

GENDER BASED VIOLENCE AND LEGISLATION MONITORING

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Abstract

This report involves discovering how the women in Nepal are deprived from opportunities and suffering from many kinds of GBV due to patriarchal mind set behaviors and discriminatory national laws and policies. The goal is to show that the causes and effects of GBV which is deeply rooted in the society and maintaining by creating restrictions on their mobility. This has been done by analyzing statutory provisions, field visits, story of victims of GBV in four districts. Upon examination of these events, it becomes clear GBV can be seen in every society on the name of social traditions. It is attempted to involve the people from different society and culture to bolster their claims by citing speeches and idioms used for women. Through showing that the women live in rural areas of Nepal are not able to enjoy their human rights, this research highlights the importance of elimination of GBV in shaping the actions of the society and the government.

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Executive Summery

This report contributes expanded evidence that experience of GBV and controlling behaviors from patriarchal society. Mostly male members are associated with increased risk of GBV inside or outside of house. It is noted that intimate partner, family members, relatives are involved in GBV and the discriminatory laws and policies are also responsible in increasing level of GBV. However, although all of these behaviors were associated with lack of women empowerment opportunities which created dependency to their male partners. These results suggest that although experience of GBV may lead to Gender based discrimination and risk behaviors towards the girl/women in the society. The discouraging environment of society towards the women who want to live independently is also contributing for GBV.

There are various forms of violence the extent of domestic violence is also wide which was rooted very deeply in traditional Nepali community but never cover the first page of news papers. Even the victims of the violence try to hide the situation to keep maintain peace in their family. And also the lengthy provisions to get access for the justice and good behavioral treatment from the government agencies.

Nepal's Interim Constitution, 2007 has guaranteed the right to freedom²¹, right to equality²² and right of women²³ as fundamental rights which has genuinely mentioned about the rights of women and constitutional remedy in case of the violation of such rights. The provisions of fundamental rights guaranteed by the constitution has also pave the way for the establishment of acts, rules and regulations for the implementation of such rights through legal means. Despite the constitutional guarantees of the rights of women; the especial laws has been promulgated to stop any kinds of

violence against women which can be happened within the home and from the family members and to punish the perpetrators. CEDAW preamble¹⁵⁹ ensures equal rights of women in comparison to men and protect against any discriminatory provisions, system, practices and culture existing in the world which directly and indirectly obstruct to enjoy the rights by women in broad sense. Few non-Government organizations such as FWLD, Maiti Nepal. SAATHI, WOREC are contributing to eliminate GBV in Nepal.

GBV and gender inequality are increasingly cited as important determinants of national development; yet empirical research on possible connections remains limited. There is not enough study on GBV and its impact on society as a risk factor for development. Though these are known to be associated with experience of violence there is lack of facilities to get access to be informed about their rights and regarding.

Context and Background

According to UN definition, gender- based -violence(GBV) includes a host of harmful behaviors towards women and girls because of their sex, including wife abuse, sexual assault, dowry related murder, marital rape, selective malnourishment of female children, forced prostitution, female genital mutilation and sexual abuse of female children.

Nepal, a member state of the United Nations, has ratified many treaties and conventions related to women rights and GBV and Nepal has committed to fulfill its obligations to protect and promote the rights of women. However, the situation is different where women do not seem to be living a dignified life. Though more than 50% of women make our national population, Human Development Index indicates their lower status in terms of health, education, access to justice, well treats and employment opportunity. GBV is directly associated with serious health problems for both

women and children, such as gynecological disorders, mental health disorders, adverse pregnancy outcomes and physical injuries.

Patriarchal society, economic dependency and lack of empowerment opportunities are the ground of GBV in society. Some ill practices such as dowry system, witchcraft practice, rape attempts, sexual harassment, polygamy, domestic violence are some of the forms of GBV occurring frequently in our society. Evidence of gender based discrimination is increasing as reported in the print and discovered through primary data collection. Deeply rooted cultural and traditional practices and myths created against women have always created obstruction in their quality of life. Lack of effective laws, poor implementation and unaccountability of authorities can be attributed to the rise in GBV.

