

1.10 Ethical considerations

Ethical approvalwas received from the ethics committee of University College London (grant holders) and the institutional review committee of CREHPA to conduct the study in the country. Participants (women and key stakeholders) involved in this study were fully informed of the nature of the study, the study objectives, and the confidentiality of the data. The potential benefit and risk in participating in the study were explained to all study participants. Participants were informed that they may skip any questions they did not wish to answer and were always given an opportunity to comment or ask any questions to the researchers. The informed consent form was written in simple Nepali language, this was readout to the participants and verbal consent was obtained. The informed consent form

was based on the ethical guidelines developed by WHO for undertaking GBV research (WHO, 2001). No names were entered into the textual data base and no personal identifications were used in the analysis or reports.

1.11 Challenges

As with any piece of research, there are limitations both to data collection and interpretation. We have grouped these into three main areas: Firstly, due to the qualitative nature of the study the findings are descriptive rather than representative. Secondly, the purposively selected small number of GBV cases and stakeholders included in the study, limit the possibility of generalisability of findings to a wider population.

One of the major challenges was the selection of 6 emblematic GBV cases. The advisory group members thought that emblematic cases as specified in the TOR were no longer relevant and a significant amount of time was spent identifying new cases. Data collection was hampered by the difficulties inherent in [rightly] identifying women on the basis of pseudonyms used in media reports.

Scheduling appointments with key stakeholders at both district and national level was a major challenge. Some of the district level stakeholders particularly judges at the district court were reluctant to participate in the study.

1.12 Report structure

This study report is divided into three chapters- the present chapter, Chapter 2 which presents major findings and Chapter 3 which reviews the discussion, conclusions and recommendations.

CHAPTER 2

FINDINGS

2.1 The overarching legislative and policy framework

2.1.1 International laws and obligations

Nepal has experienced deep political change over the past 20 years. The state was a Hindu monarchy until 1991, when it underwent reform and became a constitutional monarchy. During the 1990s Nepal made several international commitments to support human rights, women's health and development. As a member of the United Nations, Nepal is obliged to adhere to various international treaties. The Nepal Treaty Act, 1991, Article 9, states that international laws prevail over national laws if there is conflict between two. Furthermore, national provision must be made to enact international treaties and laws. Table 2.8 highlights the main relevant international laws, treaties and declarations that have been ratified by the Nepal Government, and the date of ratification.

Table 2.1 Nepal's key international human rights and women's health commitments

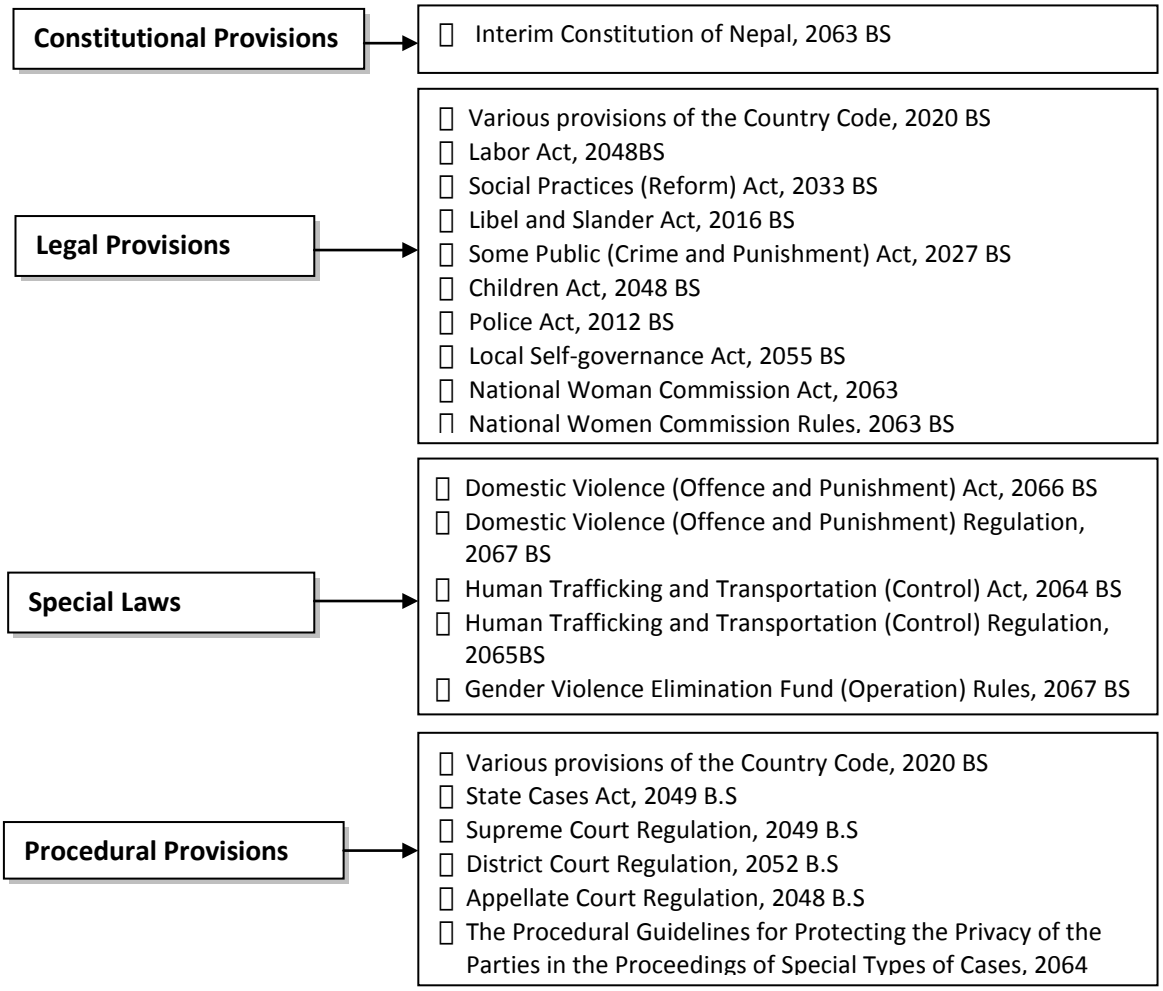
Key International Human Rights treaties and women's health and development commitments	**International adoption**	**Year of accession/ ratification in Nepal**
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	1956	1963
Convention on the Political Rights of Women	1952	1966
Convention on the elimination of all forms of racial discrimination (CERD)	1965	1971
Convention on the rights of the Child (CRC)	1989	1990
Convention on the Elimination of Discrimination against Women (CEDAW)	1979	1991
Convention on Economic, Social and Cultural Rights (CESCR)	1966	1991
International Covenant on Civil and Political Rights (CCPR)	1966	1991
Convention on the Rights of Persons with Disabilities (CRPD)	2006	2010
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	1949	1995
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999	1999	2007
Key international women's health and development commitments	**Year of adoption**	
Alma Ata Declaration	1978	
International Conference on Population and Development Programme of Action	1994	
Beijing Declaration on Women Platform for Action	1995	
Millennium Development Goals	2000	
Paris Declaration	2005	
International Health Partnership Compact	2007	
Global Strategy for Women & Children's Health	2010	

As Table 2.1 illustrates, Nepal has ratified the major international covenants, treaties and commitments which enshrine rights and protection for all her citizens. Furthermore, ratification of international health and development commitments (such as the Beijing Declaration, ICPD 1994, etc) further illustrate the extent of state-level obligations to both protect and promote health and human development.

2.1.2 National laws addressing GBV

The state-level obligations to international covenants and treaties have been translated into a number of national-level laws which seek to address GBV in Nepal. The national laws fall into four distinct categories: constitutional provisions, legal provisions, special laws and procedural provisions. Figure 2.1 highlights the main national laws which protect and promote the rights of women to live a life free of violence.

Figure 2.1 Categories of national laws addressing GBV



Source: MWCSW/UN Women/FWLD, 2012

2.1.3 Gaps in current laws

Whilst these laws and provisions are detailed and thorough, there are, as with any legislation, some existing gaps in both definition and coverage. Appendix 1 is a detailed review of all existing laws and provisions addressing GBV and VAWG in Nepal. This Appendix includes a set of comprehensive recommendations for addressing the existing legal 'gaps' in Nepal.

2.1.4 Implementation of laws and policies

Laws and policies are, in general, only as effective as their mechanisms to ensure implementation, monitoring and evaluation. As part of our review of the legal and policy environment we looked at the policy mechanisms for implementation and which institutions would be held accountable for implementation. The results of this analysis are presented in Table 2.2.

Table 2.2 Institutional accountability for implementation of existing laws addressing GBV

Name of the Law	Institutional Accountability
Interim Constitution of Nepal, 2006	Executive, Legislature and the Judiciary
Civil Code, 2020	Criminal offence related chapters are the responsibility of the Nepal Police to execute; some responsibility is rendered to the Government Attorney and the Court, other chapters by relevant branch of executive.
Disability Protection and Welfare Act, 2039	Ministry of Women, Children and Social Welfare
Law Relating to Legal Assistance, 2054	Ministry of Law, Justice and Parliamentary Affairs and Nepal Bar Association
Some Public Offence(crime and punishment) Act, 2027	Police, Government Attorney and District Administration Office
Defamation Law, 2016	Court(District, Appellate and Supreme court)
Election(crime and punishment) Act, 2063	Election Commission and Political Parties
Evidence Act, 2031	Courts, Attorney offices and the Police
Police Act, 2012	Police and Home Ministry
Law Relating to Children, 2048	Women, Children and Social Welfare Ministry
Human Trafficking and Transportation Control Act, 2064	Police, government attorney and courts
Torture Compensation Act, 2053	District Courts of the country
Foreign employment Act, 2064	Ministry of Labour and Foreign Employment, Ministry of foreign Affairs, and ministry of Home
Electronic Transaction Act, 2063	Ministry of Science, Technology and Environment, Police, Government Attorney and the court
National Broadcasting Act, 2048	Ministry of Communication and Broadcasting
Extradition Act, 2045	Ministry of Home, Foreign Affairs, Law, Justice and Parliamentary Affairs
Local Autonomy Rule Act, 2055	Ministry of Local Development
Social Behaviours Reform Act, 2028	Ministry of Home and Police
Act Relating to State Cases,, 2049	Office of the Attorney General and the Nepal Police
Motor Vehicles and Transportation Act, 2049	Ministry of Transportation and Foreign Employment and the Nepal Police
Hotel Management and Control of Alcohol Product Sale, 2023	Nepal Police, District Administration
National Women Commission Act, 2063	National Women Commission
District Court Regulation, Appellate Court Regulation and Supreme Court Regulation	Relevant Courts and higher level of Court to the relevant jurisdiction

2.2 Analysis of secondary data sources

We identified four major sources of secondary data registering the burden of GBV against women in Nepal. Data sets varied widely both in their definitions of violence and in methods used to register

cases, nonetheless the data provide some indication of trends with time within individual data sets.

2.2.1 Reporting within the Police system

All District level police offices file reports of GBV cases to central police headquarters on a monthly basis. Table 2.3 indicates the total number of cases registered through this system in the past three years.

The number of cases reported to the police increased from an annual tally of 1774 in 2009/10 to 3340 in 2011/12. The most commonly reported violence was domestic abuse (range = 55%-67%), followed by rape (17% to 21%). Women also reported polygamy (7-8%), attempted rape (5-6%) and trafficking (3-9%) to local police stations.

Table 2.3 Police system reported number of gender-based violence cases 2009-2012

Type of violence	2009/10 (2066/67)		2010/11 (2067/68)		2011/12 (2068/69)	
	N	%	N	%	N	%
Domestic violence	983	55.4	1355	57.2	2250	67.4
Rape	376	21.2	481	20.3	555	16.6
Trafficking	161	9.1	183	7.7	118	3.5
Polygamy	146	8.2	197	8.3	249	7.5
Attempted rape	101	5.7	151	6.4	156	4.6
Child marriage	7	0.4	3	0.1	12	0.4
Total	**1774**	**100.0**	**2370**	**100.0**	**3340**	**100.0**

Source: Police headquarter, Naxal, Kathmandu, Nepal

In addition to national data, we were able to review the cases reported to local police stations –at the Women's Police Cells of each study district. Data collection methods were not standardized across the six study Districts. Thus, for example, until recently Jhapa District police office did not have a separate category for reporting domestic violence. Nonetheless, a brief review of the data from each of the study Districts confirms the importance of domestic violence a key issue – see Table 2.4.

Table 2.4 Number of gender-based violence cases reported at Women's Police Cell by study districts in the last 12 months (2011/12)

Types of violence	Sindhupalchowk	Kavre	Dang	Mahottari
Domestic/Physical violence	45	105	68	26
Social violence	-	-	18	-
Rape	3	4	10	4
Attempted rape	-	2	5	-
Murder/attempted murder	-	6	-	28
Trafficking	2	-	1	2
Economic violence	-	-	-	18
Mental torture/emotional abuse	-	-	-	8
Polygamy	3	5	6	5
Kidnapped/missing	-	-	-	4
Total	**53**	**122**	**108**	**95**

**Jhapa district police did not disaggregate data by types of violence until very recently, and data have therefore not been included in this Table.*

2.2.2 Reports to the National Women's Commission

Data were available for two years only at the National Women's Commission which compiles aggregate numbers on the basis of cases reported to them.Again, the number of reported cases rose during the reporting period, but in both years of reporting the majority of cases related to domestic violence - see Table 2.5.

Table 2.5 Number of gender-based violence cases reported to the National Women's Commission

Type of violence	2010/2011 (2067/68)	2011/12(2068/69)
Domestic violence	155	273
Rape	10	12
Murder	-	30
Sexual violence/abuse	4	9
Trafficking	-	3
Abandoned by the family	1	7
Economic violence	4	2
Mental torture/emotional abuse	9	21
Polygamy	4	4
Witchcraft accusation	2	1
Missing	-	9
Total	**189**	**371**

Source: National Women's Commission, Kathmandu, Nepal

2.2.3 Reports to the Women's Rehabilitation Centre and Informal Sector Service Centre

At the national level, a total of 1581 cases of GBV were reported by the Women'sRehabilitation Centre (WOREC) and 648 cases were recorded by the Informal Sector Service Centre. In both cases the highest proportion of reported cases was attributed to domestic violence – see Tables 2.6 and 2.7.

Table 2.6 Number of gender-based violence cases reported by WOREC in the past two years

Type of violence	2010/2011	2011/12
Domestic violence	1002	1019
Social violence (witchcraft accusation, child marriage, dowry related violence, caste discrimination, emotional violence etc)	266	251
Rape/attempted rape	124	146
Sexual violence/abuse	64	63
Murder	47	28
Trafficking	23	25
Other (suicide, abandoned by the family, disappearance)	43	49
Total	**1569**	**1581**

Source: Anbeshi- a year book on violence against women 2011 and 2012, Women Rehabilitation Centre, Kathmandu Nepal

Table 2.7 Number of gender-based violence cases reported by INSEC in the past two years

Type of violence	INSEC	
	2011	2012
Domestic /family violence	297	272
Rape/attempted rape	119	140
Polygamy	70	114
Witchcraft accusation	58	51
Trafficking/attempted trafficking	44	33
Sexual violence/abuse	30	31
Other (suicide, abandoned by the family, missing)	-	7
Total	**618**	**648**

Source: Human Rights Year Book, 2011 and 2011, Informal Sector Service Centre (INSEC), Kathmandu, Nepal

As noted, the identified data sources included data from a variety of different institutional sources, and there was no apparent consistency in definitions or reporting methods. Thus, making comparisons between findings either across data sets or across geographical sites (national versus district, for example) is fraught with methodological challenges. Despite this, there appears to be some consistency in the finding that the most commonly reported category of violence is "domestic violence" – an all-encompassing term that is in danger of lacking specificity. Sexual violence and rape were also reported commonly within all datasets, but some kinds of abuse, such as witchcraft or trafficking were not commonly recorded in these datasets.

2.3 Media content analysis

2.3.1 Quantitative findings

A total of 825 GBV cases were recorded from our media review of the 2 years 2010 -11; the highest number of cases were related to sexual violence (23.7%), followed by domestic violence (16.2%), murder (12.2%), trafficking (11%), witchcraft accusation (9.9%), dowry-related violence (5.2%).

In addition to case reports, there were 682 news stories covering the issues of violence against women in Nepal. These news reports focused on: sexual violence (18.5%);murder (16%); human trafficking (14.4%); domestic violence (9.1%); witchcraft accusation (4.8%) and other issues including *chhaupadi*, *kamalari*, polygamy, child marriage, etc.

2.3.2 Qualitative findings

Much of the media coverage during the 2 year time period (2010-2011) gave simple accounts of activities underway to address GBV – e.g. reports from rallies, workshops, campaigns etc. The reporting of GBV cases was relatively factual and devoid of contextual analysis. Media reporting of policy and programmatic issues was notable by its absence. News reports are by their very nature short-term, and coverage of GBV cases was no exception. Stories were rarely able to achieve sustained coverage and often were not a high priority news event.

Focusing on the 6 "emblematic" cases of women interviewed for this study, they were selected partly on the basis of the intensity of media interest. For the 6 women at least 35 news reports were covered in the print media - trafficking received the most media coverage (reported by different newspapers a total of 18 times) followed by accusation of witchcraft (newspaper coverage 6 times), domestic violence perpetrated by husband (4 times), rape (3 times), widow abuse (2 times) and dowry (2 times). Media coverage was, in general, supportive of the women, but descriptive reports very rarely tackled issues such as prevention, policy responses or accountability for redress. Though the media

had the potential to cover the issues of women and VAWG, they did not seem to be considered as critical issues. For instance, we noted that these issues received relatively small amounts of physical space in the newspaper itself, and were generally on inside pages rather than constituting headline news. Moreover, we only found follow up coverage of one emblematic case – the case of witchcraft accusation in Dang.

