GENDER EQUALITY AND SOCIAL INCLUSION

Trends of Gender Based Violence and Discrimination against Women and Dalits

Incident Monitoring Report 2017
This report on issues of Gender Equality and Social Inclusion (GESI) is based on data collected by the Nepal Peace Monitoring Project (PMP), an initiative by COCAP|Nepalmonitor.org. The PMP uses a broad range of information sources, including national and district-level newspapers (from 25 districts), and reporting from police, human rights organizations, international agencies, civil society organizations, and citizens directly. The objective of this report is to present the findings of incidents documented in 2017 to stakeholders working in the field of GESI and provide an early warning to state actors to increase the response structure to any caste, gender, and class related violence or conflicts. It is part of COCAP|NepalMonitor.org’s wider engagement with partners in the Mitigating Conflict and Improving Implementation of Gender Equality and Social Inclusion (GESI) Policies through a People-to-People Approach in Nepal (CM-GESI) project.

DISCLAIMER: This “Gender Equality and Social Inclusion: Incident Monitoring Report 2017” is made possible by the support of the American People through the United States Agency for International Development (USAID) and The Asia Foundation (TAF). The contents of this report are the sole responsibility of COCAP and do not necessarily reflect the views of USAID or the United States Government and TAF.

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The CM-GESI Project

On July 27, 2015, USAID awarded The Asia Foundation (TAF) a cooperative agreement for Mitigating Conflict and Improving Implementation of Gender and Social Inclusion (GESI) Policies through a People-to-People (P2P) Approach in Nepal (CM-GESI) project. TAF and its partners including Women Act (WA), Dalit NGO Federation (DNF), Jagaran Media Center (JMC), International Institute for Human Rights, Environment and Development (INHURED International), Community Mediators Society (CMS), and Collective Campaign for Peace (COCAP) Nepal Monitor (for the Incident Monitoring System) are working in ten districts; Kathmandu, Kailali, Kaski, Nuwakot, Sindhuli, Dhading, Ramechhap, Dolakha, Achham, and Rasuwa. The objectives of the project are as follows:

1. To transform the attitudes and practices of key actors within local GESI service delivery agencies.
2. To enhance the use of GESI evidences and analyses to inform stakeholders and P2P activities that support the transformation of attitudes and practices.
3. To promote intra and inter stakeholder dialogues and increase collaboration and advocacy capacity of Dalit communities and women’s groups at the local level.
4. To institutionalize GESI-responsive decision making in local service delivery agencies through P2P approaches.

Target Areas

The districts were selected by TAF in consultation with local partners, based on published rankings of nine different indicators associated with economic and social development, as well as the impact from the earthquake.1 Three tiers of districts were created and the appropriate number of districts were selected from each tier ensuring no two districts were adjacent. In each tier, there was one earthquake-affected and one nonaffected district. This enabled the project to conduct a comparative analysis of challenges and opportunities for integrating the GESI framework and developing specific recommendations to mainstream GESI into post-disaster recovery and reconstruction processes.

Tier 1: Kathmandu and Kaski
Tier 2: Kailali, Sindhuli, Dolakha, Rasuwa, Nuwakot, and Dhading
Tier 3: Achham and Ramechhap

The collected data analyses and interpretations from PMP, informed and alerted all project partners and stakeholders of incidents and developments pertaining to gender based violence (GBV) and discrimination of women and Dalits. It was especially beneficial for the 40 People-to-People (P2P) groups formed under the project to mitigate conflict and improve the implementation of GESI policies in the project communities. The information provided evidence in the form of data to strengthen credible advocacy practices and initiatives. The data analyses and interpretation serve to raise awareness, prevent any form of violence, and encourage reporting, as the cases are still unreported or underreported.

Notable advocacy contributions and collaborations with local stakeholders resulting from the CM-GESI project team and P2P members taking up issues reported by the PMP include:

• Alerting local stakeholders on the death of a girl due to Chhaupadi in Achham.
• Holding local police accountable, urging stern actions against the culprit of a sexual harassment case in Chalnakhel, Dakshinkali.
• Alerting government stakeholders on a case of caste based discrimination faced by two journalists where a landlord denied them a rental apartment in Kathmandu.
• Forming advocacy groups to condemn violence and abuse due to accusations of witchcraft in Kailali.
• Creating a safer space for the Dalit community in Kaski while practicing 13 days funeral rituals.

