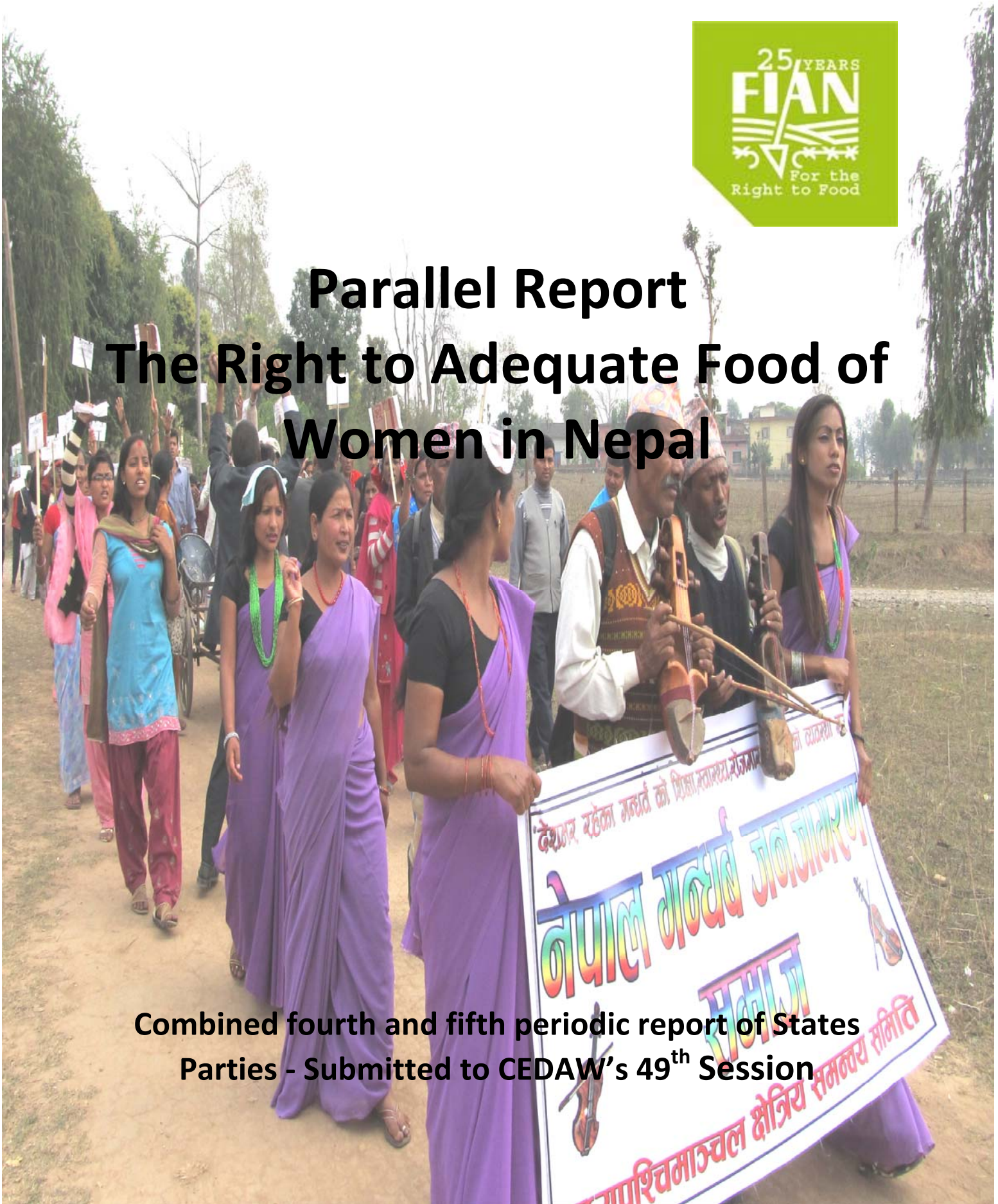




Parallel Report The Right to Adequate Food of Women in Nepal

Combined fourth and fifth periodic report of States
Parties - Submitted to CEDAW's 49th Session