In-depth media reviews allowed us to identify potential "cases" meeting the inclusion criteria suggested by the Advisory Group at the first meeting (see page 7). These life histories of these "cases" (women who met the criteria for inclusion in the study) are explored in the next section.

2.4 Experiences of Violence – interviews with survivors of GBV

2.4.1 Socio-demographics

The six women who met the inclusion criteria (see page 7) and agreed to be interviewed for this study came from a variety of social, ethnic and demographic backgrounds. The socio-demographic characteristics of each woman are illustrated in Table 2.10. Women ranged in age from 19 to 38 years, and had a wide spectrum of educational levels (from non-literate to Class 12). Four women were currently married, and there was one widow among the respondents. The youngest interviewee was unmarried. All women had suffered abuse at some point in the past 2 years.

Table 2.8 Socio-demographic characteristics of six respondents

	Type of Violence	Date	Age	Education	Caste/ Ethnicity	Marital Status	Occupation	District
1	***Dowry***	Incident reported within past 2 years	32	Class 8	Brahmin	Married	Unemployed	Mahottari
2	***Sexual Violence***	Jan 2011	32	Illiterate	Muslim	Married	Employed ; Sells vegetables in mobile vegeta-ble market	Mahottari
3	***Domestic Violence***	Sep 2011	23	Class 12	Dalit (Harijan)	Married	Unemployed	Jhapa
4	***Witchcraft Accusation***	May 2011	38	Illiterate at time of event but received informal education in recent years	Dalit	Married	Employed; Works in agricultural Sector	Dang
5	***Widow Abuse***	Mar 2012	35	Class 8	Chettri	Widow	Employed; Working in a single women's organization	Kavre
6	***Trafficking***	Jul 2012	19	Illiterate at the time of trafficking but literate now	Dalit	Unmarried	Employed; Working at a private company	Sindhu-palchowk

2.4.2 Knowledge of laws, policies and women's rights to a violence-free life

Given that knowledge of rights is a pre-requisite for actualization of those rights, women were asked about their knowledge of laws and policies which could be used to protect them from abuse. Many of the women had little or no knowledge of laws and policies which could protect them against violence:

> Interviewer: *Do you know who is responsible to address gender based violence?*
> Respondent: *I don't know.*
> I: *So you didn't go to seek justice because you didn't know where to go?*
> R: *Yes, I don't know anything about law.*
> I: *So, do you know now? Where should you go for help if you face the same kind of violence?*
> R: *I don't know. I don't even know how to reach there alone.*
> I: *You didn't seek support from the law to seek justice?*
> R: *No.*
> I: *Why didn't you?*
> R: *I don't know. I am not allowed to go outside of the house.*
> (Woman who had suffered domestic violence)

> *"I don't about laws. How do I know about it? A fool like me!"*
> *"How do I know about the law (laughing)? What is in the law? Where should I go? What should I do? I knew nothing. Then, how could I seek help from the law? I was not quite satisfied with the negotiation done by the villagers."*
> (Woman who had been raped)

However, once women have been exposed to the formal justice system and are aware of their rights, the perception among some of the women interviewed was that the system is potentially robust enough to protect them in the future:

> *"I don't have knowledge about particular laws but I have come to learn that one can get justice through legal procedure if she is physically or verbally abused. I have understood that such provisions have been mentioned in the law to protect our rights..."*
> (Woman who has suffered widow abuse)

2.4.3 Root causes of violence

Women identified a number of reasons driving levels of VAWG in Nepal. These ranged from poverty and lack of education through to underlying, and often culturally influenced, gender inequalities which perpetuate the low status of women and decrease women's agency to act in their own best interests – for example by forcing girls to marry early, or through perceived cultural norms that act to disempower women and reduce their autonomy:

> "*We were poor. We were many members at home. We didn't have enough money for food and living. We have to earn our living through daily wages. We used to sell vegetables from a very young age. I was still a child when I got married.*"
> (Woman who suffered sexual violence)

"*I think violence against women is more prevalent in Nepal. For example; our society perceives that women should not do this, women cannot do it, there is no way that a woman can do it, etc. Everyone thinks that women cannot do anything. Our society thinks that only men are capable of doing everything… I don't have idea about other countries but Nepal is a country where violence against women exists. Men are engaged into consuming alcohol and beating their wives…… There is lack of education among women due to which they don't have any knowledge. …. we, women of Nepal, cannot even step out of our houses. People will start criticizing when we step out of our houses.*"
(Woman who had been trafficked)

2.4.4 History of violence suffered and its consequences for women's lives

The six women were asked to describe the history of the violence that they had suffered, and to reflect on the circumstances in which the violence had occurred. Table 2.11 illustrates the women's experiences of violence – outlining their explanations of both the reason for the violence and the circumstances which triggered the 'emblematic' acute episode of violence.

Table 2.9 Review of women's experiences of violence

Case ID	Type of Violence	History of violence	'Trigger' of acute episode of violence
1	***Dowry***	- Intense pressure to bring dowry and pre-arranged agreement to pay 2 lakhs 25,000 to husband's family prior to wedding but victim's father only paid 1 lakh - Suffered from frequent verbal and physical abuse from mother in law and husband (beatings and pulling on hair for not bringing enough dowry) - Accused by mother in law and sister in law of not knowing how to perform household chores (cooking, cleaning and not covering head with sari) - Husband and mother in law threaten to marry another woman	Husband and parents in law used excuse that food had not been well prepared.
2	***Sexual Violence***	- Forced to leave husband's home and abused both verbally and physically by villagers - Husband's death triggered reaction from husband's family members and villagers regarding division of assets, transfer of property and cash - Held responsible for husband's death by bringing misfortune to the house - Blamed for not having children from this marriage - Abused by husband's ex wife and villagers who wanted her to leave home and intervened due to fear that woman would bring first husband's sons and transfer property in their names	Raped by two local men in the sugarcane fields one evening while returning to the village - rape seen as an attempt to coerce her to leave home and move away from the village following her husband's death.

3	***Domestic Violence***	- Husband unsatisfied with dowry; demanded TV and bicycle - Strong preference for son, further reinforced by mother and sisters in laws expectations, arguments exacerbated after birth of elder daughter - Husband living with wife and parents in law, mother in law arranged his job since he was unemployed	Survivor prepared various food items sent by mother on festive occasion (whilst husband expressed frustration and drunken rage regarding role of in laws by lighting a match and using kerosene to set victim on fire
4	***Witchcraft Accusation***	- Vulnerability of victim - husband working abroad in India, small children and no other family members who can look out for her	Villagers ambushed her to attend gathering at sick woman's home, superstitious belief that failure to visit sick woman implied that she was guilty of witchcraft
5	***Widow Abuse***	- Stigma of being a widow since husband's death - Verbally abused by in laws to leave home - Inherited small piece of land upon husband's death, shared property with brother in law but no legal claim to home - Economic Hardship: Frequent arguments about money, son demanded half of victim's salary earned through manual labour, which victim refused to give - Son physically abused her under influence of alcohol	Son, in the company of villagers, accuse victim of an illicit affair with her uncle. Woman verbally and physically abused for having an "immoral" character/ condemned for being a "loose woman".
6	***Trafficking***	- Perpetrator urged victim to travel abroad to support family financially (mentioned family's economic condition and dilapidated house) - Tricked victim into returning to the village citing mother's ill health and deceiving her with false promise of offering her a job opportunity in India (said his own daughter had been working in India for 5 months and sent him money frequently) - Perpetrator took responsibility for preparing passport and providing travel passage across the border, victim only came to know she had been duped into sex trafficking upon reaching brothel in Agra	Smuggled her across the border in a van under the guise of visiting sister and bribing officers; tricked 5 girls, one of whom is the daughter of one of the perpetrators, 3 perpetrators in the sex trafficking ring (Dawa, Bajir and girl's father)

The six women in the study generally suffered abuse from people within their own family and community. Two women suffered violence (domestic violence and dowry-related violence) from their husbands, three were abused by members of their community, and 2 women (accusations of witchcraft and widow abuse) were abused by their own children (along with others). Abuse from family members (particularly husbands) was often long-term, and only when women suffered an acute and severe episode of abuse did they seek any kind of external help. Thus, the woman who suffered violence related to unmet dowry 'expectations' noted that the abuse started shortly after marriage:

> "*It was actually because of too little dowry, and soon with 2/3 months after our marriage, we started to live in Kerkha. So, he used to pick fights saying, "You are living near your parents", may be my husband felt he could not collect property as he expected to.*"

The abuse became worse when she gave birth to a daughter:

> "*He used to prefer son as always, while I was pregnant. After delivery he stopped talking to me because I gave birth to a baby girl. Then it was just a point for him to start his arguments. He started from the hospital.*"

After years of prolonged abuse, the woman only received care when forced to by the severity of her physical injuries:

> "*When the fire struck me, I really suffered. It was burning so badly and it hurt and I was shouting and screaming. He was just there sitting on the bed watching me burn and he was enjoying his drinks. I could see him watching, I was screaming at him, but all the doors were locked, I did not realize that he had covered the open area with a bed sheet. When everyone started to kick and break open the door only then did he open the door. But, by the time he opened the door, I was already unconscious. Later, the house owner and the rest of the community people took me to the hospital.*"

Women who lacked social and domestic support described their vulnerability to abuse from the wider community. Thus, the women who were widows became vulnerable to abuse from their children (who wanted access to inheritance and property) and from members of their village (again using a property dispute as the pretext for violence). The sense of isolation and powerlessness was summed up by one of the women who had suffered abuse as a widow:

> " *I didn't have any idea because nobody in the community was on my side to help. It was dark and I had nowhere to go. I was very scared because I was alone. I accepted the accusation because everybody was on their side and there was no one to support me.*"
> (Woman who was a widow)

The fear of social isolation and societal discrimination was further summed up during interviews with another woman (widowed at the time of the abuse, but now remarried)

> "*When my husband fell sick, we came back to village where he died. After his death, the villagers blamed me for killing my husband and also pointed out that now that I am a single woman, I will ruin the village. They say that single woman like me should not stay in the village and forced me to run away. They feared that if I didn't leave the village, I may bring my former husband's sons and give this property to them. This was the main reason why my husband's ex wife (sauta) wanted me to leave. So she and the villagers jointly threatened me, abused me and warned me to leave the village.*"
> (Women who was a widow when abused)

Consequences of violence ranged from physical ill-health through to social isolation. The woman who had suffered sexual violence described the sense of shame and stigma associated with her experience, and expressed concern that she would be ostracized from her own community.

> "*I was scared if anyone would come to know about it and expel me from home. So I didn't dare to tell anyone. I found out the next day in the village that there was already a rumor about this incident. I was so surprised and felt ashamed and full of fear too. Then later I found that a person from the same village had seen me while I was being forcefully raped by these men. In spite of all this, I stayed there and endured everything.*"
> (Woman who was sexually abused)

2.4.5 Coping and care-seeking

A major component of the interviews with women was to understand patterns of care-seeking and how the women had coped with the abuse inflicted upon them. Women were asked about their immediate source of care and support, as well as the longer term support mechanisms they had engaged with. The immediate source of support for 2 of the women was with the health services– for women had been badly burnt or otherwise injured and required medical treatment. Two other women sought care from the Women's Human Rights defender and a local shelter – in one case this led to being referred to the police. However, even when women sought care from formal support mechanisms, this did not always result in institutional action. Thus, the woman who had suffered sexual violence within her own village was advised by the police to accept the verdict of a village committee and take compensation (half of which was withheld by the same village committee for "community improvement"):

> *"The villagers and the leaders insisted that it is an issue for the village to deal with, so it should not get out of the village and it should be settled in the village itself. They say that it was a matter of guarding the prestige of their village. If the matter goes to the police and the court, the whole village will be in shame. So it should be managed in the village anyhow. Police officers were also present. But the villagers too talk with the police officers and asked them not to take this case to the police office. And then police asked me what I want to do. The police officer said that in the opinion of the village they want to handle the case through a local village meeting. I was not in the position to say anything because I could not go against the villagers. So I told the police officer that I will accept the decision taken at the village meeting."*
> (Woman who was sexually abused)

The widow accused of "being a loose woman"also did not receive help from the police:

> "*Police didn't give me any support though I was alone. They said that I should be beaten with water and wild. Instead of support, they made bad remarks about me and used such words that discouraged me to seek help from any police station in the coming future. I never expected such behavior from them but they treated me like that.*"
> (Woman who was a widow)

The woman who had been trafficked to India but managed to return to Nepal, was assisted in her care-seeking with the support of her cousin (who had also previously been trafficked and had filed a police report). Her first point of contact with care services was with an NGO (Shakti Samuha) who provided her with support services, referred her to the police and put her in touch with legal representation. This NGO was also the only service noted to provide any type of counseling service for the women interviewed. After many months the perpetrator of the trafficking was sentenced to 170 years imprisonment.

In other cases, however, women who had not received satisfactory levels of care from the police or other institutions found support from their own families, the NGO sector, local women's human rights defenders and the Women's Rehabilitation Centre (WOREC – an NGO).

2.4.6 Barriers to care-seeking

Interviews identified a number of barriers to receiving care. We have conceptualized these into two distinct categories – barriers relating to the individual woman, and barriers relating to the support services themselves. This categorization fits with well-established frameworks to define health care seeking behavior patterns and outcomes of health service utilization (e.g. see Aday and Andersen 1974, or Ajzen, 1991).

- *Barriers among women themselves*

  As noted above, access to care – i.e. seeking the formal support to which women are entitled – first of all relies upon women knowing that the services are available to them. In some cases, the absence of any knowledge about where to go, and who to turn to for help, was the most important barrier to women's care-seeking:

  > "*I didn't have any idea where to go and where to seek help. I was scared on the part about how to go and how to report. I was worried they would humiliate me.*"
  > (Woman who suffered sexual violence)

  For other women, their stated rationale for not seeking care lay in perceptions of negative outcomes for those around her if she seeks care. The woman who had suffered domestic violence from her spouse indicated that fear of bringing 'shame' on her family had held her back from seeking care; while the victim of severe sexual assault was concerned about how her community would be perceived in the future:

  > "*I have talked with my father and brother. They just keep quiet and ask me to keep quiet….I just endure everything because it would harm the reputation of the family.*"
  > (Woman who suffered domestic violence)

  > "*I was scared on the part about how to go and how to report. ….The villagers were saying that the issue of the village should not go outside*"
  > (Woman who suffered sexual assault)

- *Barriers at the level of the support services*

  Women identified constraints within the support services – particularly police services - as being barriers to care seeking. These constraints ranged from perceptions around the [poor] quality of care that women might receive, to concerns around the futility of care-seeking in an unsupportive environment:

  > "*People say not to go. Because they say that police don't help. I too feel the same. They don't help. Because other people think so, so I believe the same.*"
  > (Woman who suffered domestic violence)

  > "*I was worried they would humiliate me* [if she sought care from support services]"
  > (Woman who suffered sexual assault)

Moreover, when women do actually overcome individual and institutional barriers to care-seeking, they are not guaranteed a supportive environment from the care services themselves. For example, the widow who had been abused met with hostility when she finally reached a police station:

> "*I tried to give an explanation about my innocence but policemen didn't listen to me. Rather they were also accusing me. Policemen were commenting bad words to me.*"
> (Widow who had been abused)

In summary, women had varied and differing pathways of care seeking. They did not cite one single source of care and support but received multiple inputs. In some cases women did not receive the care to which they are entitled under Nepali law, or were actively blocked from pursuing justice. A mixed picture of support offered and accessed emerges from these interviews: women are often unaware of the services available to them, fear lack of support from the services, and even when they

do report abuse, they find that support from formal services is not guaranteed. As a result of these, and other barriers to care seeking, women rely on informal support mechanisms much of the time.

Figure 2.2 summarises the care-seeking experiences of all 6 women. The Figure highlights not just the pathways to care seeking for the 6 women, but the barriers that they identified that prevented them from receiving the care to which they are entitled. These barriers ranged from underlying social and structural drivers which influence issues such as gender norms and the perception of male dominance within established institutions (such as the police and the legal profession), to factors more at the level of individual women and their family and community norms. Thus, women cited their own lack of knowledge about where to seek help, as well as their perception that they would be further stigmatized if they sought help. Women commonly expressed a distrust in the ability of support services to provide any redress for them. For the women who did seek support (from a relatively wide variety of services), they then reported problems within the existing systems, including the inordinate length of time required to receive judicial redress, as well as concern that their case would be corrupted by external influences.

Despite these multiple individual and institutional barriers, all 6 women we interviewed did finally reach and receive support – with varying degrees of success. The two women who had suffered either dowry abuse or rape, had the least success with the formal support systems. The other four women had either already reached court, or their cases were ongoing.