Incidents documented can be accessed at NepalMonitor.org.

1 Mega Publications and Research Center aggregates and publishes an annual District Development Profile of Nepal with data collected from governmental and non-governmental sources. The Profile ranks the country’s 75 districts on eight different economic and social development indicators: poverty deprivation, socioeconomic and infrastructure deprivation, child deprivation, gender discrimination, women’s empowerment, health development, primary sector development, and infrastructural development. The ninth indicator used for selecting the CM-GESI project districts was based on the impact of the 2015 earthquake.
Despite Legislative Progress, Enforcement Remains Weak

Nepal is party to several human rights conventions that commit the government to gender equality, social justice, and antidiscrimination. In addition, the Government of Nepal is committed under Sustainable Development Goal Five, to achieve gender equality and empower all women and girls. Goal Five includes the targets of eliminating wage discrimination, physical and sexual violence, and all harmful practices, as well as increasing women’s share in public service decision making positions by 2030. In accordance with these goals, 33 gender discriminatory acts were revised or nullified in 2017. The 35-day limit for lodging a complaint against rape was extended to six months, but the new Criminal Code extends it further, to one year. Separate laws were adopted to further combat domestic violence and sexual harassment. On August 9, 2017, a law was passed which finally criminalized the practice of Chhaupadi, and on October 27, 2017, the Parliament of Nepal passed a bill for the criminalization of acid attacks. This bill resulted from community pressure on the government to take legal action against the perpetrators of an acid attack carried out upon two girls in Basantapur, Kathmandu in 2015. The new Criminal Code Bill, passed on August 9, increased the maximum punishment for certain crimes relating to violence against women. The maximum sentence for the crime of marital rape, as well as inhumane treatment of a man or a woman by accusing him or her of practicing witchcraft, was raised to five years of imprisonment.

On June 24, 2017, the government issued a Caste Based Discrimination and Untouchability (Offence and Punishment) Regulation, to criminalize untouchability, exclusion, and restriction on the basis of caste. With regards to the provision of citizenship, on May 22, 2017, a landmark decision by the Supreme Court to grant Deepti Gurung’s daughters citizenship under her name, represents a step forward in ending discriminatory practices.

However, despite some progress in legislation, caste based discrimination and violence against women is widespread, while the implementation of existing policies remains weak. According to the 2016 Nepal Demographic and Health Survey, seven percent of women aged 15-49 experienced sexual violence, and at least one in five women in Nepal experience mental, physical, and other forms of violence during their lifetime. 26 percent of ever married women have experienced spousal violence and 66 percent of women who faced violence did not seek assistance. Fear of social stigma, along with an inaccessible and, at times, uncaring justice system, deters women from reporting cases. The same holds true in incidents of caste based discrimination that remain significantly underreported.

Recurring problems in addressing these concerns include a low conviction rate for sexual violence and abuse and the pressure on victims of abuse to settle cases outside of court. In cases of domestic violence, the law allows reconciliation between the victim and perpetrator, if both parties agree. As victims tend to have no support structure outside their home, they can be pressured to reconcile, even in extreme cases of domestic violence.
violence.\textsuperscript{18} Such pressure is not limited to cases of domestic abuse. Victims of rape, sexual assault, caste based discrimination, and other felony crimes are routinely pressured to withdraw their case or come to a settlement with the perpetrator against a payment.\textsuperscript{19} Women Human Rights Defenders supporting victims report frequent threats and intimidation from people close to the perpetrator.\textsuperscript{20}

Similarly, despite the Human Trafficking and Transportation (Control) Act 2007 aiming to, “ensure a more victim centric and comprehensive approach to the prosecution of human trafficking,”\textsuperscript{21} implementation has not been effective enough to combat the crime.\textsuperscript{22}

\section*{Sexual Assault and Domestic Violence Most Common Forms of GBV Recorded}

