

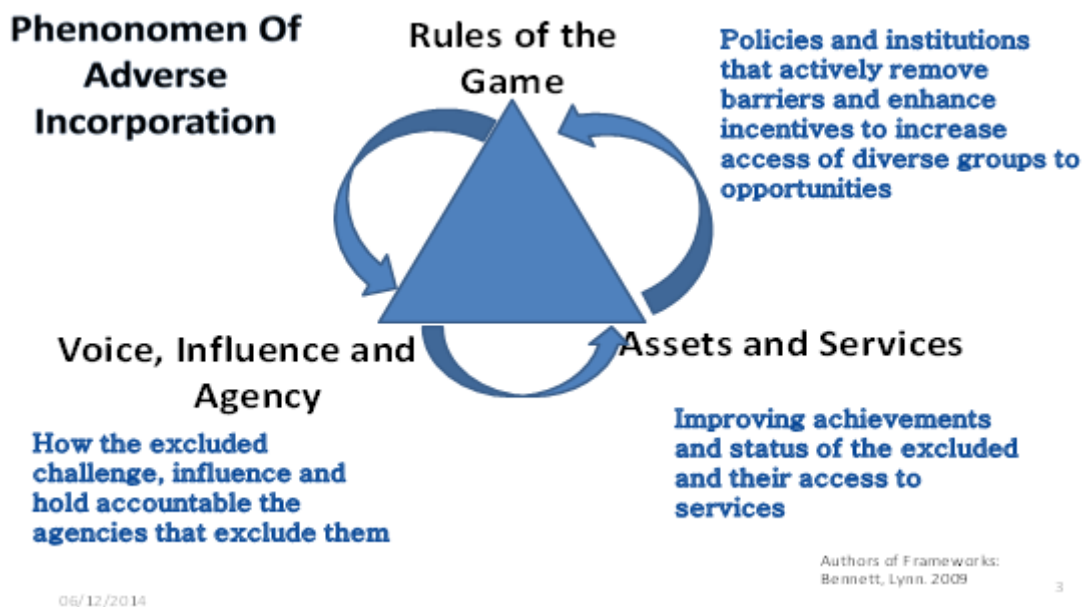
# Nepal Context

## I THE SOCIETAL LEVEL

Before digging into the different ecology levels in Nepal it is important to state that the government of Nepal is focusing all its gender programming around 'The Gender Equality and Social Inclusion Framework'. This can be summarised as follows:

"The Gender and Social Inclusion (GESI) concept was developed with significant inputs from DFID and the World Bank in Nepal, and places inclusion as central to development projects with a particular emphasis on women and girls as the driver of development, and on monitoring results (Bennett 2006)."

The GESI framework is depicted below:



**Figure: Gender and Social Inclusion Framework**

This framework highlights the importance of three sets of factors which constrain the ability of the excluded to participate in society, and these then are indicated as the three domains for development action for inclusion.

The domains are:

1. **Policies and institutions**, including social norms. We may refer to them also as the broad enabling environment. The environment may be disabling because of the barriers caused by caste, gender, political patronage and nepotistic business. Enabling factors include laws and regulations that demand gender and ethnic, religious equality.
2. **Voice, Influence and Agency**, which provides access to decision making through enabling structures (political representation) but also motivation and self-confidence.

3. **Assets and Services** or specifically widening access to these and encourage disadvantaged groups to hold officials accountable for discriminatory practices.

## The Law

In Nepal, unlike the other countries included in this study, the law is reasonably well formulated in its approach to women's issues. However, women's organisations warn that official attitudes - spanning employers, police and the courts - to implementation remain relatively indifferent.

### *Workplace harassment*

- **The Labour Act (1992) contains a number of provisions intended to improve women's experiences of the workplace.** For example, it includes the right to gender segregated toilets, safe transport from work at night, and childcare facilities in workplaces with over 50 female employees. However, a recent study reports that such provisions are not regularly implemented (Coyle et al 2014).
- Most of the existing literature recommends that the Nepali government introduce the long-awaited **Sexual Harassment at the Workplace law**. We are now in a position to witness the implementation of this law, however, which came into force in February 2017.

Workplace sexual harassment is defined in it to include:

*'eve teasing with ill or sexual intent, physical touching with sexual intent, using or demonstrating or publishing sexual words, objects, pictures, audio-visuals or other vulgar and seductive materials, proposing sexual activities at workplace'* (Shrestha 2015: n.p.).

Punishment may include six months in jail, a fine of 500,000 rupees, or both.