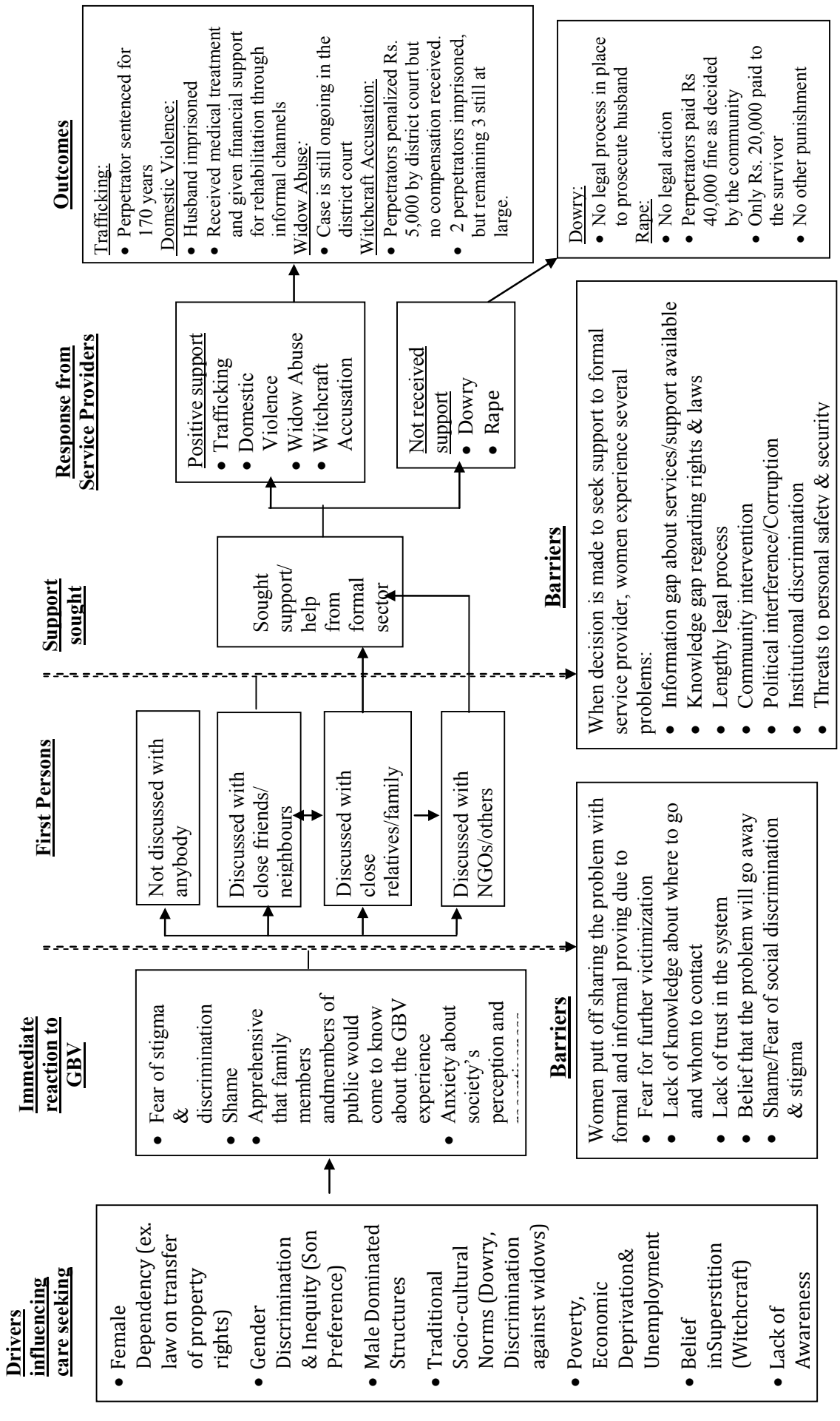


Figure 2.2 Help seeking behaviour of six women interviewed in the study

2.5 Stakeholder mapping

As described in Chapter 1, a stakeholder mapping exercise was conducted at the first meeting of the Advisory Group for identifying the key stakeholders, and mapping their institutional interests, power and positions. Stakeholder maps were drawn for both national and District level stakeholders – See Tables 2.10 and 2.11. Such maps, while well established as a methodology (Roberts et al, 2004), do represent the perceptions of those asked to contribute to mapping (Advisory Group members in this case) and, hence, are relatively subjective in nature. Nonetheless, during the interviews at both National and District levels, interviewees were asked if there were other major actors to be consulted, and no others were identified.

Table 2.10 Stakeholder map of key stakeholders at national level

Position/ Power	Opposed	Neutral	Supportive
High	Ministry of Finance	Prime Minister Press Council	Gender Empowerment Coordination Unit, Office of the Prime Minister and Council of Ministers Supreme Court (Deputy Registrar) Attorney General Office (AG/deputy)
Medium			Ministry of Women, Children and Social Welfare (Secretary or joint Secretary) National Women's Commission- President Department of Women and children National Human Right Commission (NHRC) Ministry of Health and Population(Joint secretary) Director of Family Health Division Ministry of Education (Joint secretary) Police Women's Cell Nepal Bar Association (Access to Justice Project)
Low			UNDP (UNICEF, UNFPA and UNWOMEN) World Health Organisation Forum for Women Law and Development Women's Rehabilitation Centre SAATHI Informal Sector Service Centre International Commission of Jurists Women and Human Rights (WHR) Women Human Rights Defender Group

Table 2.11 Suggested stakeholders at district level

Position/ Power	Opposed	Neutral	Supportive
High	Political parties	Chief District Officer District Police Office District Attorney District Court	
Medium		Local media District Public Health Officer Faith-based-leader	Women and Children Development Office District Bar Association Local NGOs working on GBV Local UN offices District Development Committee
Low			Safe house /rehabilitation centers workers Female Community Health Volunteers Paralegal Committee members Women's wings of major political parties Mother's groups

These maps formed the sampling frames for the in-depth interviews which were subsequently conducted: see Sections 1.4.6 and 1.4.7.

2.6 Perspectives of District Level Stakeholders on Addressing GBV

In each of the five Districts, we interviewed key stakeholders who were identified through the initial stakeholder mapping as playing a vital role in the provision of services for women suffering GBV in their District. Table 1.2 details the types of respondents interviewed in each District. Interviews focused on institutional roles and responsibilities for addressing VAWG. While interviews mainly focused on general principles and elements of practice, respondents were also interviewed about the specifics of the cases of any of the 6 women if they had been personally involved in care and support for that woman.

Interview results are disaggregated by the type of respondent: Chief District Officers, Local Development Officers, Women and Children Development Officers, Judge of the district court or registrar, District Public Health Officer, Local development officer or GBV focal person at the District Development Office, Local NGOs, Media personnel and local staff of UN agencies.

2.6.1 Chief District Officers

Perceived as having the highest power of any interviewees at District level (see Table 2.2), the Chief District Officers (CDOs) were interviewed in order to better understand the overall range and level of activities to address GBV in their District.

Four of the five CDOs perceived GBV to be highly prevalent in their District, and all identified common socio-economic causes of GBV including social traditions, alcohol abuse, patriarchal norms, and the prevalence of dowry. In all five Districts the CDOs were aware of specific responsibilities that their own institution had to address GBV. These ranged from hearing complaints from members of the public, to referral to other agencies, and ensuring collaboration between government and non-governmental agencies to address GBV at District level. However, in only two Districts did the CDO mention that they held primary responsibility for GBV prevention and care systems in their District. In the other three Districts the CDO felt primary responsibility lay with the police, WCDO, lawyers, women's cell and even with NGOs.

All CDOs were conversant with existing laws and statutes for addressing GBV, but some mentioned that the main problem faced is not lack of a law, but lack of implementation of the law.

> *"We are not being able to implement the laws and policies in our country. We are not able to practically implement the international treaties signed by our government representatives. People do not want to come to seek help. So, it's no use to have laws and policies only."*

Despite the high levels of knowledge about specific laws, in at least two Districts the CDO was either not aware of national level guidelines or not following current guidelines or policy directives for implementation of the law. Moreover, in a number of interviews the CDOs mentioned the lack of full implementation of existing guidelines as being problematic.

CDOs have a particular responsibility for ensuring collaboration between agencies/institutions in their District, and this role was recognized by the interviewees. Moreover, in at least one District, the CDO mentioned his role in monitoring and tracking GBV cases across the District. However, current institutional weaknesses were also identified: lack of a robust monitoring and surveillance system to be fully aware of GBV cases (four Districts mentioned lack of any compiled data); paucity of resources (communication, human, financial, logistical); lack of shelter facilities; lack of collaboration from some institutions (particularly in the NGO/INGO sectors); and duplication of activities across the District.

2.6.2 Women and Children Development Officers (WCDOs)

The WCDOs are district level focal officers under the Ministry of Women, Children and Social Welfare in all 75 districts in Nepal and also members of District Resource Groups (DRG). The MWCSW monitors the implementation of programmes at the centre while the WCDOs monitor such implementation at the District level. Based on data from the District level, future plans and programmes are set based on issues of finance, efficiency and effectiveness, in a collaborative and coordinated manner. A large number of paralegal committees (644 of them) have been established in 23 districts (where each district is supported by the DRG) to provide legal counseling to victims of GBV/VAWG. Paralegal committees typically consist of 13–15 volunteers (self-selected or elected) at the VDC levels that are now also expanding to the ward level. The WCDO in coordination with the paralegal committee conducts social awareness against domestic violence and provides curative services and protection to the survivors of domestic violence. Cases that come to the attention of the paralegal committee are referred to WCDO as needed. In summary, WCDOs are mainly responsible for the overall development and coordination of all activities related women children, and social welfare including senior citizens, orphans, helpless, disabled or handicapped people at the district. This co-ordination role extends to the co-ordination of services addressing VAWG.

Four (female) WCDOs agreed that violence against women is a significant problem in Nepal and is driven by socioeconomic and cultural factors. The WCDOs noted that their institutional role contained specific responsibilities for addressing GBV, although the variety of tasks and obligations mentioned by respondents varied widely from District to District. A particular strength of the WCDO mandate was noted to be in the provision of support to women (particularly legal support), and ensuring that women accessed the services they were entitled to receive.

Again, interviewees were aware of several laws which could be enacted to protect women against GBV, but one respondent was not aware of any guidelines or policy directives for this work. Most interviewees felt the current laws were adequate although some gaps in laws were noted- particularly relating to the lack of compensation available for women who have suffered violence, and the economic hardships that women suffer to access legal services (free legal aid services were not mentioned):

> "*First of all, there is no compensation package for the victims. Most of the victims cannot afford private lawyers. Even though they choose to fight legally then s/he will not have enough to pay the lawyer because there are no compensation packages. They prefer to bear the exploitation against them rather than paying money to the lawyer, difficulties and the society will isolate. People would rather choose to accept 60,000 – 70,000 as compensation amount from the second party.* "

A major issue highlighted by interviews was lack of implementation of the law rather than absence of any specific law or policy.

Maintenance of an accurate record of GBV cases seemed patchy according to most respondents. Thus, while all four interviewees stated that they "do maintain records" only one WCDO was able to estimate the number of GBV cases recorded in the previous 12 months. The flow of data, once collected, seemed highly variable – some WCDOs stated that data on GBV cases were sent to the Office of the Prime Minister and Council of Ministers", in two Districts the data was sent either to the Ministry of Women Children and Social Welfare or the District Administration Office (DAO). In only one District was the data being put to use to set targets and goals for programme planning.

2.6.3 Local Development Officers

The local development officer (LDOs) who belongs to Ministry of Local Development is the development officer in the district. The LDOs who services as secretary to the District development Committee plays a crucial role in planning and development of the district.

The LDOs identified job responsibilities towards addressing GBV that were very similar to those mentioned by WCDOs, but in addition mentioned that their institution had a mandate to reduce violence associated with alcohol and drug use. However, none of the respondents mentioned that their institution had primary responsibility to address GBV - this institutional mandate lay with the WCDO, the police, legal officers, and even with NGOs. In one case, the respondent mentioned that s/he did not even have a right to address GBV cases:

> "*We don't have such right according to the district development office, we don't make such policies, we don't even have the right to do so. We even don't take any such complaints.*"

The three respondents were aware of the laws and policies which could be used to protect women and provide help to survivors of violence, but, again, felt that their institutional roles were hampered by weak implementation.

Poor data collection and monitoring of cases was recognized in two of the Districts, with only one LDO aware of any recording of GBV cases taking place in his institution. Nonetheless, in terms of institutional strengths, the LDOs noted that their specific role in co-ordinating with WCDOs, and in working jointly with both governmental and non-governmental organisations, was of note. Only one LDO felt the work was underfunded.

2.6.4 District Public Health Officers

Three Public Health Officers regarded their roles as focusing not only on immediate provision of services for women who had suffered violence (medical and psychosocial counseling services), but also saw prevention (primary and secondary) as key features of their post – for example through the training of community health volunteers, and conducting awareness programmes for young mothers. In addition, DPHOs saw a central feature of their role as referring women to other services – to the justice system, the police, and to tertiary medical care if needed.

Two Public Health Officers were aware of selected national laws and policies to address GBV, but none of the officers had knowledge of existing guidelines and policies within their own institutions to address GBV. All three interviewees mentioned that the main weakness lay in implementation of the law rather than gaps in the laws themselves.

Institutional weaknesses were identified across all three Districts. Data and record-keeping were inadequate, with no disaggregated data collection in place – hence officers were not able to give an account of the incidence of GBV in their District. Moreover, no systems of accountability for service delivery were noted in any of the three Districts.

> *"We keep records of data here. We keep annual record, which is handled by the data management officer. We send the data's at the central level every month. The data's does not come back but they are analyzed at the central level and work is done according to what they have to do with it."*

Despite these weaknesses, the three public health officers did identify several institutional strengths, including a wide network of collaboration with other institutions (all three Districts), and an identified focal person to address GBV issues in their institution.

2.6.5 Local media representatives

The four local journalists who were interviewed identified GBV as a significant problem in their communities, and described violence against women as having antecedents in cultural norms (including patriarchal social systems), socio-economic deprivation, and individual issues such as polygamy, alcohol misuse and gambling.

The role of the media was seen to focus on advocacy, awareness raising, and holding "responsible agencies" to account.

> "*Our major objective is to deliver the information through media and we refer such cases to local organizations. We should aware people not to hide their problems. We should make them aware to disclose such hidden problems and violence because it is one of our social responsibilities.*"

Although the journalists were not aware of any specific guidelines and policies relating to their institutional role, they did mention a 'code of conduct' in one District. Knowledge of specific laws addressing GBV was patchy, but there were several recommendations for improving implementation of the law, including: increasing the length of time for legal provision of filing of a case of rape; decreasing the bureaucratic processes associated with filing cases; addressing the undue political influences brought to bear in some cases.

Journalists often have strong professional networks, but in this case the interviewees mentioned that "no-one shows interest in collaboration; each institution wants individual credit", and the absence of any institutional incentives to reinforce external collaboration was noted.

The four interviewees gave widely varying accounts of which institution was primarily responsible for addressing GBV cases in their area - with only one mentioning the CDO and three naming NGOs as holding primary responsibility.

> "*Actually it's responsibility of women and children development office but we don't find them doing much for such cases. There are more than half a dozen of organizations in this district which works in the issues related to women. There are even more organizations that are registered in this district to work in the field of women's issues.*"

2.6.6 Representatives from the Women's Cell

Four women and one man from the Women's Cells in all five Districts were interviewed. The role of the Women's Cells was described as predominantly centering on care and support for women who have suffered GBV – and this included "facilitation of a negotiation between two parties" in three of the Districts. At least one interviewee noted that the Women's Cell is responsible for facilitation of co-ordination between different agencies addressing GBV.

The Women's Cell officers noted several institutional strengths for dealing with GBV, including: a wide variety of guidelines and policies that their institutions should follow when dealing with cases of GBV; intra-institutional support mechanisms in place (consultation with senior officers when necessary); a separate GBV unit (one District); and good training programmes for staff (two Districts). Referral to a large number of external agencies was common. Three interviewees mentioned that regular systems of staff evaluation were in place, and included assessments of the management of GBV cases.

However, these officers were also aware of numerous institutional weaknesses including being subject to political interference, being under-resourced, and lacking female staff. Record keeping was present in all five Districts, and all records were sent to "Police Headquarters", although in one District the officer maintained that records were sent to "central Government". The confidentiality of records was noted to be important, but systems for establishing and maintaining confidentiality were somewhat haphazard with one respondent noting that she kept files confidential by "keeping them in my locker". Furthermore, no systems for acting on the collected data were identified:

> "*Every 28th day of each month, we send the report or the data to our authority. That authority will also forward the data to their higher authorities. In this way, it will reach the headquarter and we will close the data after sending it. We don't have any idea regarding how will the headquarter use the gathered data.*"

Again, the officers named a diverse range of institutions that they considered to hold primary responsibility for addressing GBV in their District, but all of them agreed that the WCDO was responsible. While the interviewees were aware of a number of laws covering GBV, there were some noted gaps in the implementation of the law including the lengthy legal process, inadequate punishments, and a "lack of compensation in rape cases". Moreover, the lack of standardized punishments (differing penalties for the same crime) were noted to be a problem.

2.6.7 District Attorneys, District Judges and District Bar Association

We have grouped together the three categories of respondents who are involved in the judicial system – 4 interviewees from the Bar Association, 4 District Court judges, 2 District Attorneys. All 10 interviewees were male.

Perceived determinants of GBV conformed to those mentioned by most other respondents/ interviewees, with a few exceptions: District judges thought that "voluptuous lifestyles" could lead to GBV/VAWG while one member of the Bar Association thought "women's patience" perpetuated risks of GBV. These individual comments were not explored further with the respondents, but perhaps reflect a pervasive belief that women themselves can be somehow held responsible for the violence perpetrated against them.

Not unexpectedly, these respondents from within the judicial system had a good knowledge of existing laws and policies that could be used to protect women from GBV, and punish perpetrators. However, only one District Attorney among all 10 respondents was aware of institutional policies regarding the handling of such cases.

While few gaps in existing laws and policies were noted, most of the concerns about the legal

environment to address GBV related to inefficiencies in implementation: short amount of time spent per case; lack of activities for prevention of GBV (legal response tends to be reactive to an existing crime rather than proactively working to prevent cases); and time spent in the legal system:

> *"…there should be provision of fast track. When there is fast track system all the procedures under fast track would automatically go faster and it would help the victim to provide justice on time. So in my opinion there should be positive discriminatory law to address the gender based violence on women.*"
> (District Judge)

There was a general perception, particularly among those authorities/institutions responsible for implementation were not fully committed to their task. Which are those institutions with responsibility for implementation? Here there was a relative degree of inconsistency of response: the Chief District Officer has primary responsibility (5/10 respondents), the WCDO (4/10 respondents), Women's Cell (3/10) and NGOs (2/10 Bar) and the police (3/10). Others mentioned as having primary responsibility included the Courts and Human Rights Activists.