In 2017, the PMP documented 680 incidents of GBV across Nepal, although actual numbers are likely much higher.\textsuperscript{23} Incidents recorded included 430 incidents of sexual assault including rape and attempted rape, 116 incidents of domestic violence, 7 cases of infanticide, 13 cases of violence following accusations of witchcraft, and 4 cases of dowry related violence. Outside of domestic violence, 44 murders and 53 assaults pertained to GBV. Two incidents recorded involved violence or discrimination against transgender people, including a case where a police officer subjected three transgender people to torture and degrading treatment at a police station in Itahari, Sunsari.\textsuperscript{24}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|}
\hline
Forms of Gender Based Violence & \\
\hline
430 & SEXUAL ASSAULT \\
\hline
116 & DOMESTIC VIOLENCE \\
\hline
44 & MURDER \\
\hline
53 & ASSAULT \\
\hline
4 & DOWRY RELATED \\
\hline
3 & BANISHMENT \\
\hline
7 & INFANTICIDE \\
\hline
23 & OTHER \\
\hline
\end{tabular}
\end{table}

\section*{Adolescent Girls and People with Disabilities Particularly Vulnerable to Abuse}

Of the 430 incidents of sexual assault recorded, 385 were cases of rape or attempted rape. Notably, 319 victims of rape (or 83 percent) were women or girls of 25 years and below (see Fig.: Age of Victims) and in more than half of the cases, reports identified the victim as a child of 16 and below. Nine victims of sexual assault were people with disabilities.\textsuperscript{25} This indicates that adolescent girls and people with disabilities are particularly vulnerable to abuse.

\begin{itemize}
\item \textsuperscript{18} See: Violence Taking Its Toll On Women, Girls
\item \textsuperscript{19} See: Itahari Gang Rape Afoot to Suspend SP, Inspector; Reconciliation Out of Court Leading to Rise in Crime and Police Settles the Case of Untouchability via Agreement
\item \textsuperscript{20} See: ‘Human Rights Activists Becoming Target of Perpetrators’
\item \textsuperscript{21} See: Human Trafficking and Transportation (Control) Act, 2007: Implementation. Any person involved in human trafficking under Section 3 of this Act, shall be punished with twenty years of imprisonment and a fine of two hundred thousand.
\item \textsuperscript{22} On January 8, 2016, the Metropolitan Police Crime Division had set up a hotline (1177) to receive information on cases of human trafficking. See: Measures Taken Against Human Trafficking
\item \textsuperscript{23} According to the Attorney General’s Office, 1131 cases of rape were registered in 2017. See: Why Does Rape Have a Low Conviction Rate in Nepal?
\item \textsuperscript{24} See: On Duty Police Personnel Accused of Torturing Third Gender People
\item \textsuperscript{25} For the list of report on violence against people with disabilities, see: https://www.nepalmonitor.org/reports
\end{itemize}
INCIDENTS OF GENDER BASED VIOLENCE AND DISCRIMINATION AGAINST WOMEN AND DALITS IN NEPAL, 2017

Number of Incidents Related to Gender Based Violence in District

- 0-5 Incidents Per District (33 Districts)
- 6-12 Incidents Per District (22 Districts)
- 13-24 Incidents Per District (16 Districts)
- 25-41 Incidents Per District (4 Districts)

Based on number of cases documented by NepalMonitor.org from sources in the public record. Actual figures likely to be higher.

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In addition to such violent incidents, 115 women and girls and four boys were rescued from human trafficking in various parts of India and Nepal, mostly at the Nepal-India border, according to the PMP reports.\(^{26}\) Five people with disabilities were rescued from inhumane treatment at home where they had been locked in or restrained by chains, in some cases for years.

**GBV Leading Cause of People Killed in Violence**

149 people were killed in various incidents of GBV in 2017 - 140 of the victims were female. Amongst them, 75 were killed in intimate partner or domestic violence. This means that of the 446 killings in 2017, one third can be directly attributed to GBV, making Gender Based Violence the leading identifiable trigger for violent deaths in Nepal (see Fig.: Share of People Killed).\(^{27}\) In 163 of the 680 cases of GBV documented, the main perpetrator was a family member or relative. However, given prevalent reluctance to report violence within the family, this number is likely to be higher.\(^{28}\)