- However, it is significant that the act defines a workplace as 'government offices, full or semi-governmental organisations, any company or organisation registered under the existing laws, registered business firms and service centers.' This means that **people working in the informal sector – which is 92.6% of workers – have no recourse to this law**. A legal expert at the National Women's Commission is also quoted as saying that 'cases of sexual harassment are more rampant among laborers than in registered firms,' which further highlights the need for a law to cover the true majority of workers in Nepal (DKTM 2015).
- Although **it remains to be seen whether the new law will be well enforced**, previous studies would seem to recommend only the most guarded of optimism. For instance, the largest ever study of violence in the workplace in Nepal found that, while 74.2% of female workers view sexual harassment as uninvited, embarrassing and humiliating, only 46.2% of female policy makers, lawyers and members of civil societies agree (ILO 2004: 9). This number is lower than that of their male counterparts (64.7%), suggesting that female representation in positions of legal power is unlikely to help the advancement of women-friendly laws.<sup>1</sup>
- The same ILO study reports that **53.8% of women employees claim to have experienced workplace violence** (ILO 2004: xiv).

---

<sup>1</sup> 66% of male and 83% of female employers/management also agreed that sexual harassment is uninvited, embarrassing and humiliating (ILO 2004: 9).

## *Domestic violence*

- **In 2009, Nepal passed its first domestic violence law**, the Domestic Violence and Punishment Act, which defines domestic violence as physical, emotional, financial and sexual abuse (OECD 2014). However, domestic violence remains a serious problem in the country (Conley et al 2014; UNFPA 2013; USDS 2014), and it has been argued that the new law is unlikely to make significant impact unless its sanctions are strengthened (OECD 2014). The law imposes fines of Rs. 3000- Rs. 25,000 and up to six months prison time (which doubles for repeat offenders), but even this punishment is rarely enforced.
- **Not only do most people remain unaware of the law, but the government's efforts to establish structures to implement it have also been poor** (USDS 2014). The US Department of State (2014) and the prominent NGO Saathi (2009) also state that established women's police cells (present in each of Nepal's 75 districts) are under-resourced and staffed by untrained personnel. Since 2012, the police have been aiming for a 20% female quota in recruitment, but at present women make up only 6-7% of the police force and they continue to face discrimination themselves (Saferworlds 2014). Domestic violence remains underreported, and most cases are still settled by mediation rather than prosecution because the police remain reluctant to treat domestic violence as a criminal offense (Freedom House 2015; USDS 2013, 2014).
- It is therefore unsurprising that **the law's provision for victims' financial compensation and psychological treatment is rarely offered**. The National Women's Commission, which is responsible for providing reparations to women who have suffered gender-based violence, has been criticised for failing to meet its mandate, and for politicising the distribution of resources (Freedom House 2015).

## *Rape*

- **Prison sentences for rape range from 5-15 years** depending on the victim's age, and with an extra five years if the victim is pregnant or disabled, and for gang rape (USDS 2014). **Spousal rape is experienced by as many as 74%** of married women (Saathi 2009), and while it is recognised as a crime, husbands face lesser terms of three to six months. The CEDAW Committee (2011) is critical of this.
- Rape receives substantial attention from women's groups in Nepal, particularly because government forces and Maoist forces regularly raped and sexually harassed women during the country's ten-year civil conflict that ended in 2006 (HRW 2014; Saathi 2009). At present, however, the law stipulates a 35 day reporting period after which a rape charge cannot be filed, leaving many women without access to justice.

## *Discriminatory laws*

- **The Gender Equality Act was passed in 2006**, repealing and amending 56 discriminatory provisions of various Acts, and incorporating extra provisions to enable women's rights to be protected (Saathi 2009). However, **the CEDAW Committee (2011) notes that a number of discriminatory laws still exist**. Indeed, in their shadow CEDAW Report, the Forum for Women, Law and Development (2011: iv) count 103 provisions of different laws that continue to discriminate against women. These relate largely to citizenship, inheritance, marriage and family life.

## Politics

- **Women in Nepal enjoy equal voting rights and the right to participate in political parties.** The larger political parties have women's wings, although women have complained that party leaders (mostly upper-caste men) have prevented meaningful participation in the political process. Likewise, many women do not vote in elections because cultural tradition prevents it (USDS 2014). FWLD's (2011) CEDAW Shadow Report highlights that 'violence against women in politics' is an area of serious concern that ought to be addressed by the state, so as to allow more women to exercise their right to vote and stand for political office. Programmes like Oxfam's Raise Her Voice have been addressing this by encouraging the development of community-based women's groups (Oxfam 2015).
- **It is clear that existing barriers to women's participation are cultural rather than legal.** The interim Constitution of 2007 stipulated that at least one third of candidates for the Constituent Assembly must be women. As a consequence, since the 2013 election women have comprised 29.9% of the lower house (OECD 2014; Oxfam 2015). According to the Quota Project (cited in OECD 2014), the Local Self Government Act also states that at least 40% of candidates for elections to municipal councils should also be women.