In terms of accountability within the judicial system, the following points are worth noting: only two District Attorneys and one member of the Bar Association made mention of data collection systems being in operation in their Districts – with monthly figures being compiled, but even here there was a lack of agreement concerning what then happened to the data (kept in the District, or sent to a central agency – e.g. to funders or to the Attorney General's office).

> "No, we have to send it [data on cases] in monthly base in the attorney general office and bar association office. They publish annual reports. They perceive from the data, what types of cases and how many case in the different districts have been reported. They do keep a record about the many cases, but who will analyze them."
> (District Attorney)

None of the three sets of institutions had any recognized system for monitoring the quality of care and services they provide.

Judges did not specify any established mechanisms for co-ordinating with other institutions, but members of the Bar Association and District Attorneys both mentioned several institutions that they regularly liaise with concerning GBV cases.

2.6.8 Staff of Non-Governmental Organisations

Eight staff members (6 women, 2 men) from NGOs were interviewed and highlighted a range of types and causes of GBV. Of note, 2 respondents highlighted women's lack of property rights as being fundamental risks, but a majority of risks were related to women's unequal place compared to men in Nepal.

NGO activities in these Districts covered a range of programmes and actions – from advocacy to service provision. Five of the 8 respondents were aware of institutional policies to address GBV, and 6 of the 8 institutions keep records of GBV cases – although the 'pathway' of collected data was not entirely clear from these institutions. In some cases data were sent to the central level, while in other settings the data were kept only locally. Moreover, systems of monitoring and accountability for service delivery were not clear in a majority of the institutions contacted.

> "*At the central level there should be co-ordination among those organizations who work on women's issue, they should work jointly, and don't have to work separately in case of rights and justice. We can see new faces after every two/ three years and then they vanish, so in such condition where do you think one should go for justice, it becomes difficult. So in such case one can work through network, they can jointly work and make everyone responsible, but I feel the state should be responsible*."

NGO staffs were knowledgeable about the range of laws which address GBV in Nepal, but again cited lack of implementation as the key problem.

> "*Yes there are laws! Obviously there are laws to address GBV like domestic violence. But laws are just made. They are only in theories. We have laws on polygamy, witchcraft accusation. But I came to know last year that only 5,000 to 25,000 rupees is made to pay in witchcraft laws but one (perpetrator) can easily come out of prison if he pays 5,000 rupees on bail. I am not saying that there are no laws. There are laws in Nepal but they are not enforced at all.*"

In addition, the NGO staff were concerned about the length of time that legal cases take to come to court, and that there are insufficient punishments meted out to those found guilty of GBV.

> "*Perpetrators should be punished immediately. Even though the police are informed about the case they don't show activeness to arrest perpetrator. In one hand a tedious legal procedure and in other hand not willingness of the police, so what can be expected?*"

Barriers to full implementation and enforcement of existing laws included a lack of women represented at the highest levels of policy-making, and the process of "compromise" whereby GBV sufferers are encouraged to negotiate and reach settlement with the perpetrators of assault. There was a concern that such negotiations may involve a degree of coercion for the woman. In addition, 'political pressures/interference' were highlighted as important barriers to women receiving full service provision. This issue was further reflected in the stakeholder mapping exercise where the role of political parties (particularly in ensuring access to services) was highlighted. Unfortunately we were not able to interview any members of political parties during the stakeholder interviews. However, the perception remains among a number of informants that political pressures (particularly at local level) can be an important driver of access or lack of access to services.

2.6.9 UN Staff

Only two members of the UNFPA staff at District level were interviewed, but both respondents mentioned the absence of institutional guidelines and policies for dealing with cases of GBV. However, respondents were aware of their particular mandates to address GBV, and one respondent was concerned about the possible duplication of activities with the Government mandate.

The two UN respondents were aware of data collection and collation activities relating to GBV in their Districts, and noted that the data are sent to 'central level' for monitoring.

> "Women and children development office submits reports to UNFPA. From WCDO the quarterly report will be submitted to us. On that basis we make reporting to central office. We send the data to the head office. We don't get feedback on the same data from head office."

Of note, these respondents were among the very few who mentioned the existence of a local district co-ordination committee (supposed to meet regularly) which held some responsibility for issues of quality control in GBV case management.

2.7 Interviews with National Level Stakeholders

In January 2013 interviews were conducted with 13 key stakeholders from 8 different national level institutions (National Women's Commission, Ministry of Women, Children and Social Welfare, Supreme Court, Ministry of Finance, Nepal Bar Association, Ministry of Health, Department of Women, Children and Social Welfare, bilateral donor). Interviewees were asked a series of open-ended questions relating to their institutional roles in addressing GBV, as well as more probing questions concerning the policy environment to protect women from violence and ensure the safety and wellbeing of survivors of violence.

Responses are grouped under commonly mentioned topic headings.

2.7.1 Women's risk of GBV and their care-seeking practices

A few of the policy level respondents mentioned some of the perceived factors driving high levels of GBV in Nepal. Particular risk factors within Nepal included both individual socio-economic (lack of education, poverty) factors as well as broader social norms (patriarchal culture in particular). These issues were compounded by women's lack of autonomy and agency to seek care – thus, the representative of the Nepal Bar Association believed that "*Women have a lack of belief in the formal legal system and there is a stigma to care seeking*" while the respondent from a bilateral agency mentioned that "*women (and men) reject services on offer*" because they "*lack trust in the system*". Moreover, the Bar Association respondent believed that women in particular were unlikely to seek justice in cases of sexual violence owing to the stigma associated with such cases.

2.7.2 The legal and policy environment

Respondents noted that in their view the legal and policy environment to address GBV/VAWG is robust, with a wide range of both laws and policies which could be used to protect women against violence and ensure adequate redress and support for women who suffered violence. However, although plentiful laws exist on paper, the implementation of such laws was a major concern. Moreover, some gaps in the law were noted – for example, the National Women's Commission was concerned that punishment for people found guilty of 'witchcraft accusation' was:

> "*Insufficient – if the punishment is under 2 years then the police don't bother, they have no incentive to find the perpetrator*"
> (National Women's Commission member)

Implementation of laws

Despite the existence of a generally strong legal framework, implementation and mechanisms for accountability were noted to be weak. In addition, the respondent from the Nepal Bar Association noted the particular problem of "compromise" whereby cases are settled outside of the formal legal and judicial system (note the case of the woman interviewed in this study who had been subjected to severe sexual assault. Her case was "settled" by an informal village committee with the connivance of the local police). In some cases "compromise" may be driven by the stigma associated with the offence itself (e.g. sexual assault cases) or by external pressures – the problem of political interference was particularly noted.

> "*Compromise is pushed for by social pressures which highlight the degrees of shame and social stigma that women will suffer if the case goes to court. Therefore women would rather reach non-court settlements. Occasionally this may be pushed for by political interference*"
> (Respondent, Nepal Bar Association)

2.7.3 The institutional environment

Collaboration

Sectors dealing with GBV operate independently with little in the way of formal mechanisms for collaboration and co-ordination. In theory these mechanisms are in place; in practice, however, there is:

> "*Little evidence that the people involved actually meet to discuss GBV*" (Bilateral Donor)

Respondents from the Ministry of Finance noted that "*the problem is not among the institutions [at the centre] it is on the ground*". The problem with the lack of co-ordination at the local level was echoed by others. For example, the National Women's Commission noted that "*The Chief District Officer and police are not taking responsibility for co-coordinating the GBV response. We also are concerned that there are no female CDOs in Nepal*." The problem of weak linkages between institutions on the ground was echoed by the bilateral donor "*there are sector-specific interventions but a lack of a comprehensive and coordinate response on the ground.*"

The function of co-ordination at District level to address GBV was noted to lie with the CDO – a post under the Ministry of Home Affairs. The representative from the Ministry of Women, Children and Social Welfare was concerned that this means that only the Home Affairs Ministry can hold this co-ordination function to account. In other words, other Ministries that are concerned with addressing VAWG do not have the power to hold the CDO to account for her/his role in co-ordinating service delivery at the District level.

Financing

The National Women's Commission respondents were concerned that although gender itself is a cross-cutting issue across all sectors, interventions to promote gender equality itself were underfunded. A number of respondents noted that there is a central GBV monetary fund which has been disbursed to District levels, but appears to be underspent. The purported reasons for the underspend ranged from "*the system is too bureaucratic*" (National Women's Commission) to "*Women lack empowerment and only severe cases are reported to the fund*" (Department of Women and Children). Respondents from the Ministry of Finance suggested two mechanisms available to ensure adequate spending from this Fund: (1) holding back unspent amounts from the next year's budget (thus increasing the incentive to spend); and (2) increasing awareness among civil society actors in order to lobby for adequate spending (thereby increasing accountability too).

Inadequacy of data collection systems - the relatively weak system of data reporting and data monitoring was mentioned by several respondents.

2.7.4 Agents of change

The low levels of awareness among women of their rights to live free of violence was seen by several respondents as a barrier to full implementation of existing laws and policies to protect women. Thus, the Supreme Court respondent noted that "the low awareness of rights among women themselves means they often do not seek justice through the formal sector".

The respondent from the bilateral donor mentioned that current policy and programme responses are focused on "capacity building only of women; and this is wrong. Men cannot be ignored" as agents of change for community and individual norms. To achieve this will require allocation of funds focused on men, and young men in particular.

The lack of female staff at key positions was noted by several respondents, and there was concern that even when quotas for female participation exist (e.g. in political systems), the implementation of the quota system is weak. The absence of an equitable representation of women in all positions, but particularly in senior positions, was mentioned by several of the interviewees. Thus, the National Women's Commission noted that

> *"….there are 61000 police officers, and only 3300 are women; and the proportion of female lawyers is even worse – only 2%". These dismal figures led the Commission members to conclude that "women's participation is just a slogan."*

Similarly, the respondent from the Supreme Court gave a detailed breakdown of female workforce participation within the judicial system:

> *"There is one female Justice, 22 first class officers none of whom are female, and 1 female second class officer out of 120 staff. The Civil Service Act has regulated an increased involvement of women, but this is only happening at junior levels right now."*

2.7.5 Recommendations for change

Senior policy-level stakeholders such as those interviewed for this study had a number of their own recommendations on interventions needed to improve the policy environment for women suffering GBV and to prevent new GBV cases. Selections of these recommendations are listed below:

- Rights literacy campaigns – underway in some schools now (several respondents)
- Increase women's participation across all policy spheres (National Women's Commission)
- Improved data and monitoring (several respondents)
- Implement 'fast-track courts to deal with GBV cases' (bilateral) (happening for trafficking cases – Supreme Court)
- Training of journalists (underway, Supreme court)
- Donor commitment to addressing GBV is low, but there is even less donor support for addressing gender equality - this needs to be redressed
- Commission a review of the economic costs of GBV (Ministry of Finance)

The institutional analysis, while broad, was, by virtue of limitations of time and resources, not as deep as it should have been. Thus, while broad patterns of knowledge, beliefs and behavior were noted among a wide variety of district and national stakeholders, the underlying drivers of those beliefs and actions were not fully explored.

Institutional stakeholders (both at national and district levels) are, like everyone, driven by a mixture of individual characteristics, community norms, and the structural and institutional environment within which they are operating. To explore each of these variables in-depth for each stakeholder was beyond the capacity of this time-bound piece of research. Thus, it is important to note that there are important limitations to the analysis presented above. For example, we were not able to explore the role that key issues such as gender, social class, caste, and educational background might be playing in driving service access and service delivery outcomes for women. Does a Dalit woman, or a woman who is non-literate, have more barriers to service delivery than a woman who is from a more privileged caste, or who holds a university degree? The experience of most analyses of social determinants of health outcomes suggests that these factors will play significant roles in determining women's experiences within institutions where she is seeking care and support. However, on this occasion, we were not in a position to measure such variables and their potential contribution to outcomes (time limitation, as noted, plus a sample size of only 6 women). This limitation could be overcome with a larger, longer study.

2.8 Resource Allocation

Questions concerning resource allocation were asked to all interviewees at both District and National levels. We were particularly keen to understand the following issues:

- Knowledge of budget allocation to tackle GBV
- Resource availability – human, financial and logistical
- Utilization of resources
- Perceptions of resource sufficiency with justifications/evidence

At national level, there was some concern expressed about the under-utilization of resources (particularly the "Domestic Violence Fund") which could and should be used by Districts to provide care and support for women who have suffered GBV. The "Domestic Violence Fund" provides contingency for up to Rs. 75,000/District to be made available for GBV survivors. Several of the national level respondents were concerned that these funds were not being fully utilized due to "procedures being too bureaucratic". One Government respondent expressed concern that "funds are underspent but we have no mechanisms in place to find out why". However, respondents from the Ministry of Finance reported that if funds are unspent in one financial year, then they are not reallocated the next financial year – thus increasing the incentive to ensure funds are fully spent.

At District level, few of the respondents were aware of specific institutional budgets (particularly ring-fenced, i.e. dedicated, budgets) to address GBV. The Local Development Officers and District Attorneys were among the few respondents who recognized that their institution devoted resources (financial and human) specifically for addressing GBV. The Chief District Officers in four Districts were concerned about the lack of resources available to them for tackling GBV.

Chapter 3

Discussion, Limitations and Recommendations

This comprehensive study has explored the issue of violence against women in Nepal from a number of perspectives: women who have suffered violence, policy makers responsible for policy content and direction to reduce and alleviate suffering due to violence, and key local stakeholders in institutions charged with policy implementation. Triangulation of the study findings, against a context of policy and legal reviews, highlights a number of areas for action and concern.

Study Limitations

The study, while comprehensive, is nonetheless limited by virtue of its small sample size and the relatively short time-frame available. Interviews with only six women, while illustrative of the broader issues driving VAWG and the institutional responses faced by each woman, nonetheless leaves us unable to draw meaningful conclusions concerning possible key features of women's experiences. Thus, we are not able to draw firm conclusions about issues such as class, religion, location, ethnicity, etc, since the experiences of individual women might be illustrative but not representative. Secondly, although we interviewed a range of stakeholders from different institutional settings, it is likely that many of the key players influencing women's experiences of violence they have suffered are actually driven by members of their immediate family and surrounding community. While we were able to gather some of these experiences from the women themselves, we were not able to interview their family or community members.

As with every study of this nature, the following conclusions and recommendations are based on relatively limited data. They are, however, evidence-informed recommendations and we hope they provide some useful points for further action.

To recap, the study had a number of aims and objectives:

- Understand how and why women make choices and seek support
- Examine the role of key community members in supporting women
- To assesses interests and incentives of power-holders in key formal and informal institutions
- Understand roles of formal institutions and informal norms and values in working together and independently to support or block women from care-seeking
- Examine the effectiveness of different systems mandated to provide care and support
- Assess operational strengths and weaknesses within and between the systems and institutions.

These objectives will now be explored, singly or together, based on the triangulated data sources gathered during this study.

Legal and policy context

Over the past 50 years, Nepal has ratified a large number of international treaties and covenants which promote and protect the rights of every citizen to live a life free from violence and discrimination. Some of these international agreements specifically protect women from violence – both structural and individual levels of violence. For example, Nepal ratified the Convention on the Elimination of Discrimination against Women (CEDAW) in 1991, and the Convention for Suppression of Traffic In Persons and of the Exploitation of the Prostitution of Others in 1995. In addition, Nepal has signed all major international Declarations and Programmes of Action designed to address women's health and development needs.

These international commitments have been translated into a set of national laws that are designed to protect women in the country from violence and discrimination. Our review identified at least 23 laws and procedural provisions which protect women's rights to a violence-free life. At least 6 of these laws are specifically designed to address the problem of gender based violence and trafficking of persons (see Figure 1.6).

However, laws and policies on paper do not always translate into action 'on the ground'. Implementation of specific laws/policies relies upon robust systems of accountability and institutional responsibility, including through mechanisms for ongoing monitoring and evaluation. In this regard, the situation in Nepal is, not atypically, a little less rosy. Our study looked in detail at the evidence that women were able to exercise the rights that they have enshrined in law and policy, and that institutions were being held accountable for delivery of their obligations. Some serious gaps in implementation were noted.

Key finding: Legal and policy context addressing GBV in Nepal is wide-ranging but systems for implementation are weak. Need increased action on monitoring, evaluation, and accountability of policy implementation.

Objective 1: Understanding Women's Decision-Making

The six women interviewed in the study were selected as being 'emblematic' of cases of gender-based violence in Nepal. Women had suffered a variety of forms of abuse –both acute episodes and chronic suffering. When the violence was chronic, women tended not to take any action; it was only in the face of an acute violent episode that care was finally sought. For most women, the first site of care-seeking was within their existing social support network. In extreme cases (sexual violence, burning), women sought care from the formal services – in both these cases, from medical services.

As shown in Table 2.12, women received a mixed reception when they sought care from formal service providers. The police, for example, were perceived as "discouraging" of taking additional action on the issue (woman who suffered abuse on account of dowry pressures), were unable to act because of "political pressures" (accusation of witchcraft), and occasionally acted immediately to assist the woman (survivor of sexual violence – although in this case they also advised the woman to abide by the "ruling" of an informal village mediation process which meted out a fine on the perpetrators and then kept half the money for 'community development'). In at least one case, inaction by local police was superseded by the intervention of District level police officers

Women whoreached representatives of the human rights system (Women Human Rights Defenders) received support both immediately (survivor of sexual violence) and in the longer term (woman who suffered widow abuse was given shelter, access to her husband's pension was reinstated, and she received a citizenship card).

For the most part, however, women's first experience of care seeking relied upon informal networks of support (family, friends, sometimes community members). Access to formal care mechanisms was not guaranteed, and depended upon on occasions on the serendipity of meeting an individual who was aware of the support on offer and referred the woman there. In other words, women lacked knowledge and agency to access the formal support mechanisms they were entitled to use, and to receive the full range of care and support that is available to them.