We have a culture to show respect to the women in our religion, but during enculturation a child hardly see a women living with self respect and dignity in our society.

In Hinduism, a prominent religion of Nepal, women are held up high in the form of Devi and worshiped with great respect and devotion. However, in practice Nepalese women are still fighting for equality and

social justice. Often treated as second class citizens, they face immense social and cultural barriers . On top of that, violence against women(VAW) is increasing. Out of the total population, women represent 51% of total population they are also oppressed by social evils such as the hierarchical system of patriarchal society, which generates gender-based discrimination, untouchability, witchcraft, and dowry system in the society. Women are still victimized by different ways of violence.

The United Nations Secretary-General has repeatedly emphasized that as long as violence against women continues, we cannot claim to be making real progress towards equality, development and peace. Drawing violence against women out of the private domain in to public attention and the area of state accountability has been a formidable task.(source:- . United Nation Declaration on elimination of violence against women, 1973)

Introduction

Few decades ago, violence against women was not considered an issue worthy of national attention or concern. Victims of GBV always suffered in silence, with little public recognition of their sufferings. This began to change in the 1980s as women's groups organized locally and internationally to demand attention to the physical, psychological, and economic abuse of women. Gradually, violence against women has now been recognized as a critical human rights issue and also as a significant threat to women's well-being. Now that worldwide attention is- focused on GBV, methodological research is required to guide the formulation and implementation of effective strategies. This research plays a critical role in bringing to light the issues of wife abuse, rape, trafficking, incest, and other GBV issues.

In supporting Hon. Ms. Rukmini Chaudhary Member of parliament from(),the report attempts to capture the real picture of GBV as it happens in the villages. Hence, the report relies on field observation, real stories and qualitative studies in four districts(Dhanusha, Sarlahi, Chitwan and Nawalparasi), study of statutory provisions,Domestic Violence(crime and punishment)Act-2009,Human Trafficking Act-2007, in motion and consideration and existing national policies and laws.

As a part response & prevention to GBV, the Government of Nepal has declared 2010 as the Year to End GBV. 5 yrs action plan for empowerment of women and prevent GBV is in place. The action plan focuses on empowerment of women and prosecution, protection and prevention, highlights the need of a special commission to investigate cases of VAW. To address GBV, free hotline telephone number has also been available now in Prime Minister's Office.

The Prime Minister Dr. Baburam Bhattarai has given direction on February 23, 2012, to all secretariats of respective ministries and security forces to prepare the responsive mechanism to address the issues of GBV within 24 hours to encourage GBV survivors to report the case.

The analysis and finding from reports should be useful for those interested in pursuing research-advocacy and action on GBV. The report should inform women's advocacy group who have been working hard to draw more attention to the physical, psychological and sexual abuse. In addition, to providing abused women for shelter, lobbied for legal reforms and challenged for wide spread attitudes and beliefs that support VAW.

The study confirms that in patriarchal society, the greatest part of violence is directed towards girls and women. This includes not only physical violence but also mental, emotional and economical violence as well. Violence that arises because of discriminatory attitudes, affects women throughout their lives. In every society of Nepal, VAW is common. Women are neglected in every aspects of their lives inside and outside the house. As we realized that these issues are not only women's problem it is the social problem which effects we all, so it is the time to work together to eliminate GBV from our side. So, lets start from our home first.

Study

It is really hard to change the behaviors patterns towards women/ girls. Many bitter words are made for them. It is seems in social media also, if any man became failure to get succeed, he is symbolized as a woman dress-up. Though women has proved as successor at every field, if she get a chance. There is not any example of failure women in any profession.

The main question is why people are not ready to change their attitudes towards women? Even educated family still have the stereotypes mind sets. For instance, they don't like their daughter moving around the market with her friends without any reason. They comment on her walking, talking and dressing as well. All the traditions made by male, have to continue by women on the name of culture. But as it is seen in many areas, empowerment can play vital role to minimize GBV, because due to dependency such violence are kept in dark, victim of GBV cant dare to open their mouth for justice. Their first priority is their lives so they just try to survive at any cost.