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ACRONYMS

| | |
|------------|--|
| AIDS | Acquired Immunodeficiency Syndrome |
| APP | Agriculture Perspective Plan |
| ART | Antiretroviral Treatment |
| ARV | Antiretroviral Drugs |
| BMI | Body Mass Index |
| CA | Constituent Assembly |
| CABA | Children Affected by AIDS |
| CAT | Convention Against Torture |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| CFUG | Community Forest User Groups |
| CHBC | Community and Home Based Care |
| CRC | Convention on the Rights of Child |
| CSOs | Civil Society Organizations |
| CSRC | Community Self Reliance Centre |
| DAO | District Administration Office |
| DDC | District Development Committee |
| DFO | District Forest Office |
| EHCS | Essential Health Care Services |
| ESCR | Economic Social and Cultural Rights |
| FAO | Food and Agriculture Organization |
| FECOFUN | Federation of Community Forestry Users of Nepal |
| FIAN Nepal | Food-first Information and Action Network, Nepal Section |
| FUGs | Forest User Groups |
| GDP | Gross Domestic Product |
| GDI | Gender-related Development Index |
| GHI | Global Hunger Index |
| GMA | Gender Management System |
| GoN | Government of Nepal |
| GRB | Gender Responsive Budgeting |
| HDI | Human Development Index |
| HIV | Human Immunodeficiency Virus |
| HSCB | HIV/AIDS and STI Control Board |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic Social Cultural Rights |
| IDD | Iodine Deficiency Disorders |
| ILO | International Labour Organization |
| INGOs | International Non-Governmental Organizations |
| LDC | Least Developed Country |
| MCPW | Micro Credit Project for Women |
| MDG | Millennium Development Goal |
| MMR | Maternal Mortality Ratio |
| MOGA | Ministry of General Administration |
| MoWCSW | Ministry of Women, Children and Social Welfare |
| NCASC | National Center for AIDS and STD Control |

| | |
|--------|--|
| NCC | National CEDAW Committee |
| NCF | National Cooperative Federation |
| NDHS | National Demographic Health Survey |
| NGOs | Non-governmental Organizations |
| NHI | National Hunger Index |
| NHRC | National Human Rights Commission |
| NPA | National Plan of Action |
| NPC | National Planning Commissions |
| NPWCA | National Parks and Wildlife Conservation Act |
| NWC | National Women's Commission |
| PCRW | Production Credit for Rural Women |
| PLHIV | People Living with HIV/AIDS |
| PMTCT | Prevention of Mother to Child Transmission |
| RtF | Right to Food |
| STIs | Sexually Transmitted Infection |
| UDHR | Universal Declaration of Human Rights |
| UNSCR | United Nations Security Council Resolution |
| UNGASS | Special Session of United Nations General Assembly on HIV/AIDS |
| VCT | Voluntary Counseling and Testing |
| VDC | Village Development Committee |
| WHO | World Health Organization |
| VG | Voluntary Guideline |
| WHO | World Health Organization |

Introduction

FIAN Nepal is part of the international human rights organization FIAN International. FIAN is a non-governmental organization working worldwide for the right to adequate food since 1986. FIAN has its international secretariat in Heidelberg, Germany, and a permanent representative at the UN Human Rights System in Geneva. At national level FIAN International has 22 Sections, Co-ordinations, Chapters and seed groups in Asia, Africa, America and Europe.

Until 2010 FIAN has been mainly presenting parallel reports to the Committee on Economic, Social and Cultural Rights. The very concerning situation of hunger and malnutrition of women worldwide motivated the organization to include the issue of gender and women's right to food as a crosscutting issue in its strategic plan and make it a priority in its activities. In this context, this parallel report analyses the real situation of women in Nepal, based on the case work experience of FIAN Nepal *vis a vis* policies and legal framework.

With regard to the consideration of a report on the right to adequate of food of women, we are aware that this human right has not been explicitly incorporated in the text of the Convention; nevertheless we strongly consider that the CEDAW should monitor the implementation of this right at the national level, due to the following reasons:

1. Even if normally women have the main responsibility for feeding their families, from the total of hungry people suffering from hunger and, malnutrition worldwide (925 Mio. in 2010)¹ the bigger percentage is women and girls. Causes of hunger of women do not always coincide with causes of hunger of malnutrition of men; these are often related to discrimination patterns in law and in practice, including the exclusion they face in developing, implementing and monitoring food and related policies, programs and strategies.

Furthermore, the violence perpetuated in societies, often in the name of culture and tradition, makes it difficult for women to overcome the structural obstacles that impede them from realizing their right to adequate food. The lack of realization of their right to adequate food (considered in a comprehensive manner from the access to resources until adequate nutrition), hinders people from living their life in a dignified manner and therefore is against the fundamental principle and goal of human rights: Human dignity. In this sense, non implementation by states of the human right to adequate food of women implies non compliance of the Convention; it is a contradiction of its basic principles and concretely the Preamble, par. 6, 7, 11 and articles 1, 2, 5, 7 b).