Key findings: Women lack knowledge and agency to address the violence they have suffered. Women were unaware of the full range of care and support available to them.

Recommendation: Increase women's awareness of (a) their rights to a life free from violence; (b) the formal support mechanisms available to them; (c) their rights in terms of service expectations.

Mechanism of action: Increase awareness at local levels for all those who suffer violence to know their rights and where to seek help. Multi-media campaigns using radio, newspapers, and other mechanisms of public information dissemination should focus on raising issues at a local level – where to seek help, what to expect when help is sought, how to complain if poor service is received.

Women's human rights defenders and officers from women's police cells could be encouraged to hold "open surgeries" – an opportunity to meet their local communities outside of 'crisis' moments. This would serve to raise public awareness of services available, as well as increasing communication between service providers and the communities they serve.

According to some of the respondents at national policy level, this recommendation is already being addressed in a number of settings through the promotion of legal literacy campaigns, particularly in school environments. This approach deserves evaluation and expansion if effective.

Some of the women interviewed had suffered violence as a result of contested disputes over inheritance and property rights. These women were "punished" by their family or the wider community and rationalized the cause of the violence as being related to property disputes. Inheritance rights are formally recognized within the legal system and women have equal rights of inheritance to men. Nonetheless, failure to appreciate this led to increased vulnerabilities for some of the women interviewed.

Key findings: Women have a low level of knowledge of their rights – including their rights to property and inheritance. This increases their vulnerability at key moments – such as recent widowhood or divorce.

Recommendation: Legal literacy campaign to raise awareness of inheritance and property rights for both men and women; including message of where to seek further support.

Mechanism of action: Support role of women's human rights defenders to undertake public information and dissemination campaigns focused on key areas of vulnerability for women, including property and inheritance rights.

In general, however, women's reluctance to seek care initially in the formal sector could have contributed to the prolonging of their histories of abuse – no formal action could be taken against the perpetrators while key institutions remained unaware of the problem. Persuading women to seek care in the formal sector is made more difficult by levels of mistrust in government services and fear of social retribution (as noted from interviews at all levels). Innovative ways of overcoming these barriers need to be found. In part this will rely upon building formal services that are efficient, effective, and responsive to the needs of GBV survivors. During the course of the study we interviewed women who had received effective and understanding care through formal support mechanisms – women who had, for example, been referred to organisations for financial and legal support, and had seen justice meted out to the perpetrators of violence. These women, although few in number, provide a positive example of the system working as envisioned to help them. Such positive stories may help to encourage other women to come forward and seek care/support.

Objective 2: Role of key community (including family) members in supporting women

Key findings: Women are generally reluctant to seek care in formal support services – they fear shame and social 'backlash'.

Recommendation: Promote positive stories of seeking care – i.e. women who have used formal support mechanisms and found help, and have not suffered social discrimination subsequently. Use these stories to encourage other women to seek care.

Mechanism of action: Use multi-media approaches to illustrate stories of positive care-seeking. Examples could include radio dramas, working with film and television industry, theatre groups, etc.

As noted above, women who had suffered abuse and discrimination were most likely to first seek support from informal members of their social networks than from formal support services. In some cases, women sought support from family members who then advised them not to proceed any further as it would "bring shame to the family". In other cases, women received unquestioning support from their families – e.g. in the case of the woman who had been subjected to dowry abuse.

Shame and perceptions (real or feared) of stigma and discrimination have been identified as important drivers of health outcomes in a number of settings and thematic domains. There is a wide body of literature on addressing shame and stigma within the 'HIV community' and there may be valuable lessons to be learnt from their experiences. In general, strategies to address and tackle shame/stigma (related to HIV) are based on a few key principles:

- Enabling and engaging with people to ensure they understand their rights
- Monitoring and responding to discrimination
- Enabling communities to understand stigma and discrimination
- Promoting partnerships with legal bodies and human rights institutions

Such principles have been widely used within the HIV field, and may provide some valuable lessons for those wishing to change social and cultural norms related to VAWG. The recommendation above relates directly to the aim of enabling and engaging with women and girls to ensure they understand their rights. We need to go further, however, and ensure that cultural norms are addressed/changed in order to reduce perception that violence is "acceptable". Globally there have been several campaigns focusing on changing men's behaviours towards the acceptability of violence towards women and girls. Such campaigns are illustrative of "gender transformative" approaches to working with men and boys to change behaviours and work towards gender equality. In other countries UNFPA already supports such work (e.g. through their collaboration with MenEngage) – and valuable lessons on gender transformative approaches could be learnt from ongoing programmes.

The study did not have an opportunity to fully address the role that gender norms and gender roles, particularly within families and communities, might be playing in women's experiences of seeking care and support. In all six cases included in this report, men were the perpetrators of violence against women. However, a simplified division between male and female roles in the question of VAWG, risks missing some important nuances and potential entry points for action.

Gender, a social construction, is often characterized as being driven by a framework of 'hegemonic masculinities' – associated, for men, with characteristics of toughness, control, and resulting in women's subordination (see, for example, Connell 2005 and Lynch 2010). However, when gender is seen as more relational, and with non-static norms (Petersen 2003), then opportunities for modifying gender norms become more apparent. Thus, men who are often characterized as "the problem" can, instead, be seen as part of "the solution" for addressing VAWG. This fundamental shift requires a more detailed exploration not only of the evidence for "what works" to change the behavior of men

and boys with respect to GBV, but also to understand their motivations for change, the barriers to change, and what opportunities exist for gender transformative change for both males and females in any given society.

Given the perceived role that gender norms play in driving vulnerability to violence against women and girls in Nepal (see, for example, the number of respondents who mention cultural values of patriarchy as a root cause of violence), it is vital that the next step is gathering the evidence on how to transform these gender norms.

Key findings: Family and community support is vital for women to be able to seek and receive services to both respond to and prevent GBV without fear of subsequent shame or discrimination. Men and boys need to be included as part of the "solution".

Recommendation: Promote a gender transformative approachtowards addressing VAWG. Such an approach should focus on promoting men's roles and responsibilities towards ensuring women and girls live a life free of violence.

Mechanism of action: Work closely with advertising/public campaigns industry to promote "No To Abuse" and "Real men don't hit women" campaigns.

Promote gender-transformative work with men and boys to challenge gender norms which can perpetuate cycles of violence – learn from ongoing work in this area, e.g. supported by UNFPA in southern Africa and the MENA regions. Undertake a detailed review of gender transformative approaches already underway in Nepal, and learn from previous experiences in this area.

At least one woman had been discouraged by her community from seeking legal redress through formal support mechanisms. Instead, she was encouraged to reach an out-of-court "compromise" with the accused perpetrator. This system of "compromise deals" was mentioned by several respondents at both National and District levels as being detrimental to women's goals of full judicial support. In the particular case of the woman who had suffered sexual assault, it could even be argued that the community had a vested interest in the woman reaching this compromise since the community kept half of the money for themselves. Tackling this custom is going to be difficult, but while this continues to be promoted by local leaders (e.g. village leaders), then the full range of the law is limited.

Key findings: Out of court settlements discourage women from seeking and receiving formal (accountable) support to which they are entitled. These settlements are not supported by the legal system.

Recommendation: Further action is needed both to better understand the nature of "compromise" deals and to suggest mechanisms to dismantle them.

Mechanism of action: Collaboration with justice sector at both local and national levels (e.g. Bar Association) to identify effective strategies for addressing the high incidence of out of court settlements.

Objectives 3 and 4: To assesses interests and incentives of power-holders in key formal and informal institutions, and to understand roles of formal institutions and informal norms and values in working together and independently to support or block women from care-seeking.

Recognising that the legal and policy environment for addressing GBV in Nepal is relatively wide-ranging and comprehensive, the most commonly identified problem related to lack of implementation of existing laws and policies. In theory, and on paper, women are protected through Nepal's own national laws, and also through Nepal's position as a signatory on a wide variety of international

covenants and treaties designed to protect the rights of all citizens.

In practice, however, the law is only as effective as the person charged with its implementation.

In situations where women had sought care but been denied full access to care or actualization of their rights in law, a number of common patterns emerged:

i. Women were unaware of their rights

ii. Care-givers and those with a primary responsibility and duty of care were unaware of their obligations.

In situations where women did actually reach support services, the nature of care and support they received was dependent upon their entry point into the system. Women who reached the human rights system or those with a particular mandate for addressing GBV, were likely to have their cases taken up to a higher level. Others were blocked at the first hurdle and were unable to negotiate through the care-seeking system unless, serendipitously, they met with someone with knowledge and power to help them.

The main gaps in service coverage and service access and the guarantee of service quality are discussed in the next section. For objectives 3 and 4, it is important to note that at District level there was almost no consistency in respondents' ability to identify either who hold primary responsibility in their District to address GBV, or to outline appropriate referral patterns for women who have suffered GBV. Mechanisms to increase institutional responsiveness and improve accountability are explored in more detail in the next section.

Objectives 5 and 6: Examine the effectiveness of different systems mandated to provide care and support and assess operational strengths and weaknesses within and between the systems and institutions.

As noted, the legal and policy environment may be relatively positive on paper, but systems of implementation were noted to be weak. Our study has highlighted the following points of institutional weakness, these are unlikely to be the only points, and they should be noted as being reflective of systems that are generally weak, have severe resource constraints, and operate within unsupportive cultural and social norms. Nonetheless, focusing on these institutional weaknesses may help to improve overall systems to provide care and support for women who have suffered GBV.

Accountability

Accountability is a key aspect of good governance – at its broadest, a means of ensuring that the 'social contract' between Government and people is working to the benefit of all; and in depth a method of ensuring that individuals are held responsible for their actions in an institution. We believe that an accountability framework holds value in assessing institutional strengths and weaknesses – and have analysed our data accordingly.

Within existing frameworks of governance, accountability is linked to results. A clear example of this is the UN-Secretary General's Report on Information and Accountability for Women and Children's Health [United Nations, 2010]. The eponymous Commission (led by WHO) has identified three key processes for improving accountability: monitor, review, act [WHO, 2011]. We have analysed the study findings using this framework.

- ***Monitor: A weak evidence base***

Good surveillance data is vital to knowing the extent of the problem, trends with time, and whether interventions are having an impact. However, very few of the respondents at District level (or even at National level) were aware of existing systems for collecting, collating and monitoring data about GBV cases, even if their institutions were in the 'front line' for women seeking care. As a result, the

ability to keep track of the overall burden of GBV in Nepal, and to be able to assess the effectiveness of any institutional responses is severely compromised. Moreover, there was a lack of standardized definitions of causes and cases of GBV. Thus, comparing records across institutions (or even across different districts covered by the same institution) proved extremely difficult as different criteria for recording individual cases were being used.

Key findings: A lack ofstandardized definitions of VAWG (causes, case definitions, etc) is hindering monitoring and assessment of the extent of the VAWG problem in different areas of Nepal.

Recommendation: Construct a standardized set of definition of VAWG covering physical, sexual and emotional violence, and possibly structural violence too. Such standardized definitions should be used by ALL agencies mandated to provide care and support for women and girls who have suffered violence.

Mechanism of action: National level institution (such as the GEC unit at the OPMCM) to convene a small working group with representatives of all major agencies involved in addressing VAWG to agree on case definitions for VAWG. These standardized definitions to be used by all agencies.

In part, some of the absence of accurate (or, indeed, any) data on GBV at an institutional level may have arisen due to the absence of working guidelines and policies. Again, very few interviewees were aware of institutional guidelines on management of GBV cases (which would be expected to include guidelines on monitoring). We were not able to assess the actual presence or absence of such institutional guidelines in every institution we visited, however we think that this would be a good first step in ensuring that monitoring improves.

Key findings: An absence of institutional policies and implementation guidelines was noted in several key institutions addressing VAWG at local level. While these policies and guidelines may exist at national level, they are not reaching District level and below.

Recommendation: Existing institutional guidelines for GBV management to be reviewed for all institutions mandated to provide care and support for GBV survivors.

Mechanism of action: Through working group convened by national level (OPMCM?) institution, commit all major stakeholders to review their own institutional policies and guidelines for addressing VAWG. Such reviews should include detailed review of use at local level.

Monitoring is key to a strong evidence base on the extent of a problem, and the effectiveness of interventions to address the problem. However, we found that ongoing monitoring of GBV cases was, at best, inconsistent – and sometimes absent. Monitoring, not only of cases, but also pathways to care and outcomes was notably absent. As a first step, all key institutions involved in provision of care and support to women and girls who have suffered violence should be encouraged to keep accurate (standardized) records of cases and their outcomes.

Key findings: Monitoring of VAWG cases was poorly implemented in some institutions.

Recommendation: The importance of monitoring of cases (including outcomes) should be stressed across all institutions involved in care and support for women and girls who have suffered violence.

Mechanism of action: Monitoring can be improved through a variety of mechanisms including: (1) use of mobile technologies to ensure timely data records; (2) financial incentive/disincentive schemes (payments related to accurate and timely reporting of data – and lack of payment if no data reported).

- ***Review: Lack of Standardisation and Central Data Collation***

At national level, we noted a number of institutions collecting and collating data on GBV cases (see Tables 2.3-2.8). The lack of any one single institution with the authority to collate data coming from District/local levels has given rise to two interlinked problems: (i) lack of standardized case definitions in use through the different reporting systems; (ii) inability to collate cases since it is not clear whether the same or different cases are being reported by different institutions.

In addition to the lack of a single, centralized authority for data collation, there was a notable absence of data review. These was seen most clearly at District level and below: where systems of data collection were in place (within a handful of institutions), there were no clear mechanisms for disseminating the data to inform future actions.

Key findings: Standardised, collated and disseminated data are vital for understanding the extent of a problem and the effectiveness of interventions. The lack of a single authority (at national level) with responsibility to monitor and evaluate all reported VAWG cases in Nepal is impeding timely and evidence-informed responses.

Recommendation: Establish strong and standardized systems of data collation, analysis and dissemination at both National and District levels.

Mechanism of action: The responsibility for this task should lie within one institution that has a mandate for National and District level co-ordination, and can demand access to data from all institutions in the District.

NOTE: Data collection and collation are not an end in themselves: they should inform analysis, dissemination and action.

- ***Action: Looking back but moving forward***

A key objective of data monitoring and surveillance is to design responsive systems. However, at District level and below, there was an absence of mechanisms to learn from past mistakes or link data to future actions.

(i) Learning from past mistakes. We did not identify any mechanisms for monitoring employee performance in relation to GBV cases, or any clear sanctions in place for employees who do not fulfill their mandated roles in providing care and support for women who have suffered GBV.

The health sector has successful examples of mechanisms for learning from past mistakes. Maternal death reviews are a successful and generally acceptable mechanism for holding providers to account in cases of maternal death. It is possible that this strong accountability mechanism may also work in the case of GBV – holding in-depth case reviews to ascertain the circumstances surrounding GBV cases, pinpoint avoidable mistakes, and identify future actions to prevent such cases occurring again [Danel, Graham and Beorma, 2011]. Clearly, the criteria for holding such case reviews would need to be agreed beforehand (feasibility issues would need to be discussed widely), but this mechanism may prove useful for moving forward in a positive way.

Key findings: Learning from past mistakes, and identifying mechanisms for improvement, is central to designing responsive, adaptable and accountable institutions.

Recommendation: Case reviews (including mortality reviews) are a well-established mechanism for improving learning and accountability – they should be piloted in this setting.

Mechanism of action: Undertake a trial of case reviews/audits for a situation when a woman dies or suffers severe GBV. Such reviews should be based on the widely used maternal death review process. Use these reviews as opportunities for lesson-learning and improving institutional accountability.

(ii) Guiding future actions: a good surveillance system has the ability to identify 'what is working' to reduce the extent of a problem. Improvements in the overall surveillance/data system (as suggested above), and improving the links between data and action, should improve both the responsiveness of all institutions, and the ability to identify effective interventions. A single strong, centralized institution with the authority to standardize, monitor, collate and review GBV cases from the entire country, should also have the capacity to interpret data to identify areas where responses are working as well as those areas where more action is needed. Again, the recommendation is the same as on page 57: appoint a single institution with overall authority to collate, analyse and disseminate data on GBV cases.

There would undoubtedly be concerns raised over such a suggestion, and problems identified. However, we believe that until such decisive action is taken, institutional responses to the persistent and pernicious problem of GBV in Nepal will remain fragmented, piecemeal and woefully ineffective.

Summary of recommendations, actions, and proposed institutional responsibility to achieve the recommendations

In this final section we summarise the key recommendations outlined above and indicate the activity areas required to achieve them. While we recognize that preventing and responding to gender-based violence is the responsibility of everyone in society, we are nonetheless aware that certain institutions have the mandate and the capacity to implement particular activities. We therefore suggest institutional responsibility for achieving each recommendation.