In terms of geographic distribution, Rupandehi and Siraha districts witnessed the highest number of incidents of GBV documented, with 41 and 36 cases respectively, followed by Saptari with 31 and Kathmandu district with 26 incidents recorded (see Map: Incidents of GBV and Discrimination). When we take the size of population into account, Terathum, Mugu, Bhojpur, Siraha, Sindhupalchowk, Ilam, Udayapur, Makawanpur, Gorkha, and Myagdi districts recorded the highest rates of incidents of GBV per 100,000 residents. In terms of the newly formed provinces, Province 2 recorded the highest number of incidents with 151 incidents documented in 2017. This was followed by Province 5 with 139, Province 1 with 132, Province 3 with 125, Province 4 with 49, Province 7 with 43, and Province 6 with 41 incidents of GBV recorded. When normalized by population, Province 2 and 5 still retained the highest rates of GBV per 100,000 residents.

**Discrimination Against Dalits Still Prevalent but Seldom Enters the Public Record**

In 2017, the PMP documented 24 incidents of caste based discrimination against Dalits across Nepal. Of the 24 incidents, 20 involved violence. 27 people were injured - 8 of them female, and a teenage girl and a couple were killed. However, the numbers belie the prevalence of discriminatory practices against Dalits in everyday life which regularly goes unreported and only grave cases enter the public record. Incidents recorded in 2017 include Dalits being prohibited from entering temples and purchasing goods, being beaten for entering homes of non-Dalits or for not cleaning their dishes at a hotel where they had a meal, Dalits fined for touching the property of a non-Dalit, and Dalit children being bullied in schools due to their family background.\(^{29}\) In addition, inter caste marriage involving Dalits and members of a so-called upper caste continues to be frowned upon, with sometimes tragic consequences. In Surkhet, a Dalit family was assaulted on September 9, as their son had married a woman from a caste regarded higher than his,\(^{30}\) and a couple in Rupandehi was assaulted on July 3, for their inter caste relationship.\(^{31}\) On January 20, 2017, a couple committed suicide near Biring River in Kankai Municipality, Jhapa district. Their relationship was deemed unacceptable by society, as the woman was Dalit, and the man was Brahmin.\(^{32}\)

**Representation of Women and Dalits in Elections**

Representation of marginalized groups and women in elected offices and their participation in decision-making processes are a crucial aspect of Gender Equality and Social Inclusion in society. With elections in all three

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\(^{26}\) For the list of reports on Human Trafficking, see: https://nepalmonitor.org/reports

\(^{27}\) Of the 446 people killed in violence in Nepal in 2017, 168 were women or girls, according to NepalMonitor.org data.

\(^{28}\) According to Nepal Demographic Health Survey 2016, two percent of unmarried women had experienced sexual violence, eight percent of married women, and 20 percent of widowed, separated of divorced women. Only in four percent of cases were the perpetrators not the women’s current or former husband.

\(^{29}\) For a list of reports of caste discrimination in 2017, see: https://nepalmonitor.org/reports

\(^{30}\) See: Dalit Family Assaulted for Inter Caste Marriage

\(^{31}\) See: Assault on Couple Caught on Tape: 4 Booked for Attempted Murder

\(^{32}\) See: Lovelorn Couple End Lives in Jhapa
tiers of the new federal structure (local, provincial, and national). Thus the year 2017 presented an opportunity to take a step forward towards implementing the commitment of Nepal’s constitution to facilitate social reform through principles of inclusion and participation, as well as end discrimination on basis of geographical region, class, caste, ethnicity, religion, and gender. To this end, several provisions in the legislation aimed to ensure inclusion of women, Dalits, and other marginalized groups. For instance, the Local Level Election Act of 2015, specified that each ward committee of five members should have two women representatives including one Dalit woman. Thus out of 36,639 elected local representatives, 13,360 had to be women, with at least 6,793 of them being Dalit women. Also in municipalities, among the candidates for the two positions of mayor and deputy mayor or, in the case of rural municipalities, chair and deputy chair, parties were mandated to nominate one woman. On the federal level, the constitution guarantees one third representation of women in the House of Representatives and National Assembly, and parties must allocate 50 percent of their seats under the proportional election system to women.