2. Some specific dimensions of the right to food, as nutrition and access to land of women are explicitly referred to in articles 12.2 and 14 g) of the Convention.

3. Although till date the CEDAW Committee has not issued General Recommendations on the right to adequate food, several of their existing recommendations deal with issues related to structural causes of hunger and malnutrition of women, mainly General Recommendations 12, 13, 15, 16, 17, 19, 21, 23.

We are sure that the content of this report could be improved and complemented; however, it is to mention that this is the first time that **FIAN Nepal** presents a report to the CEDAW. The elaboration of the report has been part of an important learning and reflection process on the right to food of women

¹ www.fao.org/publications/sofi/en/, accessed on 17th June 2011.

in the specific national context. We thank the CEDAW for considering our reflections and recommendations for its dialogue with the State Party and the preparation of its recommendations and are open to receive your comments and remarks.

For methodological reasons this reports has been divided into three parts: I) A brief background part, concerning the national situation of the right to adequate food in Nepal, and the international and national applicable legal framework on the right to adequate food, II) The analysis of the situation of the right to adequate food of women in Nepal and III) Conclusions and recommendations.

We wish you an interesting reading.

PART I: Background

1. Hunger and Malnutrition in Nepal

Nepal is one of the least developed countries (LDC) with a low Human Development Index ranking at 138th position². A recent estimate shows that nearly 7 million out of about 27 million people in Nepal go to bed hungry every day³. Almost 40 percent of children below the age of five suffer from malnourishment.⁴ Nepal occupies the 16th position among 31 countries that are reeling from food deficit with 40 districts facing food shortage⁵. The hunger situation in Nepal is at an alarming stage with an overall National Hunger Index (NHI) of 22.4⁶ and the hills of Far-and Mid-Western regions having NHIs above 30 are in an extremely alarming situation. The Central Hills, Western Hills and Eastern *Terai* have NHI between 10.0 and 19.9 indicating a serious situation.

Vulnerable communities facing hunger and malnutrition in Nepal are also the ones who are socially, economically and politically excluded. Social stratification in the Nepali society⁷ has contributed as well to inequity and injustice with regard to “lower” castes and other marginalized groups of society (women, indigenous people, dalits, disabled etc.). Unequal distribution of means of production, assets and social and economic status among different groups of citizens, including the caste-related and gender-related biases, is one critical factor leading to increasing poverty, hunger, and malnutrition in the country.

In the context of Nepal the gross production is not an appropriate indicator of food security- food distribution. Mechanisms which allow availability, accessibility (physical and economic), and affordability, especially for the most marginalized and disadvantaged groups in the society, and which are gender sensitive, are decisive factors to guarantee the enjoyment of the human right to adequate food of every rights holder at individual level.

Hunger and malnutrition in Nepal manifests itself mainly in three ways, related to the state obligation to facilitate:

- Availability of food resulting from own production is insufficient to meet the family requirements, mainly due to: a) low productivity, b) extreme and often unfavorable weather and c) small size and poor quality (steep, un-irrigated) of land holdings;
- Access to food is insufficient, because of lack of purchasing power resulting from low wages and scarce job opportunities; and

² UNDP (2010),(2010). Human Development report-The Real Wealth of Nations: Pathways to Human Development.

³ WFP (2009), A Sub-regional Hunger Index for Nepal (The Hunger Index is calculated as follows: NHI = (PUN+CUW+CM)/3; PUN = Proportion of the population that is undernourished (%), CUW = Prevalence of underweight children under five years of age (%), CM = Proportion of children dying before the age of five (%).In theory, the index can vary between 0 and 100. A higher index indicates a higher prevalence of hunger. The severity of hunger is determined using the following thresholds: GHI < 4.9 low, GHI 5.0-9.9 moderate, GHI 10.0-19.9 serious, GHI 20.0-29.9 alarming, GHI >30.0 extremely alarming).

⁴ Nepal Demographic & Health Survey Fact Sheet (NDHS) (2006). Family Health Division, Department of Health Services, MOH, HMG,GON, Nepal.

⁵ www.ekantipur.comEkantipur.com visited on /31-03-201031-03-2011.

⁶ Ibid.

⁷ http://en.wikipedia.org/wiki/Social_stratification (accessed on 21st June 2011): ..."classification of persons into groups based on shared socio-economic conditions ... a relational set of inequalities with economic, social, political and ideological dimensions."

- Underperformance of government system of providing food to those in need, especially in periods of high vulnerability (natural catastrophes, man-made disasters etc.).