## Education

- **The government of Nepal has made substantial efforts to promote gender equality in education** (Saathi 2009). The 2007 interim Constitution states that all citizens have the right to free education at primary and secondary levels, and primary education is compulsory for all children.
- UNICEF (2014) figures state that primary attendance rates were slightly higher for boys than for girls (96% vs. 91%) and substantially higher for the secondary level (74% vs. 66%). (This is in marked contrast to the WEF's (2014) *enrolment* figures, which place girls ahead of boys in secondary schooling).<sup>2</sup> In addition to this, moreover, **a large disparity is reported between urban and rural areas**, with two-thirds of adolescent girls in rural areas not attending school (USDS 2014). It is thought that some girls do not attend school due to a lack of resources such as lack of drinking water, overcrowded classrooms and designated female toilets which are thought to be missing from up to 30% of state schools (Saathi 2009; USDS 2014).
- **Literacy rates vary markedly according to gender**, with the USDS (2014) reporting 71% (men) vs. 44.5% (women), and Oxfam (2015) reporting 81% vs. 54.5%.

## Labour force statistics

- **In 2014, 83% of women in Nepal participated in the labour force, compared to 89% of men** (WEF 2014). Data from 2008 (when 80% of women participated in the labour force) reveals a marked urban/rural divide, however. In that year, 58.5% of urban women worked, compared to 84.2% of those in rural areas (CBS 2008: 55).
- **The Gender Gap Index 2014 (WEF 2014) ranks Nepal 122<sup>nd</sup> of 142 countries for 'economic participation and opportunity.'** Although labour regulations prohibit gender discrimination in wages (USDS 2014), the Index reveals that women are paid just 60% of what men earn for similar work, and that they earn 52% of what men earn overall.

---

<sup>2</sup> The CEDAW Committee (2011) also flags up girls' high drop-out rates.

- The US Department of State (2014) notes that **gender-based discrimination is particularly rampant in the informal sector. The informal sector makes up 92.6% of the economy, moreover,** and women in the formal sector make up less than 1.5% of the workforce overall (ILO 2010: 9).

## The Media

- According to the FWLD (2011: ix):

*‘There is lack of coordinated effort aimed at improving and changing the status of women within the media... negative or stereo type portrayal of women in media is commonly prevalent. Therefore it is necessary to increase the participation and access of women in decision-making at all levels of the media industry. The positive role played by women in all segments of the society in local and national levels need to be given prominent coverage by both print and electronic media.’*

## II THE COMMUNITY LEVEL

### Harmful cultural practices

- **The CEDAW Committee (2011) highlights the predominance of harmful traditional practices in Nepal,** and encourages the government to address them through awareness raising and educational efforts. The NGO and international policy literature also reflects the continued impact of these practices on women’s daily lives (Asia Foundation 2010; Paudel 2007; Saathi 2009; UNFPA 2013; USDS 2014). **These include accusations of witchcraft,** for example, which is more common in rural areas (BBC 2013). Reports have included stories of ‘witches’ being ‘tortured, [having] soot smeared on their face, beaten with hands and fists, with implements, with stinging nettles, forcefully fed excreta, blinded and murdered’ (WHRIN :5) In 2011, the local NGO Women’s Rehabilitation Centre recorded 103 cases of violence against women incited by accusations of witchcraft (Fernandez & Thapa 2012; see also INSEC 2012).
- **Widows are especially vulnerable** to accusations of witchcraft. As a group, moreover, they are generally considered inauspicious, are frequently blamed for their husbands’ deaths, and are shunned from family and community life. Other cultural practices that lead to discrimination against women include dowry (illegal but prevalent), *chhaupadi* (the refusal to allow menstruating women into the home, thus exposing them to the elements and animal predators) and *deuki* (similar to the *devadasi* practice in India, whereby girls are ‘married’ to God but then regularly prostituted).<sup>3</sup>
- **Discrimination by caste and ethnicity also remains a significant problem** in Nepal (HRW 2014b). Dalit women are exposed to greater abuse than any other social category:
 

*‘Violence and inhuman treatment, such as sexual assault, rape, and naked parading, serve as a social mechanism to maintain Dalit women’s subordinate position in society. They are targeted by dominant castes as a way of humiliating entire Dalit communities. Human rights abuses against Dalit women are mostly committed with impunity. Police personnel often neglect or deny Dalit women of their right to seek legal and judicial aid. In many cases, the judiciary fails to enforce the laws that protect Dalit women from discrimination’*

---

<sup>3</sup> *Deuki* is an ancient custom that is now very uncommon apart from in certain areas in the extreme west of the country.

*(Nasarjan Trust et al 2013: 1).*

Dalit women in Nepal also have lower literacy rates than any other group (12%), shorter average lifespan (42 years), lower rates of political participation and lower health indicators (Nasarjan Trust et al 2013).