These provisions were a critical step forward in terms of social inclusion, and resulted in some of the most inclusive elected bodies in the country to date, with women representing 41 percent of elected representatives at all levels, including 14,352 women elected at the local level, 189 at the provincial level, and 111 at the federal level. However, analyses of the election results also indicate that there is much progress to be made and that political parties, rather than embracing the intent of inclusion, in most cases only fulfilled the obligatory legal minimum. At the local level, because of the mandatory Dalit women quota, out of 7,737 Dalit representatives, 88 percent are women and only 12 percent are men, despite their active involvement in politics. Dalit representation in local units outside the mandatory quota, stands at only 3.3 percent. Among the elected mayor and deputy mayor positions, Dalit representation was limited to 1.9 percent and 4.1 percent respectively. Women occupy only 2 percent of the positions of mayor and chairperson but over 90 percent of the deputy roles. Only 2 percent and 1 percent of women were elected for positions of ward member (outside the quota) and ward chair, respectively.

When compared to their share in the population, Dalits and women are the most underrepresented groups in parliament, among the seven clusters specified in the proportional representation system. Dalits have the lowest representation with only 20 representatives (7 percent) and 33 percent of Members of Parliament are women. However, only six women were elected directly (no Dalit women among the six) to the House of Representatives (HoR), under the first past the post (FPTP) system. This is a lower percentage than during
the Constituent Assembly Elections in 2008 and 2013. As a Record Nepal report states: “All parties have followed the same pattern of giving preference to male candidates in the directly elected section of the House of Representatives, and then placing women in the PR list to compensate.” There were also concerns that the ban on vehicle movement on polling days would impede voter turnout among people with disabilities.

PMP recorded eight incidents related to participation of Dalit and women in the elections in 2017, and five of them involved some form of physical violence. In one incident in Kaski on May 10, a woman candidate for member of a ward was beaten by her husband for refusing to withdraw her candidacy. The pressure to withdraw candidacy was reportedly carried out on behest of her brother-in-law who ran as candidate of a rival party for the position of ward chairperson.

It is still too early to assess the impact of these measures of social inclusion on local decision-making. However, anecdotal evidence from representatives of People-to-People groups in project districts indicates that challenges remain. As one municipal executive member of a ward in Dakshinkali notes, “As an executive member of the municipality and a Dalit woman member of the ward council, it is my duty to raise issues of the people I represent. But when I do so in the municipal council, the mayor nods his head in solidarity and endorsement, but rarely takes any action towards resolution. I feel the issues I raise are politely ignored. And when I raise issues at the ward level, the ward chair ignores it straight away. This makes me feel like my issues are ignored because I am a woman, a Dalit, and from a minority political party.”

Incidents of GBV and Caste Discrimination in Ten CM-GESI Project Districts

In 2017, the PMP recorded 69 incidents of GBV and caste based discrimination in the ten CM-GESI project districts. Of the 69 incidents recorded, 65 incidents were related to GBV and 4 to caste based discrimination. Sexual assault was the most common form of violence with 37 cases followed by domestic violence with 12 cases. 29 victims of sexual assault were 25 years or below. Among the 10 districts, Kathmandu witnessed the highest number of GESI relevant cases with 27 incidents, followed by 8 incidents in Kailali; 7 incidents each in Dhading, Dolakha, and Nuwakot; 4 incidents each in Kaski, Ramechhap, and Sindhuli; and 1 incident in Rasuwa district. In Achham district, no cases of GBV were on public record.

Of Nepal’s formerly 75 districts, Kathmandu ranked 56th in terms of number of GBV related incidents per 100,000 residents (see Table 1).

<table>
<thead>
<tr>
<th>District</th>
<th>Number of Incidents of GBV and Caste Discrimination</th>
<th>Number of GBV Incidents</th>
<th>District Rank by Rate of GBV Per 100,000 Residents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dhading</td>
<td>7</td>
<td>6</td>
<td>48</td>
</tr>
<tr>
<td>Dolakha</td>
<td>7</td>
<td>6</td>
<td>23</td>
</tr>
<tr>
<td>Kailali</td>
<td>8</td>
<td>7</td>
<td>63</td>
</tr>
<tr>
<td>Kaski</td>
<td>4</td>
<td>4</td>
<td>64</td>
</tr>
<tr>
<td>Kathmandu</td>
<td>27</td>
<td>26</td>
<td>56</td>
</tr>
<tr>
<td>Nuwakot</td>
<td>7</td>
<td>7</td>
<td>34</td>
</tr>
<tr>
<td>Ramechhap</td>
<td>4</td>
<td>4</td>
<td>45</td>
</tr>
<tr>
<td>Rasuwa</td>
<td>1</td>
<td>1</td>
<td>40</td>
</tr>
<tr>
<td>Sindhuli</td>
<td>4</td>
<td>4</td>
<td>58</td>
</tr>
</tbody>
</table>