Main obstacles regarding the non realization of the right to food concerning state implementation are:

- Limited political will and commitment of the government to structurally and systematically address the causes and inequalities of the millions, struggling with hunger and poverty;
- Weak capacity and commitment on the part of government agencies to implement appropriate policies and programs to address food and nutrition insecurity of the vulnerable sections of the society along with insufficient and weak coordination of existing programs;
- Limited coordination among national and international organizations on adopting rights based approach to addressing food insecurity issues.

Marginalized and disadvantaged people, including women, are especially affected in their realization of the right to food due to:

- Endemic discrimination and social exclusion due to patriarchal institution, socio-cultural beliefs and practices, leading to further marginalization and increased vulnerability. This situation affects different communities and groups in the society, and within these especially women, which in many cases generates situations of multiple discrimination;
- Insufficient and insecure access to productive resources for livelihood in particular land, along with landlessness and evictions;
- Discriminatory access to traditional resources such as forests, river and fishing areas.

Around 37 percent of the land is in the hands of 5 percent of wealthy people who themselves are not engaged in cultivation.⁸ This means that over 5.5 million Nepalese⁹ people are landless. Having no land of their own, the landless and land poor are left at the mercy of big farmers and landlords, and are often forced to sell their labour for a negligible wage which eventually leads to a state of bondage. Most of them are illiterate and have no alternative means of earning a living¹⁰.

In addition, agriculture is not perceived as prestigious work and does not sufficiently create livelihood opportunities and base for rural poor and marginalized people. The major trend in rural Nepal is that the youth leave their villages and migrate to urban areas or outside the country to work as laborers. This has created a shortage of labor force leaving only senior citizens, women and children in the villages. A recent phenomenon is the feminization of agriculture: the poorer the area, the higher women's contribution, as subsistence farmers or as low paid casual agricultural workers. As such the immediate problems in rural Nepal are: i) reduction of agricultural production and ii) added burden on women and children.

⁸ Land and land tenure security in Nepal, Community for Self Reliance Centre, 2008.

⁹ Ibid.

¹⁰ Ibid.

2. International Framework

A great number of international laws and instruments refer to the right to food as a human right. Some of these instruments or standards are legally binding, whereas others are simply declarative. Together, the binding and clearly obligatory (hard Law) and the interpretative and declarative ones (soft Law) constitute the international standards of the right to adequate food. Binding instruments impose clear international obligations on States. As international treaties should be complied with in good faith by states, states should understand what is stipulated in the treaties as well as in the interpretations by the bodies authorized to do so. Said interpretations are frequently embodied in instruments of soft law.

In the case of the right to adequate food, ICESCR establishes in article 11 the right to an adequate standard of living, which is understood as the minimum right of everyone to be protected from hunger.

The right to adequate food generates specific obligations for States that are binding and should be understood as interpreted by the UN CESCR in General Comment No. 12.

2.1 Main international instruments on the right to adequate food

Main international instruments that recognize or develop the right to adequate food are:

- **Universal Declaration of Human Rights: article 25, which** „Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, **including food**, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”
- **International Covenant on Economic, Social and Cultural Rights, article 11:** “1. *The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.* “

In paragraph 2 of article 11: “**the fundamental right of everyone to be free from hunger**” is recognized.

Article 11, especially the right to food, has been interpreted by the UN Committee on Economic, Social and Cultural Rights in its **General Comment No. 12**, from 1999. The committee mainly interprets the State obligations that derive from the right to food, the principles that govern it, its normative content, the steps which States should take to achieve national implementation and states what constitutes a violation of the right.

- **The Convention on the Elimination of All Forms of Discrimination Against Women:** The Convention does not recognize the right to adequate food in an explicit manner; nevertheless it is based on the principles of equality, non-discrimination and state obligations, all of them applicable for the right to adequate food¹¹.

¹¹ On the reasons for the CEDAW to examine state implementation of the right to adequate food of women please see the introduction of this report.

Furthermore, in relation to the meaning of the right to adequate food, article 12. 2. recognizes that “...states parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, *as well as adequate nutrition during pregnancy and lactation.*”

Moreover, regarding access to resources to feed themselves, article 14.2 of the Convention indicates “states parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provision of the present convention to women in rural areas”. Similarly, Article 14.b states that “states parties shall provide access to adequate health care facilities, including information, counseling and services in family planning to facilitate the enjoyment of living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication, further to have access to agricultural credit and loans, marketing facilities appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.”

- ***The Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the member States of the FAO in 2004:*** The Guidelines reiterate the legally binding standards already existing, focusing on how States can fulfill their general obligation to progress towards the full realization of the right to food as soon as possible, in the development, implementation and monitoring of their public policies.