As the Nepalese women are still struggling for their identity, what can we expect more? Whether in rural or urban area of Nepal, GBV is existed in different name and types. The community people from every society insisting for women empowerment through capacity building programs. And also women friendly behaviors are needed to encourage them to report for GBV rather than hiding it. It is not possible a complete development with more than 50% exclusion of the population. So, to make sure for their meaningful participation in every sector, it is necessary to make some quota system for certain period to practice inclusion in policy making level to implementation parts.

Approach

Research questions

- How the GBV is operating in the society?
- What difficulties are being faced by the women because of domestic violence ?
- What do public suggest about the removal of violence against women ?

Research design

1. Desk Review:- bill analysis, reports and literature Review.

References:- *The Declaration on the Elimination of Violence against Women (1993)*

<http://www.slideshare.net/helloindia05/violence-against-women-research-paper> accessed on 4th Feb 2013

<http://www.amnestyusa.org/our-work/issues/women-s-rights/gender-based-discrimination> accessed on 4th Feb 2013

Interim Constituent 2063

Clause 2 (A) of Domestic Violence (Offence and Punishment) Act, 2066

Final Shadow Report (3rd June 2011)

2. Field Study

- Focus group discussion (Random sampling, women and girls, aged 12 to 30,)
- Stratified sampling (They were chosen on the basis of their age, occupation and caste)
- Interview with GBV victims (case study-1 for each district, VAW and GBV)
- Field Observation (Non- participatory way)

Findings

Findings from both literature reviews (study of discriminatory laws, bills) and focus group discussions explored the situation and types of Gender based Violence. The data demonstrated the existence of Gender based Violence in all 4 districts visited though the types and degree of violence is different from Dhanusha to Nawalparashi.

Women Empowerment seems the most important factor to reduce GBV in the society. Economic dependency over male members creates the ground to grow GBV. Dowry system and Caste system are also relevant factors for GBV. Women who are self dependent are directly involved in decision making inside and outside their home as compared to those who are not.

Women in Dhanusha were found to have more restriction on their mobility rather than Nawalparashi and Chitwan. Problems in the citizenship issues, behavioral activities, imbalanced power distribution, lack of information about their rights were very common. Information Centre is highly recommended for them, where they can get informed about all the things they related with, education, opportunity, access to approach for their rights.

During interaction and focus group discussion it came out that in most cases, women were not being informed about the activities carried out for them by Government bodies and the most important thing, they never participated at planning phase for skill based training provided by many national or international organizations. As they are always offered the training to make candle, soap and incense sticks, which now, is a total waste of time because market demand is changed. Nobody buys their products due to competitive market. And also these points were confessed by a participant:-

- A child who witnessed her father's violence against her mother, mostly in rural area and low social and economical status is in high risk of abuse.
- As male hold the authority over wealth and decision increasing gender based violence.
- Women are restricted on their mobility and lack of social support. Male members of the society legitimize violence.
- The society tolerate physical punishment of women and children, accepts violence as a means to settle family disputes.

It was observed that woman who has authority and power outside the family, tends to experience lower levels of abuse in intimate partnerships.

Most abused women are at risk to living with violence because of their children safety. Few women accept it as their fate while others flee. A woman's response to abuse is often dependent on the options available to her. Women consistently cite similar reasons for remaining in abusive relationships: fear of retribution, lack of other means of economic support, concern for the children, emotional dependence, lack of support from family and friends, and an abiding hope that "he will change." In all visited districts, most of abused women say that until the interview they never told anyone about their abuse. Those who reach out do so primarily to family members and friends. Few have ever contacted the police. Despite the obstacles, many women eventually do leave violent partners—even if after many years without legal process.

Discussion

During interaction and focus group discussion, no single woman stood up against the gender based violence. They all have some kind of dependency whether on identity or property. Though the problems were found different in Dhanusha with compared with Nawalparashi but nature of the problems are same, Gender based violence. Surprisingly, most of them even don't know whether to seek help in case of GBV.