1. Address gaps in laws and policies

- Amend the Domestic Violence Act
- Review the timeframe and processes for filing rape cases
- Review punishments for some forms of violence
- Introduce legal provision for violence associated with accusations of witchcraft

Action by: Parliament, Prime Minister's Office, Ministry of Law and Justice, Ministry of Women, Children and Social Welfare, Attorney-General's Office

2. Improve women's access to and experience of the justice system

- Conduct research to improve understanding of 'compromise' deals and work with the justice system to reduce the incidence of out of court settlements
- Include GBV in pre-service training for police officers and ensure there is at least one officer in every police station who is trained to deal with cases of GBV
- Pilot and introduce fast track courts for cases of GBV

Action by: National Women's Commission, donors, UN agencies, women's rights organisations, police service, Ministry of Law and Justice, Supreme Court, Attorney-General's Office, Nepal Bar Association, district courts

3. Improve awareness of laws, policies and guidelines among key district stakeholders

- Review all relevant sector guidelines for provision of GBV-related services
- Ensure policies and guidelines are available in relevant institutions and train district staff
- Support exchange of experience between districts performing well and less well

Action by: Ministry of Women, Children and Social Welfare, other relevant ministries and their district level line agencies, UN agencies, donors

4. Strengthen district coordination and implementation

- Establish clear guidelines and standards for coordination, orient district level concerned authorities, and monitor implementation of coordination mechanisms
- Establish guidelines for referral between e.g. health, police, justice systems, NGOs, women's shelters, women's human rights organisations
- Monitor expenditure against budget and introduce incentives to use allocations for GBV action
- Increase budget transparency so civil society actors can hold district authorities to account

Action by: Ministry of Women, Children and Social Welfare, Ministry of Home Affairs, other ministries and their district level line agencies, Ministry of Finance, civil society, media

5. Strengthen mechanisms for monitoring and accountability of service delivery

- Agree a set of indicators for monitoring service delivery, quality and outcomes across all sectors
- Consider how systems used to learn from mistakes and improve service delivery in other sectors e.g. Maternal Death Review, could be adapted for cases of GBV, and pilot case reviews
- Strengthen district capacity for monitoring, reporting and data analysis
- Engage the media in monitoring service delivery and outcomes

Action by: GECU, Ministry of Women, Children and Social Welfare, UN agencies

6. Increase women's awareness of laws, rights, services, and how to complain about poor service

- Implement a national multi-media campaign using radio, TV, theatre, SMS, including stories of women whose cases have been handled well to encourage others to seek services
- Evaluate 'open surgeries' where women's rights defenders and officers from women's police cells meet the community and, if effective, support scale up of this approach
- Expand school interventions to educate boys and girls about laws, rights and services
- Train female community health volunteers to conduct GBV awareness programmes
- Identify lessons learned from efforts to address shame and stigma associated with HIV and TB

Action by: Ministry of Women, Children and Social Welfare, Women and Children Development Officers, Human Rights Commission, media, NGOs, women's organisations, human rights defenders, paralegal committees, national and district education and health sectors, UN agencies, donors.

7. Strengthen action to prevent violence against women and tackle harmful social norms

- Work with men and boys to raise awareness and promote 'zero tolerance', of violence against women, through advertising, media, community and school-based interventions
- Promote awareness of women's legal rights to property and inheritance
- Conduct analysis of the economic cost of gender-based violence

Action by: Ministry of Women, Children and Social Welfare, Ministry of Education, paralegal committees, women's human rights defenders, political and community leaders, NGOs, media, Ministry of Finance, UN agencies, donors

8. Improve the evidence base

- Establish a working group to agree on standard definitions to be used by all relevant agencies
- Develop and implement a common framework for recording and reporting cases of GBV
- Identify an institutional lead to collate, analyse, report on and disseminate national data on GBV
- Review the evidence for 'what works' for gender transformative approaches to addressing and preventing violence against women in Nepal, with a focus on the role of men and boys

Action by: GECU in the Prime Ministers' Office with relevant ministries and agencies

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Appendix 1

Comprehensive review of existing laws and policies to address GBV and VAWG in Nepal, including recommendations to address gaps in law and policy

Gender based violence (GBV) is inextricably linked to the gender norms and unequal power relations present in any society, and violence against women (VAWG) is one of the most common manifestations of these inequalities. Although men and boys also fall victim to GBV, it has a disproportionate effect on women and girls, who are much more likely to experience GBV in all its forms. Gender based violence may take different forms and there may be distinctive patterns or manifestations of gender violence associated with particular communities, cultures or regions and historical epochs. However, GBV is present in all societies, it is a structural phenomenon embedded in the context of cultural, socio-economic and political power relations.

The patriarchal society with deeply rooted gender discriminatory values of Nepal has resulted rampant GBV in Nepal. GBV like physical, emotional, economical, social, traditional and cultural violence are very common in Nepalese women's life. Nepalese women are being experienced the GBV in the forms of beating, abuses, domestic violence, rape and sexual harassment, trafficking, dowry, witchcraft accusation etc and this is not new phenomenon to Nepalese women. Women are being discriminated and exploited from hundreds of years in Nepalese society.

In recent years the government of Nepal has been doing various initiations including the reformation of the existing laws and policies to combat GBV/VAWG in Nepal. Recent the most significant initiatives to address GBV are the passage of the Domestic Violence Act by the Legislature Parliament in April 2000; the Acton Plan against GBV 2010 including the hotline service and the establishment of a women's desk in the Prime Minister's office. Any Nepalese woman can directly send her grievances, complaint and appeal against GBV to the women's desk. The Office of Prime Minister and Council of Ministries, Ministry of Women, Children and Social Welfare has formed a "Committee to Review Law Relating to Gender Based Violence and to recommend for necessary legal reformations as well. However, sometime state made law reinforces those values which make women vulnerable for gender based violence and sometime due to the gaps or weaknesses in the law gender based violence is not able to address effectively.

Nepal has signed and ratified or acceded to / adopted 22 international human rights instruments till the date which also includes the Universal Declaration of Human Rights, 1948 (“UDHR”), the Convention on the Elimination of all forms of Discrimination Against Women ("CEDAW"), 1979. CEDAW and its optional protocol which are ratified by Nepal are considered as the most important international instruments for the women of the world. By ratifying these conventions the government of Nepal has guaranteed equality between both women and men in all spheres of lives, which entails ensuring that they are not subject to any form of discrimination or violence. The important international instruments for the rights of the women and violence against women ratified by the government of Nepal are shown below;

Important International Instruments relating to the women's rights and GBV/VAWG ratified or acceded by the Government of Nepal

International Human Rights Instruments	Date of ratification/ accession by Nepal
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956	7th January, 1963 (a)
Convention on the Political Rights of Women, 1952	26th April, 1966 (a)
Convention on the Elimination of All Forms of Discrimination Against Women, 1979	22nd April, 1991 (r)
International Convention on Economic, Social and Cultural Rights, 1966	14th May, 1991 (a)
International Convention on Civil and Political Rights, 1966	14th May, 1991 (a)
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949	27th December, 1995 (a)
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999	15th June, 2007 (r)

Article 156 of the Interim Constitution of Nepal, 2007 provides that the ratification of, accession to, acceptance of or approval of treaties or agreements that Nepal is to become party shall be determined by law. It further provides that ratification of, accession to, acceptance of or approval of treaties or agreements on (a) peace and friendship, (b) security and strategic alliance, (c) boundaries of Nepal, and (d) natural resources and distribution of their uses, shall require consent of 2/3rd majority of the total number of the members of the legislature-parliament existing. In all other cases the ratification of, accession to, acceptance of or approval of treaties or agreements may be done at a meeting of the legislature-parliament by a simple majority of the members present.

Similarly, the Nepal Treaty Act, 1990, upon a treaty/convention/agreement being ratified, acceded to or approved as stated above, the provisions of such a treaty/convention/agreement shall be the law of the land and at par with the existing domestic law. To the extent any provision of such a treaty/convention/agreement conflicts with the provision of the existing domestic law, the provision of the treaty/convention/agreement shall prevail. The aforesaid provision of the Treaty Act therefore, prescribes a monist approach. Treaty Act further provides that in the event Nepal is a signatory to a treaty/convention/agreement but the same has not been ratified, acceded to or approved in the manner provided above and the provisions of such treaty/convention/agreement imposes additional obligations for enforcement of which new law may need to be enacted, then the Nepal government shall, as soon as expedient, enact such law.[1]

It is important to note that the provisions of international human rights instruments have been used time and again by the Supreme Court of Nepal to safeguard the various human rights provisions contained therein.

As far as the domestic law is concerned, different legal provisions for addressing or controlling GBV/VAWG are there in the scattered form within various laws of Nepal. These laws that directly or indirectly address/control GBV/VAWG can be categories in 4 different laws – constitutional provisions, legal provisions, special laws and procedural provisions.

[1] **Section 9, Nepal Treaty Act, 2047 (1990):** Treaty Provisions Enforceable as good as Laws…….. (1) 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 inconsistentprovision 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 (2) Any treaty which has not been ratified, accede to, accepted or approved by the Parliament, though to which Nepal or Government of Nepal is a party, imposes any additional obligation or burden upon Nepal, or Government of Nepal, and in case legal arrangements need to be made for its enforcement, Government of Nepal shall initiate action as soon as possible to enact laws for its enforcement.

GBV/VAWG related laws in Nepal

Constitutional Provisions	Legal Provisions	Special Laws	Procedural Provisions
Interim Constitution of Nepal, 2063 BS	• Various provisions of the Country Code, 2020 BS • Labor Act, 2048BS • Social Practices (Reform) Act, 2033 BS • Libel and Slander Act, 2016 BS • Some Public (Crime and Punishment) Act, 2027 BS • Children Act, 2048 BS • Police Act, 2012 BS • Local Self-governance Act, 2055 BS • National Woman Commission Act, 2063 • National Women Commission Rules, 2063 BS	• Domestic Violence (Offence and Punishment) Act, 2066 BS • Domestic Violence (Offence and Punishment) Regulation, 2067 BS • Human Trafficking and Transportation (Control) Act, 2064 BS • Human Trafficking and Transportation (Control) Regulation, 2065 BS • Gender Violence Control Fund (Operation) Rules, 2067 BS • Directives issued to control sexual exploitation against working women in workplace such as dance restaurant, dance bar, 2065 BS	• Various provisions of the Country Code, 2020 BS • State Cases Act, 2049 B.S • Supreme Court Regulation, 2049 B.S • District Court Regulation, 2052 B.S • Appellate Court Regulation, 2048 B.S • The Procedural Guidelines for Protecting the Privacy of the Parties in the Proceedings of Special Types of Cases, 2064

A. Constitutional Protection

The Interim Constitution, 2007 has guaranteed different rights for the Nepalese women as fundamental rights which ensure equal rights of Nepalese women as like men have and directly or indirectly protect them from any form of violence.

- ***Right to Freedom:*** The Constitution provides right to freedom as a fundamental right as per which every person shall have the right to live with a dignity. Further states that no person shall be deprived of his or her personal liberty save in accordance with law.[2]

- ***Right to Equality:*** The Constitution provides for right to equality as a fundamental right as per which all citizens are equal before the law and no discrimination shall be made against any citizen in the application of law on the grounds of religion, color, sex, caste, tribe, origin, language or ideological conviction or any of these. Article 13 further states that the State shall not discriminate against any citizen on the grounds of religion, race, caste, tribe, sex, origin, language or ideological conviction or any of these. However, providing for special provisions for protection, empowerment or advancement of women shall not be considered discriminatory.[3]

[2] **Article 12, Interim Constitution of Nepal -Right to freedom:** (1) Every person shall have the right to live with a dignity, and no law shall be made which provides for the death penalty(2) No person shall be deprived of his or her personal liberty save in accordance with law(3) Every citizen shall have the following freedoms:(a) Freedom of opinion and expression;(b) Freedom to assemble peaceably and without arms; (c) Freedom to form political parties;(d) Freedom to form unions and associations;(e) Freedom to move and reside in any part of Nepal; and (f) Freedom to practice any profession, carry on any occupation, industry and trade.

[3] **Article 13,Interim Constitution of Nepal** - (1) All citizens shall be equal before the law. No person shall be denied the equal protection of the laws. (2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, color, sex, caste, tribe, origin, language or ideological conviction or any of these. (3) The State shall not discriminate against citizens among citizens on grounds of religion, race, caste, tribe, sex, origin, language or ideological conviction or any of these. Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of women, Dalits, indigenous peoples (Adibasi, Janajati), Madhesi or farmers, workers, economically, socially or culturally backward classes or children, the aged and the disabled or those who are physically or mentally incapacitated. (4) No discrimination in regard to remuneration social security shall be made between men and women for the same work.

- ***Right of the women:*** Article 20 of the Interim Constitution (2007) guarantees the right of women as a fundamental right as per which no discrimination of any kind shall be made against the women by virtue or sex and no woman and no woman shall be subjected to physical, mental or any other kind of violence and such act shall be punishable by law. Article 20(4) further states sons and daughters shall have the equal right to ancestral property.

- ***Right of social justice:*** The Constitution further recognizes the right to social justice as a fundamental right.[4]

- ***Right of the child:*** Article 22 (3) of the Constitution confers the right to the children as a fundamental right as per which very child shall have the right against physical, mental or any other form of exploitation. Such exploitative act shall be punishable by law; and any child so treated shall be given such compensation as may be determined by law.

- ***Right relating to justice:*** The Constitution provides the right to justice to all the citizens as a fundamental right and states every person shall have the right to a fair trial by a competent court or judicial body. Further Article 24(10) permits any incapable party shall have the right to free legal aid, as provided in law.[5]

- ***Right to privacy:*** Article 28 of the Constitution defines the right to privacy as a fundamental right. Article 28 states that "Except in circumstances provides by law, privacy in relation to the person and to their residence, property, documents, records, statistics and correspondence, and their reputation are inviolable".

  In this regards the Supreme Court of Nepal issued a directive order in the case of ***"Forum for Women, Law and Development (FWLD) v. the Government of Nepal and others"*** [6] to the Prime Minister and the Office of the Council of Ministers as well as the Ministry of Law, Justice and Parliamentary Management to enact law for maintaining the privacy in some special type of sensitive lawsuits in which victim women or children or HIV/AIDS infected persons are involved. The law in this regard has not come into force yet but the SC has issued guidelines which are required to be complied with until the relevant law comes into force. The guidelines require that in the aforesaid lawsuits, the personal introductory information of HIV/AIDS infected persons have to be kept confidential from the time of registration of the case and the confidentiality has to be continuously maintained even after the disposal of the case. It further lays down the rights and duties of the concerned authorities (investigating, judicial and implementing bodies) in maintaining confidentiality of personal introductory information of such persons.

- ***Right against Exploitation:*** Article 28 of the Constitution guarantees the right against exploitation as a fundamental right which states that every person shall have the right against exploitation and no one shall be exploited in the name of any custom, tradition and usage or in any manner whatsoever. Article 28 (3) states that no one shall be trafficked in nor shall one be held in slavery or in servitude. Further article 28 (4) ensures no one shall be required to perform forced labor provided that nothing in this clause shall be deemed to prevent the making of law which require citizens to perform compulsory service for public purposes.

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[4] **Article 21, Interim Constitution of Nepal:** The economically, socially or educationally backward women, Dalits, indigenous peoples, Madhesi communities, oppressed classes, poor farmers and labors shall have the right to take part in the structures of the State on the basis of the principle of 'proportional inclusion.

[5] **Article 24, Interim Constitution of Nepal- Right relating to justice:** ……(9) Every person shall have the right to a fair trial by a competent court or judicial body (10) Any incapable party shall have the right to free legal aid, as provided in law.

[6] Sapana Pradhan Malla v Office of Prime Minister and Council of Minister and Others, Writ No. 3561 of the year 2063 B. S (2006). Sourced from- Ananda Mohan Bhattarai, ed. The Landmark Decisions of the Supreme Court, Nepal on Gender Justice (Nepal: National Judicial Academy/ UNIFEM, 2010) at pg. 185.

Constitutional Remedy against Violation of Fundamental Rights:

Article 32 of the Constitution provides for constitutional remedy under Article 107 in case of violation of fundamental rights under Part 3 of the Constitution.[7] Under article 107 any citizen can file a petition in the SC to have a law or any part thereof void on the grounds that it violates or imposes restrictions on the enjoyment of, the fundamental rights conferred by the constitution. The SC has the authority to declare the law void ab initio or from the date of the decision if it finds such law to be inconsistent with the Constitution. Further, the SC has the right to issue appropriate writs, including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto, for the enforcement of fundamental rights conferred by the Constitution.[8]

B. Review of Legal Provisions

i) Country Code

- ***Chapter on Husband and wife:*** The Chapter permits women to dissolve the conjugal relation if a husband brings another wife or banishes her from the house or does not provide her food and clothes.[9] The Chapter further provides first right to the mother on the subsistence of a minor below or above the age of five in case a mother herself desires to subsist a minor.[10] Number 4 of the Chapter even permits woman shall get her partition from the husband on making divorce or else if the wife does not intent to obtain her partition share but annual or monthly expenses from the husband instead of such partition share the court shall order the payment by the husband of annual or monthly expenses on the basis of the property and income of the husband.

- ***Chapter on Women's Share and Property:*** The Chapter provides women to use and dispose of the movable or immovable property which they have earned on their discretion.[11]

[7] **Article 32, Interim Constitution of Nepal- Right to constitutional remedies:** The right to proceed in the manner set forth in Article 107 for the enforcement of the rights conferred by this Part (Part 3: Fundamental Rights) is guaranteed.

[8] Article 107 Interim Constitution of Nepal- Jurisdiction of the Supreme Court: (1) Any citizen of Nepal may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground; and the Supreme Court shall have extra-ordinary power to declare that law to be void either ab initio or from the date of its decision if it appears that the law in question is inconsistent with this Constitution (2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution or for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such right or settle such dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

[9] No 1 (2)- …….if a husband has brought or kept another wife or banished her from the house, or not provided her with food and clothes or left the wife and lived separately without seeking any news of her and without taking care of her for a continuous period of three years or more or carried out any such act or intrigue or conspiracy designed to put an end to her life, lead to her physical disability or result in any other severe physical or mental suffering to her or has become important, or the husband suffers from any incurable venereal disease or the husband is held to have sexual intercourse with any other woman or the husband is held to have raped the wife.

[10] No. 3- In regard to the subsistence of such a child and a minor below or above the age of Five years, the following provisions shall apply:……(1) In case a mother herself desires to subsist a minor, she shall subsist the minor, and if she does not so desire to subsist, the father shall subsist the minor (5) Where the mother is subsisting the minor, the father shall according to his status and income provide the easonable expenses for the food, cloths, education as well as medical treatment of the minor. However the provision also states that where the father who is subsisting a minor and where the mother who is not subsisting such a minor has more income than that of the father, even such a woman shall also bear such a sum of expenses for the food, cloths, education and medical treatment of the minor as is determined by an order of the court having regard to the conditions.