The Guidelines can be used as a point of reference for public policy at national level and present a series of measures that the legislative, executive and judicial branches of government can implement, with regard to the progressive realization of the right to food, providing them with a human rights perspective. The Guidelines are divided into three parts: a) part one reiterates the States’ international obligations deriving from the right to food; b) part two which proposes good practical examples with reference to 19 different issues which, at the whole, intend to create a reference framework of a national integral comprehensive strategy for the realization of the right to adequate food covering areas such as economic development, market systems, agriculture, nutrition, social policy, education and emergency measures during food crisis; c) the third part deals with international steps or measures, actions and agreements.

Other international agreements in addition to basic instruments that are also binding and yet more specific have recognized the right to food within its normative body as a human right that generates obligations for States:

- The Convention on the Rights of the Child.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- The Indigenous and Tribal Peoples Convention.
- The Rome Statute on International Criminal Law.

The right to food is also recognized in various **Declarations**:

- **Universal Declaration on the Eradication of Hunger and Malnutrition, 1974**, which literally reads "Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental facilities."
- Declaration on the Rights of Disabled Persons, 1975.
- Declaration on the Right to Development, 1986.

Equally, the right to food – or some of its aspects – has been recognized at multiple international summits and reinforced in the corresponding final documents, including:

- World Food Conference, 1974.
- Declaration of Principles and Program of Action of the World Conference on Agrarian Reform and Rural Development, 1979.
- The Declaration on the Rights of the Child, 1989, which recognizes the right of each child to a standard of living adequate for its physical, mental, spiritual, moral and social development
- World Summit for Children, 1990.
- International Conference on Nutrition, 1992.
- The Declaration and Program of Action of the Vienna World Conference on Human Rights, 1993.
- The Copenhagen Declaration and the Program of Action of the World Conference for Social Development, 1995.
- The World Conference on Women, Beijing, 1995.
- The Declaration of Rome for World Food Security, 1996.
- The Plan of Action of the World Food Summit, 1996, as well as later meetings WFS+5 in 2002 and WFS + 10 in 2006.

2.2 The concept of the right to adequate food

In its General Comment No. 12 of 1999 on the right to adequate food the UN Committee on Economic, Social and Cultural Rights (CESCR) has presented the authoritative interpretation, stating that:

"The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".¹²

¹² CESCR, GC. 12, Par.6.

According to General Comment 12 and the FAO Right to Food Guidelines of November 2004, the realization of the human right to adequate food involves diverse normative elements: a) adequacy of food, which includes quantity, quality, food safety and cultural acceptability, b) availability of food c) physical and economic access to food and to natural / productive resources and means of production, including employment opportunities through which one can procure food and d) sustainability of being able to feed oneself in dignity in the sense that food production, marketing and consume should be done in such a way, which does not put in danger or destroys food availability, access and quality in the future and for further generations¹³.

General Comment No. 12 of ICESCR also clarifies the obligations concerning the human right to food stating that: "The principal obligation is to take steps to achieve progressively the full realization of the right to adequate food. Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger."¹⁴. This obligation includes the principle of non-retrogression. Moreover the Committee recognizes the general obligation of non-discrimination regarding the right to adequate food.

Three types of specific of obligations on State parties have been formulated by the CESCR in order for them to implement the right to adequate food, as well as other human rights, at the national level. Each government has the obligation to: i) respect, ii) protect and iii) fulfill the right to food.

First, the obligation to **respect** on existing access to adequate food requires States parties not to take any measures that result in preventing such access. Second, the obligation to **protect** requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. Third, the obligation to **fulfill (facilitate)** means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to **fulfill (provide)** that right directly. This obligation also applies for persons who are victims of natural or man made disasters¹⁵.

It is made clear that the obligation to fulfill the realization of the right to food implies that the State parties to the ICESCR must identify vulnerable groups and develop appropriate strategies to ensure at a short, medium and long term the ability of these vulnerable groups to realize and enjoy their right to food by their own means. Even if States face severe resource constraints, caused by economic adjustment, economic crisis or other factors, the vulnerable population has the right to be protected through social programs aimed to improve access to adequate food and satisfy nutritional needs. All States have the obligation to immediately enforce the core content of the right to food, which means, that every person must, at least, be free from hunger.

In the design, adoption and implementation of policies concerning the right to food, State authorities have to act in coherence with the principles of participation, transparency, empowerment and the rule of law, and priority should be given to individuals and communities in situation of vulnerability.

¹³ CESCR GC 12, Par.6-13, FAO Voluntary Guidelines on the Right to Food, par. 16, p.6.