As Hon. Ms. Rukmini Chaudhary suggested, it was really important to conduct some kind of training which contains some knowledge about their rights and ways of process to enjoy their rights.

Although Ms. Sheikh Chand Tara informed that there is a branch of National Women Commission in every district of Nepal, the participants denied about getting any information related to it. There was no such kind of system of reservation for women in public transportation. Data shows that there is no women participation in political discussions, mostly in Terai region, even when the topic is related to women, male participants decide everything.

The characteristics of violence most commonly committed against women differ in critical aspects from violence commonly committed against men. Men are more likely to be killed or injured or be physically by a sworn enemy, sometimes even strangers. Men are also more likely to be the perpetrators of violence.

On the other hand, women are more likely to be physically harmed by someone they know, often a family member or an intimate partner.

They are also at greater risk of being sexually exploited, on any stage of their lives.

There is still no universal terminology for referring to violence against women. Many of the most commonly used terms have different meanings in different places.

Gender-based violence is associated with serious health problems affecting both women and children on deep levels of mental health disorders. Violence can have *direct* consequences on a woman's health, in present as well as future. For most of the women, the psychological consequences of abuse are far more serious and lasting, than its physical effects. The experience of abuse often deteriorates women's conditions and they become prone to a variety of mental health problems. Violence against women is widespread, but it is not universal. Anthropologists have documented small-scale societies—such as the Wape of Papua New Guinea—where domestic violence is virtually absent. This reality stands as an example to the fact that social relations can be organized to minimize abuse. Justifications for violence frequently evolve from social norms about the proper roles and responsibilities of men and women. Many cultures hold that a man has the right to control his wife's behavior and that women who challenge that right—even by asking for household money or by expressing the needs of the children—may be punished. In Dhanusha and Sarlahi districts it was found that that violence is frequently viewed as physical chastisement—the husband's right to “correct” a wife. As one husband said in an interaction program in Dhanusha “If it is a great mistake, then the husband is justified in beating his wife. Why not? A cow will not be obedient without beatings.”

A study showed that some aspects of women's status could either increase or decrease a woman's risk of being beaten, depending on the socio-cultural conditions of the community she lives in.

It is a violence of human rights, when women are burnt to death just because of their gender. The whole system of family laws that govern marriage, divorce, property right inheritance reinforces the patriarchy and severely limits women command over economic resources. Treated as a guest in her

father's house, awaiting transfer to another household on marriage, a girl does not inherit anything from her real household. As an outsider in her husband's house, she has to prove her loyalty to her new family. Therefore this research will be intended to analyze some of the relevant questions during research period.

Recommendation

- launch awareness program about the harmful superstitious belief such as witchcraft practices
 - strong enforcement mechanism in regards to combat violence against women should be made
 - conduct women empowerment and skill development training to make them self dependent
 - alert civil societies and encourage them to disseminate the issue of violence
 - strong laws and policies to combat violence against women should be made
- institute fast-court to provide speedy remedy to victims of violence against women

Conclusion

Empowerment is the solution of gender based discrimination. Women in rural areas of Nepal are deprived from their basic rights. Lack of confidence, dependency on identity, patriarchal mind set, behavioral challenges are the main barriers to get access to the resources and opportunities. They cannot live with dignity without being self dependent financially. They must therefore rely on male members of their house. In most of the cases they are not able to grab first hand information related to them. Even they don't have equal citizenship right so that they are not able to pass Nepali citizenship on to their children.

Cultural barriers and behavioral challenges suppress the women to express their feelings. Ill social practices such as witchcraft and dowry system are pushing them back. Different ways of Gender based Violence are emerged on the name of cultural and ritual traditions.

Appendix

Annex 1: Guiding questions

What is your name?

How do you spend your garbage time ?

Do you have any skill development training to built your capacity?

How old were you, when got married?

Do you go for outing alone ?

Whom do you ask for your expenses ?

Do you participate in social activities ?

Who take care of the children at home ?

What does your husband do ?

Have you ever been in CDO office?