45 See: No. of Directly Elected Female Candidates Slumps further
46 See: Dalits and Women the Most Underrepresented in Parliament
47 See: Differently Able to Lead
48 See: Husband Assaults Woman Candidate
49 The ten working districts are Kathmandu, Kailali, Kaski, Nuwakot, Sindhuli, Dhading, Ramechhap, Dolakha, Achham, and Rasuwa. For the criteria of selection, see CM-GESI project description at the beginning of this report.
50 As Kathmandu has larger media presence compared to other districts the number of recorded incidents are high in this district. Moreover, dense demography could be another factor why Kathmandu has more cases of GBV than remaining districts.
51 This may be the result of the remoteness of the district, with residents having less access to media outlets and because of the practice of settling cases outside the formal justice system.
Conclusion

This Incident Monitoring Report presents trends and data analysis of violence against women and girls and caste based discrimination against Dalits, for relevant stakeholders to address the issues raised and inform their policies. The data recorded is an integral part of evidence based advocacy for GESI issues. It is important to share the information over a wide network of stakeholders to address issues of violence against Dalits and women through effective intervention. Further efforts in data collection for advocacy are important, and stakeholder support for the PMP to continue producing analysis on various GESI issues would enable this. The focus of such work would mainly be to encourage responsible reporting and disseminate the information effectively regarding GESI policies and programs for the protection of the rights and dignity of women, girls, and Dalits in Nepal.

Looking forward from January to March 2018, the PMP recorded 254 incidents of violence or public contestation related to Gender Equality and Social Inclusion (GESI) concerns. Gender based violence (GBV), continued to be the most common form of violence with 249 cases out of 254 incidents recorded. 168 women and girls were victims of rape or attempted rape, of which, 140 victims were 25 years or below. As a result of GBV, 35 people were killed. In the first quarter of 2018, the PMP also recorded five incidents of violence against Dalits. This pattern of violence is broadly in line with trends documented in this Incident Monitoring Report for 2017, where one third of people killed in violence in Nepal were victims of GBV, making it a leading cause of fatal violence in Nepal that year. The slightly higher number of incidents recorded over the first quarter of 2018 can partly be attributed to an increase in reporting but nevertheless demonstrates the continuing need for further GESI sensitization.
Collective Campaign for Peace (COCAP) is a national network of 43 peace and human rights non-governmental organizations from 29 districts across Nepal. COCAP was established as an informal forum in June 2001. On December 2002, COCAP registered with the government of Nepal as a nonprofit, nonpolitical network. It aims to provide a common space for it members and volunteers to collectively engage in pursuit for peace, human rights and justice in Nepal.

Nepalmonitor.org is a COCAP protection and conflict prevention initiative, supported by Peace Brigades International (PBI). At the core of the initiative is the Nepalmonitor.org platform designed to alert local organization to human rights and security incidents happening in their area; as well as allow them to easily share incidents they witnessed in local, national and international organizations. It aims to help your organization respond effectively to incidents happening around you and keep you safe.

For more information, see nepalmonitor.org.

The Nepal Peace Monitoring Project (PMP) is a joint initiative by Collective Campaign for Peace (COCAP) | NepalMonitor.org and The Asia Foundation. Building on the NepalMonitor.org platform, the PMP focuses on violence and contestation, with a view toward improving our understanding of, and response to, violence and conflict in Nepal. The PMP also provides an instrument to measure progress against Sustainable Development Goals (SDG) Targets 16.1 (reduction of all forms of violence and related death rates) and 5.2 (elimination of violence against women) in Nepal. The PMP uses a broad range of information sources, including national and district-level newspapers (from 25 districts), and reporting from police, human rights organizations, international agencies, civil society organizations, and citizens directly.

For the PMP’s regular analyses and updates, see nepalmonitor.org/blog.