¹⁴ CESCR, GC. 12, Par. 14.

¹⁵ CESCR, GC 12, Par.15, FAO Voluntary Guidelines, par.17, p.6.

Furthermore, under a right to food perspective accountability mechanisms, including monitoring and justiciability mechanisms shall be in place, for people to be able to claim their right to adequate food¹⁶.

3. National Legal Framework on the Right to Adequate Food

3.1 Integration of international human rights instruments in the national legal framework

In its national legal framework Nepal has obligated to ensure its citizen to be free from hunger by being state party to many international instruments e.g. it is a state party to CEDAW ratified on 22 April 1991; ICCPR, ratified on August 14 1991; ICESCR ratified on 14 May 1991; CRC, Ratified on 14th September, 1990; CERD ratified in 30 Jan, 1971; CAT, ratified on 14 May 1991 and ILO 169, on September 2007.

3.2 Constitutional protection of the right to adequate food

Nepal is passing through an unprecedented socio-political transition with dramatic rapid political shifts following the decade long conflict between the government and Maoist insurgency that ended in 2006 with a ceasefire agreement. The post conflict transformation process (since 2007) has been centered on bringing Maoists into the mainstream politics (12 Point Agreement), Interim Constitution (June 2007), legally abolishing 239 years old monarchy (May 2008) declaring the country as a republic, and holding the Constitutional Assembly (CA) election (April 2008). The key mandate was to draft the new Constitution by 28 May 2010; but unable to build consensus on several issues, the time was extended for a second time by 6 months on 28 May 2011. The interim constitution calls for a restructuring of the state as a precursor to federalism. Given Nepal's ethnic, ecological, cultural, linguistic, religious, and economic diversity, the benefits of restructuring by these variables is still being debated. Political agenda and power struggle among political parties have taken priority over everything else. In such uncertain, weakened conditions of governance and "rule of law", the human rights violations and the development agenda are the least of priority.

The interim constitution of 2007 (which remains valid until the new constitution is adopted), guarantees under Article 12 the right to life:

"Every person shall have the right to live with dignity, and no law which provides for capital punishment shall be made."¹⁷

The interim constitution has also provisioned the right to food sovereignty of every citizen as a fundamental right under Article 18 (3):

"Every citizen has the right to food sovereignty as provided for in the law."¹⁸

The obstacle with this formulation, which refers to its application as provided in the law, is that it can be interpreted by the most traditional lawyers as an impediment to apply the right directly. Therefore, as long as there is no framework law regulating the right to food, this could be an excuse for its justiciability.

¹⁶ See General Comment Nr. 9, par.4; and General Comment 12, par.31-33 of CESCR and Voluntary Guidelines on The Right to Food, (Guidelines 1, 17), adopted by the FAO in 2004.

¹⁷ <http://www.nic.gov.np/download/interim-constitution.pdf>, accessed on 21 June 2011.

¹⁸ <http://www.nic.gov.np/download/interim-constitution.pdf>, accessed on 21 June 2011.

A positive development: The judicial decision published in April 2011

In this judicial landmark decision, the Supreme Court of Nepal recognizes the right of everyone to adequate food included in the Interim Constitution of 2007 and clarified by a Supreme Court interim order in September 2008.

Trough the decision the right to adequate food has been reinforced and some vital specifications have been made: aside from the availability of food, the Court puts emphasis on the role of the authorities in ensuring that food is accessible and affordable for the people.

This is a significant step forward taken to ensure the respect, protection and fulfillment of the right to food. Moreover, the Court draws attention to the links between the right to food and other human rights, such as the right to employment, and social security, and basic necessities, to which it holds the government responsible for ensuring its progressive realization.

This decision is also a precedent which will benefit women to claim their right to food in the country.

Furthermore Part 4, Article 33 (H) of the same Interim Constitution recognizes Food Sovereignty along with employment, shelter, health and education as the right of people to be established in the policy framework of the State of Nepal. It intends to address the problem of squatter dwellers, bonded agricultural laborers, hired wage earners, and herders and bring them under the social safety net. It also directs to follow an inclusive policy regarding women, Dalits, indigenous people, Madhesi, Muslims and other marginalized nationalities and sectors including disabled people of remote areas and bring them into national mainstream.¹⁹

Further it includes the freedom of opinion, expression, belief, peaceful assembly, to form unions and associations, choice of occupation or trade. These rights protect every citizen to be equal before law and provide that state shall not discriminate among citizen on grounds of religion, race, caste, tribe, gender, origin, language or ideological conviction.