[11] No. 1 - An unmarried woman, a woman having a husband or a widow may use and dispose of the movable or immovable property which they have earned on their discretion. No. 2 - An unmarried woman, a woman having a husband or a widow who are separate from a joint family may use and dispose of all the movable or immovable property of their share on their discretion. No.5 - Woman may use and dispose of their dowry (*Daijo*) or exclusive property (*Pewa*) on their discretion. In a case she dies, this property shall be treated as mentioned in the deed she has made. If such a deed does not exist, her property goes to the son or daughter living with her if there is any; if such a son or daughter does not exist, it goes to the son or daughter living separately if there is any; if such a son or daughter does not exist, it goes to the husband; if the husband does not exist, it goes to a married daughter if there is any; if a married daughter does not exist, it goes to a son's son or unmarried daughter if there exists any; if none of them exists it goes to the heir(*Hakwala*).

- ***Chapter on Kidnapping/Abduction and Hostage Taking:*** The Chapter criminalizes kidnapping/ abduction and hostage taking with the intention to rape, to sell, to enslave a person, to deploy somebody in work forcefully and to engage into prostitution, and such offences shall be liable to the punishment of imprisonment for a term ranging from Seven years to Fifteen years and a fine from Fifty Thousand Rupees to Two Hundred Thousand Rupees. No. 9 of the Chapter states in cases where the mentioned offence has been done against a woman or a minor, the person involved in such offence shall be liable to the punishment of imprisonment for a term of Two years, in addition to the punishment mentioned in this Chapter.[12]

- ***Chapter on Hurt/Battery:*** No 1 of the Chapter deems to have committed the offence of hurt/battery if a person causes bloodshed (Ragatpachhe), wound, injury, grievous hurt (Angabhanga) or causes any pain or harm to the body of another person and makes punishable.

- ***Chapter on Homicide:*** The Chapter criminalizes any person who commits abortion or causes abortion by doing any act with intention or knowingly or with sufficient reasons to believe that such an act is likely to cause an abortion. However, it also provides abortion right to the women on some conditions.[13] No 28 (C) (D) further prohibits any act to a pregnant woman with some anger or malice (Rishibi) and such an act results in abortion and any act to identify (determine) the gender of the fetus for the purpose of committing the offence of abortion.

- ***Chapter on Human Trafficking:*** The Chapter criminalizes human trafficking and make punishable upto twenty years of imprisonment.

- ***Chapter on Intention of Sex:*** No. 1 of the Chapter deems to have done sexual harassment if a person without the consent of a woman, touches or attempts to touch her sensitive organ, puts off her inner clothes (under garments), takes her to an unusually lonely place, makes her touch or catch (hold) his sexual organ or uses vulgar or other similar words or indications or shows her such drawing or picture or teases or harasses her for the purpose of sexual intercourse, or treats her with any unusual behavior or holds her with intention of having sexual intercourse and shall be liable to the punishment of imprisonment for a term not exceeding one year and find of up to NPR 10,000.

- ***Chapter on Rape:*** The Chapter criminalizes an offence of rape and makes punishable up to 15 years of imprisonment on the basis of age of the victim. It further criminalizes the marital rape and makes punishable up to 6 months.

[12] No. 1- No person shall compel another person to go to any place by using force or threatening to use force or showing fear or threat or overpowering(*Jorjulum*) or showing weapons or by using deceitful means or by using intoxicating or stimulant/psychotropic substance or by seizing or controlling any means of transportation by any means or take a person to any place without his or her consent, or in the case of a minor or a mentally unsound person, without the consent of his or her father or mother or guardian for the benefit of the minor or unsound person. If any person does such an act, the person shall be deemed to have committed the offence of kidnapping. If a person kidnaps/abducts or takes hostage of another person, as referred to in Number 1 or Number 2 of this Chapter, with intention to kill somebody else, to cause hurt by battering, to rape or to have unnatural sexual intercourse, to sell, to enslave a person, to deploy somebody in work forcefully, to cause torture, to engage into prostitution, to compel to work or cause to work, to get ransom or to receive the property of the abducted person or his or her successor (*Hakwala*), to cause to hand over (*Samarpan*) business or to cause to commit an offence punishable by the prevailing laws, the person who commits, or causes to be committed, such an act, shall be liable to the punishment of imprisonment for a termranging from Seven years to Fifteen years and a fine from Fifty Thousand Rupees to Two Hundred Thousand Rupees; and the person, who kidnaps/abducts or takes hostage for any purpose or intention other than those mentioned above, shall be punished with imprisonment for a term ranging from Four years to Eight years and also a fine from Twenty Five Thousand to One Hundred Thousand Rupees

[13] No.28(B) - ….. if an abortion is carried out by a qualified and registered health worker upon fulfilling the procedures as prescribed by the Government of Nepal, it shall not be deemed to be the offence of abortion, in the following circumstance; (1) if the abortion of a fetus of upto Twelve weeks is carried out with the consent of the pregnant woman(2) if the abortion of a fetus of up to Eighteen weeks caused by rape or incest is carried out with the consent of the pregnant woman(3) If the abortion is carried out with the consent of the pregnant woman and on the advice of an expert pursuant to the prevailing law that if abortion is not carried out, the life of such a woman may be in danger or the physical or mental health may be deteriorated or a disabled child may be born.

- ***Chapter on Incest:*** No. 1 of the Chapter recognizes an offence of incest if a person commits sexual intercourse with his mother and shall be liable to the punishment of imprisonment for life. Similarly it provides punishment of imprisonment for a term of 10 years if a person commits sexual intercourse with his elder or younger sister, born from the same father from whom he was born, or with his own daughter.

- ***Chapter on Marriage:*** the Chapter illegalizes a child marriage, polygamy and bigamy marriages and make punishable. No. 4 of the Chapter further makes punishable the marriage with the false representation.

- ***Chapter on Decency/Etiquette (Adal):*** No. 5 of the Chapter prohibits if any government employee who commits sexual intercourse or arranges for sexual intercourse by other person with a woman who is imprisoned or detained, or any medical practitioner or health worker who commits sexual intercourse with a woman who has come to avail medical service at time of rendering medical service or in the place of rendering such service, or any guardian or caretaker who commits sexual intercourse with a women who is under his guardianship or care, or any official or employee, in any organization where a woman suffering from mental or physical illness is staying for the purpose of treatment or rehabilitation, and shall be liable to the punishment of imprisonment for a term ranging from One year to Three years. Further if such an act is an offence under this Act or any other prevailing law, the punishment imposed there under shall be added to such punishment. The Chapter also has a provision relating to witchcraft accusation.[14]

ii) Libel and Slander Act

Section 8 of the Libel and Slander Act punishes if any person, with intent to defame any woman, says anything in a manner that she can hear or see it or express any kind of work or gesture or shows any article or undermines her privacy, and shall be liable to a fine of 100 rupees to 500 rupees and may also liable to the punishment of imprisonment for a term not exceeding 6 months.

iii) Some Public (Crime and Punishment) Act

Section 2 of the Act prohibits to insult women in public place by committing molestation (Hatapata) and to threat or scold or tease or to commit any undue act or to express any undue thing to anyone through telephone, letter or any other means or medium with keeping intention to intimidate, terrorize or cause trouble or to insult or defame or harass to him/her.

iv) Social Practices (Reform) Act

Section 5 (1) (3) of the Act restricts to compel bride side to give cash, goods, Daijo, donation, gift, fare -well gift for bride or bride groom in connection with or after marriage and whosoever contravenes shall be liable to a fine up to 10,000/- or an imprisonment not exceeding Fifteen days or the both and the property which is prohibited to accept and give shall be forfeited.

v) Children Act

Section 5 of the Act ensures non discrimination between a son or daughter in matters relating to their upbringing, education and health care.

[14] No. 10 (B) - If a person accuses another person of a witch or banishes him or her from his or her place of residence on such accusation or excludes him or her from social activities or does any other inhuman or degrading treatment or commits torture or banishes any ill (sick) person from his or her place of residence by rejecting or doing any inhuman or degrading treatment to him or her on the ground that he or she has suffered from any disease, the person shall be liable to the punishment of imprisonment for a term ranging from Three months to Two years or a fine of Five Thousand Rupees to Twenty Five Thousand Rupees or both.

vi) Local Self-governance Act

The Act confers to VDC/Municipality and District Development Committee as a duty to carry out activities regarding the protection of orphan children, helpless women, aged and old, disabled and incapacitated persons in line with the national policy and to carry out or cause to be carried out acts regarding the wiping out of social ill-practices and the protection of girls and women and to carryout, or cause to be carried out, program relating to the interests and welfare of the women and children and acts relating to the control of immoral profession and trade.[15]

vii) Police Act

The Police Act obligates police to treat women and children with full respect and due politeness.[16]

viii) Labor Act

Section 5 (2) of the Act states that minors and females may be engaged in the works normally form 6 in the morning till 6 in the evening, except in the prescribed conditions, however, sub section (3) allows the engagement of female in the works similar to the males by making an appropriate arrangement with mutual consent between the proprietor and the worker or employee. Further Section 48 (a) states females may be deployed in works in a hotel or travel agency at any time by making special arrangement of safety according to the nature of works.

C. Review of Special Laws

i) Human Trafficking and Transportation (Control) Act, 2064

With the aim of controlling the acts of human trafficking and transportation, and to protect and rehabilitate the victims of such the government of Nepal has brought the Human Trafficking and Transportation (Control) Act. The act criminalizes commit or cause to commit human trafficking and transportation[17] and punishes 20 years imprisonment and a fine of 200000 Rupees for selling or buying a human being. If anyone commits human trafficking and transportation repeatedly, for every offence, he or she shall be liable for it additional ¼ punishment in an addition to the regular punishment. The Act provides compensation to the victim of not less than half of the fine levied. The Act has provisions of rescue, rehabilitation and reconciliation[18] . Furthermore, Section 16 of the Act exempts a person from punishment of killing or injuring the perpetrator if a person knows or there is reasonable ground to believe that he/she is being bought, sole or engaged in prostitution or taken for the same and he/she does not get help to get rid of from those acts or somebody creates obstacles or stops or takes into control or uses force, in such case, if the person believes that it is impossible to get rid of from such control and on such faith.

[15] Section 28- Functions, Duties and Powers of Village Development Committee: (k)(7) To prepare necessary plans for the up-liftment of women within the village development area and to implement the same (k)(8) To carry out activities regarding the protection of orphan children, helpless women, aged and old, disabled and incapacitated persons in line with the national policy and to carry out or cause to be carried out acts regarding the wiping out of social ill-practices and the protection of girls and women Section 96- Functions, Duties and Power of Municipality: (h) (2) To carryout, or cause to be carried out, program relating to the interests and welfare of the women and children and acts relating to the control of immoral profession and trade. Section189 - Functions, Duties and Powers of the District Development Committee: (f)(2) To carry out acts on the protection of the orphans, helpless women, the aged, disabled and incapacitated persons as per the national policy, and to carry out or cause to be carried out acts on the wiping out of social ill-practices and the protection of the girls and women.

[16] No.15 - Duties of police employees:(1) The duties of every police employee shall be as follow: (k) to behave the public decently, and treat women and children with full respect and due politeness.

[17] Section 3 (1) - No one shall commit or cause to commit human trafficking and transportation (2) If anyone commits an act under Subsection (1) that shall be deemed to have committed an offence under this Act.

[18] Section 12 - Nepal government shall manage for the rescue of any Nepali citizen sold in the foreign land. Section 13 (1) - Nepal government shall establish necessary rehabilitation centers for physical and mental treatment, social rehabilitation and family reconciliation of the victim.

ii) Domestic Violence (Offence and Punishment) Act

The Act has been enacted to prevent and control violence occurs within the family and for matters connected therewith and for providing protection to the victims of such violence. Section 3 of the Act deems to have committed an offence of domestic violence if a person with whom he/she has a family relationship commit; or aid or abet; or incite for the commission of any form of physical, mental, sexual and economic harm. Section 13 (1) provides to a person who commits an act of domestic violence a penalty of a fine of 3000 rupees up to 25000 or 6 months of imprisonment or both. The Act permits the court to grant an interim protection order to the victim.[19] The Act further provides camera proceedings and hearings[20], compensation to the victim[21] , and provisions of a service center.[22]

iii) Guidelines issued by the Supreme Court

Besides these the Supreme Court of Nepal has issued various guidelines that are important in regards to GBV and VAWG in Nepal in different time periods.

- Guideline for abolishing of Chaupadi practice in Nepal, 2064 BS.
- The Procedural Guidelines for Protecting the Privacy of the Parties in the Proceedings of Special Types of Cases, 2064 BS
- Directives to Control Sexual Abuses Taking place at Workplace Against Working Women, 2065 BS

D. Procedural Provisions

There are a number of legal provisions in different laws that provide procedural provisions for prosecution the cases relating to women and GBV.

E. The Government National Action Plan on GBV, 2010

The government of Nepal had declared a year 2010 as the year against GBV and developed the National Action Plan on GBV, 2010. The Action Plan has adopted 6 core objectives, 19 strategies and 64 activities to control GBV in Nepal for which it has planned to intervene four major areas like protection, prosecution, justice, women empowerment through the legislative reform and skill providing scheme to the victims of GBV.

[19] Section 6(1) -Interim protection order may be granted if the Court has reason to believe, on the basis of preliminary investigation of the complaint that the Victim needs to be given immediate protection, it may, till the time the final decision on the complaint is made.

[20] Section 7 (1) - if it is so request by the victim, the court shall conduct in camera proceedings and hearings of the complaint relating to this Act.

[21] Section 10 - the Court may, depending on the nature of the act of domestic violence and degree, the pain suffered by the Victim and also taking into account the economic and social status of the perpetrator and Victim, order the perpetrator to pay appropriate compensation to the Victim.

[22] Section 11(1) - The Government of Nepal, as per necessity, may establish Service Centers for the purpose of immediate protection of the Victim, and for the separate accommodation of the Victim during the course of treatment

Gaps in existing laws and Recommendations

Act	Section	Provision	Limitation	Recommendation
Domestic Violence (Offence and Control) Act, 2066 BS	Section 2(b)	"Domestic relationship" means a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family members living together as a joint family; or a dependant domestic help living in the same family.	A person currently is not living together but once had lived together is not included in the provision	A person who has domestic relation and had lived together in past should be also included in the definition of domestic relationship
	Section 4(1)	A person who has knowledge of an act of domestic violence has been committed, or is being committed, or likely to be committed, may lodge a written or oral complaint setting out the details thereof, with the Police Office, National Women Commission or Local body.	The provision may create baffle between complaint receiving bodies while lodging complaint and even the victim may be confused. Practically difficult to lodge complaint to the National Women Commission (NWC) as there is only one NWC which is located in Kathmandu. It is almost impossible to rural women. The definition of domestic violence has incorporate male victim as well whereas no male can lodge his complaint to NWC	NWC should be made more accessible to women for lodging a complaint.
Domestic Violence (Offence and Control) Act, 2066 BS	-	Not included	The law contains no additional provision that facilitates the filing of a complaint directly with the court, nor procedures to be followed in collecting evidence and prosecuting the perpetrator	Police should be made responsible for collecting evidence and prosecuting the perpetrator
			The law doesn't recognize a serious forms of domestic violence as a crime	• Domestic violence should be divided into simple and severe violence. • Severe domestic violence should be recognize as a crime

			The Act lacks on providing the police an authority to detain the perpetrator until the issuance of an interim order	Police should have the power to detain them for investigation in domestic violence cases
			Domestic violence is not taken as a crime against state	Domestic violence should be included under the state's case.
Human Trafficking and Transportation (Control) Act, 2064 BS	Section 4	(1) If anyone commits any of the following acts, that shall be deemed to have committed human trafficking: (a) To sell or purchase a person for any purpose (b) To use someone into prostitution, with or without any Benefit (c) To extract human organ except otherwise determined by law (d) To go for in prostitution. (2) If anyone commits any of the following acts, that shall be deemed to have committed human transportation: (a) To take a person out of the country for the purpose of buying and Selling (b) To take anyone from his /her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurement, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or custodian and keep him/her into ones custody or take to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation	The provision has not included the purposes like "other forms of sexual exploitation such as pornography", "forced labor or services", "Slavery or practices similar to slavery" and "servitude" in the definition. Similarly the act of receiving someone with the purpose of buying and selling is not included in the definition of offence of trafficking.	To receive someone with the purpose of selling and buying him/her should be added in subsection 1. In sub-section 2 the purposes of "other forms of sexual exploitation such as non consensual use of sexual images", "forced labor or services", "Slavery or practices similar to slavery" and "servitude" should be included.
	Section 11	If the working language used by the concerned court and office in dealing with an offence under this Act is not understandable by the victim, he/she may manage for the translator or interpreter with the permission of the court.	Victim may not afford the translator or interpreter	With the permission of the court the state shall arrange the translator or interpreter form the victim

	Section 13(1)	Nepal government shall establish necessary rehabilitation centers for physical and mental treatment, social rehabilitation and family reconciliation of the victim.	The provision does not obliges the government to establish rehabilitation centers	Nepal government shall establish rehabilitation centers for physical and mental treatment, social rehabilitation and family reconciliation of the victim.
	Section 16	If a person knows or there is reasonable ground to believe that he/she is being bought, sold or engaged in prostitution or taken for the same and he/she does not get help to get rid of from those acts or somebody creates obstacle or stops or takes into control or uses force, in such case, if he or she believes that it is impossible to get rid of from such control and on such faith the perpetrator happens to be killed or injured in the course of release, such person shall not be liable for any punishment notwithstanding anything in the prevailing law.	Provision of killing the perpetrator for saving chastity during the attempt to rape or after the rape before trafficking the victim is not included.	With intention to sell or to engage in prostitution a person attempt rape assaults, rounds up (*chhekthun*), ties up (*bandchhand*) or uses force (*jorjulum*) by any other means to a victim and it is not possible to save the chastity (*dharma*) for the victim upon rescuing herself from the offender by shouting, requesting for the help or by any other means immediately, or where the victim is in a situation that if she does not do anything with her idea (*akkal*) or power (*barkat*) she may not be able to save her chastity due to serious fear or threat so created over there before the commission of rape or even after the commission of rape where she could do nothing due to lack of her power or force immediately, if such a victim, out of anger of such act, strikes a weapon, stick (*latho*) or stone at the place of commission of rape immediately or within one hour upon pursing the offender from such place and the offender dies over there, such an act shall not be deemed to be an offence.