Stories from some participants

Story of Sima(name changed) from Parwaha village near to Janakpur.

There is always a silver lining present even on the darkest of clouds. Atleast that is what I used to think. But right now, I am at a loss of explanation on why I can't see the silver lining? I must be some exceptional case.

My name is Sima, a native of Parwaha village and I am currently training to become a H.A. I always dream big. And it was my dream to become a H.A. and serve people. But it's time I understand that dreams don't fulfill themselves. They ask for sacrifices. From Parwaha to Janakpur, has not been an easy journey.

I am the only daughter of my mom now. I have a brother too. My elder sister committed suicide when my dad cut her wings and stopped her from flying. She too had dreams which she wanted to realize. But circumstances forced her to give up on her dreams, give up on life. A heavy price to pay for dreams, dreams classified as unrealistic by the society. Dreams to soar high up in the sky. Looking at what happened to her; I think my sacrifices are a lot less.

My dad works in Qatar. He has two wives and he married my stepmom just before few years. He made my mom's life horrible. And he wants to do the same to me.

He agreed to let me train for H.A. only when I agreed to marry any man he will choose without reluctance. It happened so, that when I completed my SLC, my father wanted me to get married to a guy double my age, only for the sake of giving less dowry. Well, I wasn't quite surprised. A guy, who married

two women, and had marriage certificates and all, I don't know whom to blame? Him? Society? Or me myself?

But then, I had just started to dream out to fulfill my dreams of being an H.A. I sacrificed my happiness. I don't know what my future awaits, who will I be forced to marry? But nevertheless, I am surprised that I see no silver lining here, Do you???

Story of Reeta(changed name)

My name is Reeta. I am a happy go lucky girl, at least people think so. But behind my smile, lies terrible pain. I am a girl currently studying in grade-11, in Janakpur. I belong to an upper middle class family. Not that I want to complain, but I am always treated as an object. My family always looks through me, not at me. My existence doesn't have much importance. Well, it's all because I am a girl, and my parents treat me like I'm nobody.

The society I live in, basically thinks that, giving birth to a girl is useless and raising her up is like watering your neighbour's tree, useless; only because one day she'll get married and go away.

So convincing my parents to allow me to go to college after I completed my SLC was not a bed of roses. Finally, when I accomplished in this mission, I found that a bigger problem stood before me.

Eve teasers were ever-ready for me whenever I ventured out of my house alone. They passed comments on everything I did. Some of those eve teasers could be my grand fathers, at least their age showed me so. Now, the real trouble is that, their catcalls breaks me down. I get more and more nervous. They become more and more confident. I have started losing confidence in going anywhere. No matter what I wear; no matter how I behave, they are always waiting for me. I can't even confide all these happenings to my parents. They will think that the mistake is mine, they will stop me from attending my college and marry me off to a stranger.

All this suffocates me I am dying from within. Every morning has new challenges, and I? I have no choice except to accept all this.

Story of Rima of Sarlahi district

People say love has the power to make anyone do anything. And I think they are right. My mind must have gone out of order. Otherwise what on earth could have made me marry a guy like him. All his loving words were fake, all fake. Twenty five years or so have passed, and I still remember it like yesterday and regret it.

I shouldn't have agreed to marry him. Not I when my family was against the marriage. My happy –go – lucky life was suddenly destroyed just as a glass gets shattered when it falls. As time passed by, he showed his real self. He started using physical violence. I have tolerated all of his beatings for last 25years, and I will happily tolerate it for the sake of my family. Yes, I know, last time he was too harsh. He did some damage to my uterus by kicking and I had to be taken to ktm, by some people of my neighbor. I don't know where to complain. I didn't know it that you could complain. I have been living in Malangwa, the district head quarter of Sarlahi for so long, yet I have no knowledge in this matter.

And ever when I can't, I would choose not to lodge a complaint. I have a daughter who is unmarried. I have nowhere to go. If I lodge a complaint, he will throw me out of the house. I still have to live in this society. My daughter's marriage will be hampered. No one will like to marry her. I won't be able to provide dowry single handed.