The Interim Constitution established the right of all Nepali citizens to free basic health services, the right to a clean environment, access to education and a means of livelihood, in a social environment free of discrimination and institutionalized inequality.

All these constitutional clauses are relevant for the enforceability of the right to food, taking into account the indivisibility and interdependency of human rights.

Rapid achievement of political consensus is hence urgent and the absolute precondition for socio-economic recovery. In this context a relevant challenge is to maintain the rule of law protecting basic human rights, including the right to adequate food of its people in the coming definitive constitution. Intense lobby and advocacy work has been done by various civil society organizations, to achieve this goal.

This new constitution is presently being drafted by the members of the Constituent Assembly (CA), and to be finalized by end of November 2011. The right to food has been incorporated under Article 21(1) in the draft submission by the Fundamental Rights Committee of the CA, where it states the right of every citizen to have right to food, food security and food sovereignty, as provisioned by law.

¹⁹ <http://www.panap.net/en/fs/post/food-sovereignty/501>, accessed on 21 June 2011.

The Committee on Natural Resources, Economic Rights and Revenue Sharing has also proposed that the right to food and rights which can be claimed against hunger are fundamental rights. There is a constitutional provision under article 19(3) to provide compensation for any property requisitioned, acquired or encumbered by the state in implementing scientific land reform programs or in the public interest in accordance with law.

3.3 The right to food at general policy level

Nepal does not have an explicit policy or strategies on food security or the right to food, however, there are several policies, plans and programs that are relevant to the right to adequate food. This includes the GoN's commitment to reduce poverty and hunger (MDG 1). So far, these policies have not been properly implemented. Altogether, the instable political situation, the lack of political will, and the weak infrastructure have contributed to this failure.

The five year plans introduced various development programs for women, promised gender equality and women's empowerment and enunciated gender mainstreaming in several economic sectors like agriculture, local development, rural infrastructure and drinking water. However except emphasis on literacy, primary enrolment, and micro-credit for poverty alleviation empowerment and gender equality remained just rhetoric.²⁰

²⁰ Acharya Meena (2003), "Effort at Promotion of Women in Nepal, TPAMF/FES, Kathmandu, Nepal; UNFPA (2007).

Part II: Situation of Women in Nepal

1. Overview

1.1 General situation of food and nutrition of women in Nepal

According to the 2006 National Demographic Health Survey (NDHS) the nutritional status of women aged 15–49 years, showed that 24% of Nepalese women were malnourished: they fall below the cutoff of 18.5 for the body mass index (BMI), which utilizes both height and weight to measure thinness (kg/m²). One in seven women with height of < 145 cm is likely to suffer from under-nutrition. Nine percent of women were overweight or obese. Women’s nutritional status has improved only slightly over the years: 36 % of women aged 15–49 are anemic, with 29 % mildly anemic, 6 % moderately anemic, and less than 1% severely anemic.²¹ Iodine deficiency disorders (IDD) has been a major public health problem in Nepal for decades. The prevalence of clinical IDD as indicated by the prevalence of goiter was observed to be very high with a total goiter rate of 50% among women.²² Malnutrition of women has clear implications on children’s nutritional situation: nutrient utilization is poor, especially among expectant and nursing mothers and infants, as a result of diseases and lack of micronutrients.²³ The most important forms of under nutrition include protein energy malnutrition, iron deficiency - anemia, vitamin A deficiency and iodine deficiency. Infant and under-five mortality rates are still high, at 41 and 50 per 1000 live births respectively. In the *Terai* more than one-third of women and half of all children under the age of five are anemic.²⁴

Women from low income households and with limited livelihood options are one of the most vulnerable sections of the population. Structural discrimination (class, gender, caste, and ethnicity) restricts women in particular to access resources – more prominent in rural areas. This persistent exclusionary system and related practices in Nepal have repeatedly denied access and control over all types of means of production and productive resources - land, forest and water - as well as other livelihood opportunities for the low resource based and marginalized communities, perpetuating further hunger and malnutrition in Nepal. Of the most vulnerable sections of the society which include landless peasants, share cropper tenants, small farmers (holding less than 0.5 ha. of land), agricultural wage workers, ex-bonded laborers (*haliyas/kamaiyas*), indigenous peoples, Dalits, porters, urban poor, victims of natural disasters, disabled people and people living with HIV and AIDS etc., and poor women. Within these groups women and girl children are at further risk for hunger and malnutrition.