### Disadvantaged groups

- **In 2012, official government data found that women from lower-caste groups, religious minority groups, widowed, divorced, or separated women, and women living in the hill regions, were significantly more likely to have experienced violence during their lifetimes** (OECD 2014). The CEDAW Committee (2011) expresses concern about the lack of data about these groups, and ‘urges the State party to prioritize combating multiple forms of discrimination against women from various disadvantaged groups through the collection of data...public education and awareness raising campaigns involving the mass media as well as community and religious leaders’ (CEDAW 2011: 10).
- As noted already, caste-based discrimination is illegal yet common in Nepal. According to the Nepal National Dalit Social Welfare Organisation, government progress in addressing the problem has been particularly slow in rural areas, where police are also reluctant to investigate accusations of discrimination. Inter-caste marriages are frowned upon in many communities and even, it is reported, by government ministers (IDSN 2010). Such marriages are known to have resulted in ostracism or expulsion from communities (Adhikari 2014; Sharma 2014; USDS 2014).
- Coyle et al’s (2014) informants claim that Madheshi and Muslim women are less likely to be allowed to work or to travel outside the house. However, the authors interpret this not as a sign of social ‘backwardness’ but rather as a consequence of **intersecting social issues including unequal educational access, literacy, poverty levels and caste/ethnic discrimination that constitute barriers** to these groups’ employment.

### Public space and mobility

- Dhakal’s (2009) study of women employees of carpet factories found that **much of the sexual harassment that women face ‘at work’ actually takes place outside the premises**: 32% of harassment cases occur outside the factory, when male employees target women employees while they are not working. This highlights the fact that employers must seek to reduce workplace-related VAW even beyond their own gates (Saferworld 2014).
- **Sexual harassment in public spaces is generally common** in Nepal, however. On public transport it is said to be endemic; Neupane & Chesney-Lind’s survey of 238 women in Kathmandu finds that ‘sexual harassment and sexual assault are ubiquitous on public transport with younger women particular targets’ (2013: 23).<sup>4</sup> Similarly, Dhakal (2009) finds that unmarried women are 4.36 times more likely to be the victims of workplace harassment.

---

<sup>4</sup> A number of cases of VAW on public transport have attracted intense media attention in Nepal. Among the most widely reported was the gang rape of a Buddhist nun in Eastern Nepal. The woman, who was attacked by five men on a bus, later faced expulsion from her nunnery for being a ‘damaged vessel’ and thus having ‘lost her religion’ (Sarkar 2011).

- Coyle et al (2014) report that **women's free (unaccompanied) movement in public spaces reflects badly on their families' *ijjat* (honour)**.<sup>5</sup> Although family honour depends at least partly on patterns of consumption (i.e. wealth), it is also marked on a 'moral' level by women's maintenance of traditional gender roles. A woman's decision to transgress household boundaries, to move into the public sphere in order to work, is therefore a decision with dual consequences. On one hand, a highly paid, status-enhancing job may be conceived of as honourable. On the other hand, however, women **who** earn low salaries are regularly considered to be embarrassing, despite their much-needed financial contributions. They often face community-level derision, even trying to seek work far away from home so that community members do not find out. Some women are even forced to stop working as a result of community-level harassment:

*'even when husbands and men in women's families may be supportive, they face significant challenges within conservative social contexts that have very real implications for women. One woman's husband "couldn't handle the pressure coming from the community" and no longer allowed his wife to sell vegetables in the marketplace' (Coyle et al 2014: 9).*

### III THE HOUSEHOLD LEVEL

- As noted above, women's movement outside the home is often linked negatively to family honour. Coyle et al (2014) report that many **working women face accusations from their husbands and families of promiscuity and even prostitution**, despite the fact that they are providing the family with much-needed income.
- **Many women are ultimately prevented from working by their husbands' families**, who exert significant pressure on them to remain at home to fulfil their domestic duties.
- The FWLD CEDAW Shadow Report (2011) states that gender stereotypes are strong, portraying women as entirely responsible for domestic chores and caring roles. **Patriarchal norms maintain household decision-making and economic control as masculine preserves.**

### IV INDIVIDUAL LEVEL

\*\*\* Nothing here - anything we can add here on the personal / individual level?

---

<sup>5</sup> The study also reports that 71% of women require family permission to visit friends and relatives, 51% to visit a health centre and 63% to attend a community meeting (Coyle et al 2014: 10).

## REFERENCES

### References

Coyle et al (2014) report

FWLD CEDAW Shadow Report (2011)

Bennett 2006

Bennett and Lynn 2009 re GESI framework

**DKTM 2015**

Sarkar 2011

**ILO 2004**

**Dhakal 2009**

**Saferworld 2014**

Neupane & Chesney-Lind's survey

**OECD 2014**

*Nasarjan Trust et al 2013*

**ISDN 2010**

Adhikari 2014; Sharma 2014; USDS 2014



From extracts from inception report

None in that document....