	Section 17	(1)A court shall issue order to provide compensation to the victim which shall not be less than half of the fine levied as punishment to the offender (2) If the victim dies before receiving the compensation under Sub- Section (1) and if he/ she does have children below the age of 18, the children shall receive the compensation. If the victim does not have any children, the dependant parents shall receive the compensation. (3) If there are no dependant parents and minor children to receive compensation under Sub-Section (2), the amount should be accrued in the Rehabilitation Fund	If the offence cannot be proved the victim will not get any compensation even thought she had been sold. The Act mentions about the compensation only but fails to mention about the providing repatriation to the victim.	In case the offence cannot be proved and there is a reasonable ground that the victim had been sold the government shall compensate the victim The provision of repatriation should be included in the Act.
	Section 26	If a person provides reasonable ground and requests the nearest police office for security against any type of retaliation for reporting to the police under Section 5 or providing statement on court or remaining as a witness, that police office should provide any or all of the following protection measures to him/ her: (a) To provide security during traveling in course of attending case proceeding in the court, (b) To keep or cause to keep under police protection for a certain period, (c) To keep at rehabilitation center.	The provision talks about the security of a victim but fails to include an witness of the offence which may discourage any one to be an witness	Witness protection provision should be added along with the security of a victim
	Section 27	(1) Court proceeding and hearing of an offence under this Act shall be conducted in In-Camera (2) Only parties to the proceeding, their attorneys or other non-parties permitted by the court may enter to the court during the proceeding and hearing under Sub-section (1).	The provision does not states to maintain confidentiality of the victim from the beginning of the case	Trafficking case shall be handle sensitively and maintain its confidentiality from the beginning if the case

Chapter on Human Trafficking, the Country Code, 2020	No.1	No person shall lure and take another person outside the territory of Nepal with intention to sell him or her nor shall sell another person outside the territory of Nepal. If a person, who is taking another person to sell him or her in a foreign country, is caught (arrested) before the sale, the offender shall be liable to the punishment of imprisonment for a term of Ten years and if the person is arrested after the sale, the offender shall be liable to the punishment of imprisonment for a term of Twenty years. In cases where the buyer is found within the territory of Nepal, the buyer shall be liable to the same punishment as is imposable on the seller.	The provision crashes with the provision of the Human Trafficking and Transportation (Control) Act	The provision should be harmonize with the provision of the Act
Chapter on Rape, the Country Code, 2020	No. 1	If a person enters into sexual intercourse with a woman without her consent or enters into sexual intercourse with a girl below the age of Sixteen years with or without her consent shall be deemed to be an offence of rape. Explanation: For the purposes of this Number: (a) A consent taken by using fear, coercion, undue influence, misrepresentation or use of force or kidnapping or hostage taking (abducting) shall not be considered to be consent (b) A consent taken when she is not in a conscious condition shall not be considered to be consent (c) Minor penetration of the penis into the vagina shall be considered to be a sexual intercourse for the purposes of this Number.	• There are problems created by having differentiation regarding the age of non consensual sex (different categories for punishment based on age) • Sexual intercourse can be made by promising to marry however such condition has not been included in the definition. • The provision has only included penetration of penis in to the vagina but not other kinds of sexual intercourse like anal, oral	• The age of the girl should be made as per international standard. • Having sexual intercourse by promising to marry should be defined as a rape • Anal or oral sex or penetration of other things in to the vagina also should be deemed as a rape
	No. 10(B)	In the course of hearing of a case filed pursuant to this Chapter, only the lawyer, accused, victim woman and her guardian and police or court employee so permitted by the case hearing authority may appear before the bench.	Confidentiality cannot be maintained by camera hearing only in the court	Confidentiality should be maintained from the beginning of the case in the rape cases.

	No. 11	If a suit on the matter of rape is not filed within Thirty Five days from the date of the cause of action, the suit shall not be entertained.	35 days of limitation in rape cases is not effective	Limitation of rape should be extended
Chapter on Intention of Sex, the Country Code, 2020	No. 1	If a person, without the consent of a woman, touches or attempts to touch her sensitive organ, puts off her inner clothes (under garments), takes her to an unusually lonely place, makes her touch or catch (hold) his sexual organ or uses vulgar or other similar words or indications or shows her such drawing or picture or teases or harasses her for the purpose of sexual intercourse, or treats her with any unusual behavior or holds her with intention of having sexual intercourse, he shall be deemed to have done sexual harassment, and the who commits such an offence shall be liable to the punishment of imprisonment for a term not exceeding One year and a fine of up to Ten Thousand Rupees. The victim of such an offence shall be entitled to a reasonable compensation from the offender.	The provision only includes a woman but not a child. The offence can be happened to a child as well. The provision has not included the sexual harassment that occurs in public vehicles, schools/ colleges, roads, office and other institutions. The sexual harass-ment occurs in work place is excluded. The provision has mentioned "puts off her inner clothes", what if a person without the consent of woman puts off her outer clothes?	If a person, without the consent of a woman or with or without a consent of a child below the age of eighteen years, touches or attempts to touch her sensitive organ, puts off her inner clothes (under garments), takes her to an unusually lonely place, makes her touch or catch (hold) his sexual organ or uses vulgar or other similar words or indications or shows her such drawing or picture or teases or harasses her for the purpose of sexual intercourse, or treats her with any unusual behavior or holds her with intention of having sexual intercourse shall be deemed to have done sexual harassment.
	No. 5	If a person lures a woman to have illegal sexual intercourse with himself or with any other person or contacts and manages for prostitution, the person shall be liable to the punishment of imprisonment for a term ranging from Six months to Two years or a fine of Five Hundred Rupees to Six Thousand Rupees or with both	The provision mentions about an illegal sexual intercourse. However it has not defined what is an illegal sexual intercourse. The provision says "if a person lures a woman to have illegal sexual inter-course with him shall be liable to the punishment". If a person lures a woman to have illegal sexual course shall be deemed as an offence of rape.	An illegal sexual intercourse should be defined. If a person lures a woman to have illegal sexual intercourse with the use of fear, coercion, undue influence, mis-representation or use of force or kidnapping or hostage taking (abduct-ing) shall be deemed as an offence of rape and shall be punish according to the chapter of rape

Chapter on Kidnapping/ Abduction and Hostage Taking	No. 3	If a person kidnaps/abducts or takes hostage of another person, as referred to in Number 1 or Number 2 of this Chapter, with intention to kill somebody else, to cause hurt by battering, to rape or to have unnatural sexual intercourse, to sell, to enslave a person, to deploy somebody in work forcefully, to cause torture, to engage into prostitution, to compel to work or cause to work, to get ransom or to receive the property of the abducted person or his or her successor (*Hakwala*), to cause to hand over (*Samarpan*) business or to cause to commit an offence punishable by the prevailing laws, the person who commits, or causes to be committed, such an act, shall be liable to the punishment of imprisonment for a term ranging from Seven years to Fifteen years and a fine from Fifty Thousand Rupees to Two Hundred Thousand Rupees	The same offence is defined as a trafficking under the Human Trafficking Act. The punishment under this chapter is lesser than the Trafficking Act so there is a higher chance of misusing the laws to protect an offender in a similar crime.	The provision should be harmonized with the Trafficking Act.
Chapter On Husband and Wife	No. 4	Where the husband alone or accompanied also by the parents in-law has banished the wife from the house without providing her with food and clothes or has frequently battered and harassed her or the husband has brought or kept another wife, such a wife shall be entitled to get her partition share from the partition share of her husband. If such a wife dies or concludes next marriage, such of her share as is residue after her use/consumption shall devolve to her. Where the parents-in-law alone have banished her, she shall be provided with food and cloths according to the status and income.	It does not talk about what if other coparceners banish woman from the house without providing her food and clothes or batter frequently and harassed her.	Other coparceners should be also included in the provision.

Chapter on Hurt/Battery	No. 14	If a person causes pain to the body of another person by burning (Poli),branding (Dami), forcefully rubbing (Dali) or otherwise using fire, fire like burning material or acid and if the victim has not suffered grievous hurt or deformed (made ugly), the person (offender) shall be liable to a fine of Five Hundred Rupees and imprisonment for a term of Two months, and in cases where front part of body, mouth (face) or ear has not been burnt, the offender shall be liable to a fine of One Thousand Rupees and imprisonment for a term of Four months for burning the nose or eyes, to a fine of Two Thousand Rupees and imprisonment for a term of Eight months for burning the anus, to a fine of Four Thousand Rupees and imprisonment for a term of One year and Four months for burning the male sex organ, to a fine of Eight Thousand Rupees and imprisonment for a term of Two years and Eight months for burning the female sex organ.	The punishment in the heinous crime like using acid or other burning material is very low.	There should be a separate provision of punishment for the heinous crime like burning people using acid or other burning material and hard punishment should be there for such crime.
Chapter on Marriage	No. 2	While contracting a marriage, no one shall arrange to marry nor cause to be married where the male and the female have not completed the age of Eighteen years with the consent of the guardian and that of twenty years in case of absence of the consent of the guardian. The persons having attained majority, out of those who marry or cause to be married in violation of this provision, shall be punished as follows: If a female below the age of Ten years is married or caused to be married, punishment of imprisonment for a term from six months to Three years and with a fine of One Thousand Rupees to Ten Thousand Rupees shall be imposed……..1	Determining different age bar for the marriage with the consent of parents and without the consent is not reasonable. Punishment for child marriage is low. Child marriage is a voidable but not a void	Different age bar for marrying with the consent of the parents should be omitted. Punishment for the child marriage should be increased. Child marriage is illegal and should be made void

		If a female above the age of Ten years but below the age of Fourteen years is married or caused to be married, punishment of imprisonment for a term from Three months to One year and with a fine of a maximum of Five Thousand Rupees or both shall be imposed ……..2 If a female above the age of fourteen years but below the age of Eighteen years is married or caused to be married, punishment of imprisonment for a term not exceeding Six months or a fine of a maximum of Ten Thousand Rupees or both shall be imposed……..3 If a male or female who has not completed the age of twenty years is married or cause to be married, punishment of imprisonment for a term not exceeding six months or a fine of a maximum of Ten Thousand Rupees or both shall be imposed……..4 In case either a male or a female below the age of Eighteen years is married and no offspring has been born from the marriage, the male or female who is below the age of Eighteen years may get such a marriage declared void if he or she does not agree with such a marriage upon having attained the age of Eighteen years……..9		
	No. 9	No male shall, except in the following circumstances, marry another female or keep a woman as an additional wife during the life-time of his wife or where the conjugal relation with his first wife is not dissolved under the law…… If his wife has any contagious venereal disease which has become incurable….1 If his wife has become incurably insane……..1	The provision itself legalize bigamy in various conditions Women are considered as a solely responsible for not having a child	

	No. 9 A	If it is certified by the medical board recognized by the Government of Nepal that no offspring has been born because of his wife……..……1 If his wife becomes crippled, with being unable to make movement……..1 If his wife becomes blind of both eyes……..1 If his wife takes partition share from him pursuant to No. 10 of the Chapter on Partition and lives apart……..1 While concluding a marriage pursuant to Number 9 of this Chapter, one shall take the consent of the wife except she has become incurably insane or she is living apart after taking her partition share.		
Libel and Slander Act, 2016 (1959)	Section 8	In the event of commission of any act with intent to defame woman (*Aaimai*): If any person, with intent to defame any woman, says anything in a manner that she can hear or see it or expresses any kind of word or gesture or shows any article or undermines her privacy, that person shall be liable to a fine of One Hundred Rupees to Five Hundred Rupees and may also be liable to the punishment of imprisonment for a term not exceeding Six months.	The word *Aaimaiis* used for woman which is not respective word. One hundred rupees to five hundred rupees fine is not reasonable fine for the offence Compensation is not included	The word *Aaimais* should be replaced by the respective word Amount of fine should be increased and compensation to the victim should be provisioned

Areas of improvement in the existing laws to address GBV against women in Nepal

- The Government of Nepal has implied the Domestic Violence Act which can be taken as an important initiation against gender based violence in Nepal. Though, the Act has many lacunas or limitations in it. As such, there is a provision which allows the survivor of the domestic violence for lodging a complaint to four different institutions of the government- local body, police office, court and National Women Commission. The provision may create baffle between complaint receiving bodies while lodging complaint and even the victim may be confused. Besides, it is practically difficult to lodge complaint to the National Women Commission (NWC) since there is only one NWC which is located in Kathmandu. It is almost impossible to rural women to come to Kathmandu to lodge a complaint against perpetrator who has family relation with her. In another hand it also seems biased towards men victims because NWC does not take any complaints of men victims whereas the preamble of the act has clearly said that this act is implied to both male and female equally. Moreover the Act remains symbolic in the absence of an additional provision for facilitating to lodge complaint in the courts and the procedures that should be followed of collecting evidence and prosecuting the case. Similarly, the Act fails to provide proper and sufficient power to the police for detaining the perpetrators until the issuance of an interim order. In the absence of the necessary legal provision, rule or guideline, women shall continue to be unable to directly access the court thereby defeating the very purpose of providing protection from domestic violence. Furthermore, the Act does not recognize serious forms of domestic violence as a crime. So such kind of serious forms of domestic violence needs to be recognized as a crime against the state and domestic violence cases shall put under the State case and defend by the government itself.

- Currently human trafficking crime is controlled by two different laws in Nepal. One is the Human Trafficking and Transportation (Control) Act, 2064 BS and another is Chapter on Human Trafficking of the Country Code, 2020 BS. Some provisions of these two laws crash each other which may create confusion. Therefore, the confusing provisions should be harmonized. The Act 2064 BS fails to include other forms of sexual exploitation such as pornography, forced labor or services, practices similar to slavery and servitude in the definition of trafficking. Similarly an act of receiving someone with purpose of buying and selling is not included in the definition as well. Though there is a provision for compensation in the Act but if the offence cannot be proved the victim will not get any compensation. Similarly it fails to address different issues such as prevention of human trafficking, maintain confidentiality from the beginning of the case, witness protection, repatriation of victims, and immigration status of foreign victims in Nepal. Besides, the Act does not oblige the Government to establish rehabilitation centers thought there is a provision establishment of rehabilitation centers. Furthermore the Act does not provide summary procedures for trafficking case. In the absence of the same the trafficking cases may take 4/5 years for final decision and it may damage more to victim's security and life.

- Nepali rape law permits any woman after the age of 16 can give consent to have sexual intercourse whereas the Convention of Right of Child defines a person under the age of 18 as a child. The age should be made according to the international standard in this law as well. Similarly the law fails to recognize having sexual intercourse by promising to marry any woman as a rape. This should be included in the definition of rape. Furthermore the law has only included penetration of penis in to the vagina for rape but not other kinds of sexual intercourse like anal or oral which is quite possible these days. Moreover, the main problem in Nepali rape law is the limitation of 35 days for suit in the rape case. 35 days of limitation is too short as the trauma, physical and mental condition of the victim may cause delay in registering case.

- The chapter on intension of sex of the Country Code, 2020 BS imagines only a woman can be a victim of sexual harassment whereas a child also can be a victim of such sexual harassment. Similarly the chapter has not included the sexual harassment that occurs in public vehicles, schools/colleges, roads, offices and other institutions. A provision under this chapter says "if a person lures a woman to have illegal sexual intercourse with him shall be liable to the punishment ". The provision mentions about an illegal sexual intercourse, however it has not defined what an illegal sexual intercourse is.

- The same offence is defined as trafficking in the trafficking act and as a kidnapping in the chapter of kidnapping/abduction and hostage taking of the Country Code. Law of kidnapping has lesser punishment than in trafficking act for the similar offence. So these laws can be misused in protecting offender of such cases.

- The Chapter on Hurt/ Battery of the Country Code deems an act of burning, branding, forcefully rubbing using acid or other burning material as an offence of hurt or battery but the punishment for such offence is up to Eight Thousand Rupees of fine and imprisonment for a term of Two years if causes maximum damage. The punishment in the heinous crime like using acid or other burning material is very low in the law.

- Chapter on Marriage of the Country Code has made child marriage and bigamy or polygamy illegal and has made punishable. However, child marriage is made voidable marriage but not a void marriage. The punishment in a child marriage is also very low. Though the chapter has made bigamy illegal it has also given conditions to marry another which means the bigamy is legalized by law itself.

- A Procedural Guideline on Sexual Harassment against Working Women in Cabin Restaurants and Dance bars has been made by the Supreme Court of Nepal.[23] Similarly, the Guideline for abolishing of *Chaupadi* practice in Nepal, 2064 BS is also there. However, these Guidelines are shelved as mere documents as these not implemented effectively. So, the Acts on this regards should be enacted.

- The Bill on Sexual Harassment in the workplace is approved by the Cabinet and waits to be proposed in the parliament. Therefore, the Bill should be put in priority.

Apart from the Number 10 (B) of Chapter on Decency/Etiquette (Adal)) of the Country Code, there is no any legal provision regarding on the witchcraft accusation. Witchcraft accusation is a heinous case. Sometime women may also be killed therefore there is an immediate need of a separate law regarding on the witchcraft accusation.

[23] Propublic. 2008. Verdict and Procedural Guideline from Supreme Court on Sexual Harassment against Working Women in Dance Bars and Dance Restaurants