The dominant patriarchal ideology, a set of beliefs and customs which legitimizes male power and authority over women means that food insecurity among women is not only a matter of access to resources by these marginalized section of population but a reflection of the rigid socio-cultural norms and practices inherent in Nepal’s patriarchal society. Studies have shown that intra-household distribution is often uneven and that women eat last in 70 % of the households.²⁵

²¹ Nepal Demographic & Health Survey Fact Sheet (NDHS), 2006. Family Health Division, Department of Health Services, MOH, HMG,GON, Nepal.

²² Nepal Micronutrient Status Survey (NMSS), 1998.

²³ Situation of Human Right to Adequate Food in Nepal - Report submitted to 38th session of the Committee on CESCR (30 April-May 2007), by Rights & Democracy, Canada and FIAN International.

²⁴ Bishwakarma R. “Social Inequalities in Child Nutrition in Nepal”, World Bank/Nepal, August 2009.

²⁵ Food Security and Hunger Survey in Nepal”, United Mission to Nepal, 2004.

Research realized in 2003 showed that 54 different laws, including the 1990 Constitution, had discriminatory provisions against women.²⁶ Though the formal equality of women and men is enshrined in international binding law and is also found in national legislation currently in force, a history of oppression and discrimination of women is deeply enshrined in the culture of the country. Women, and particularly rural women, do not enjoy equality regarding access to food and food producing resources. Despite the development of various strategies to fight discrimination, the unequal gender situation continues with an increasing “feminization” of poverty as a result of multiple exclusions. Changing the still predominant discrimination is a pending challenge for the Nepal state.

1.2 Constitutional Provisions for women which are relevant to protect their right to adequate food

The Interim Constitution of Nepal, 2007 under article 13(2) prevents discrimination against any citizen on grounds or religion, race, gender, caste, tribe, origin, language or ideological conviction or any of these. It also ensures making of a special law for the advancement and empowerment of women under the right to equality provision and adopts the principle of affirmative action. Equal remuneration and social security between men and women for the same work is ensured under article 13(4) of the Interim Constitution.

Rights of women are recognized as a fundamental right under article 20. Any forms of violence against women shall be punishable by law: According to article 20(3) of the Interim Constitution on the Right of Women, no physical, mental or any other form of violence shall be inflicted on any woman. In addition, article 20 recognizes reproductive health and other reproductive rights as fundamental.

The equal rights of sons and daughters to ancestral property are established under article 20(4). Previously it was provided that only an unmarried daughter above the age of 35 has this right.

The right to social justice under article 21 stipulates women’s right to participate in state structures on the basis of proportional inclusion.

Article 142(3) under the responsibilities of the state stresses the political parties to have a provision for the inclusion of women in executive committees at various levels. This provision if implemented will have women’s influence in decision making and empower women.

Women have the right to social security as spelled out in Interim Constitution 2007 of Nepal under the Article 35(17), that women, laborers’, the elderly, disabled as well as incapacitated and helpless citizens shall have the right to social security as provided for in the law.

It is noted that there is to be maternity leave provision under the article 13 (4) of Interim Constitution 2007, however only for the formal sector.

Moreover, the constitution also integrates the so called “**Responsibilities, directive principles and policies of the state**”²⁷ which are guidelines, considered as not enforceable, but which inform the

²⁶Indigenous Pradhan-Malla, 2000 cited in “Indigenous nationalities and minorities of in Nepal”, K.B. Bhattachan, 2003.

²⁷ In the interim constitution 2007, in part 4 “RESPONSIBILITIES, DIRECTIVE PRINCIPLES AND POLICIES OF THE STATE”, special focus is put on land reform (with regard to the most vulnerable), food sovereignty, women and other vulnerable groups: “33. Responsibilities of the state (...)

(f) To pursue a policy of adopting scientific land reform programs by gradually ending feudalistic land ownership.

(h) To pursue a policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty.

interpretation of the constitution. They contain the following provisions relevant for the right to adequate food of women:²⁸

- State should adopt scientific land reform programs by gradually ending feudalistic ownership (f);
- State authorities should pursue a policy of encouraging maximum participation of women in national development by making special provision for their access to education, health and employment;
- State authorities should pursue a policy of making special provision for social security for the protection and welfare of single women;
- State authorities should pursue the policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty, ensuring socio-economic security(h);
- State authorities should adopt a policy of providing land to the economically backward classes, including the landless, bonded laborers (Kamaiyas), tillers (Haliyas), farm laborers and shepherds (Haruwa / Charuwa) (i)²⁹.

These principles are not considered justiciable, nevertheless under a legal understanding which applies to the principle of favorable interpretation of the constitution towards the realization of human rights, in line with international state human rights obligations the state authorities should apply these principles and judiciary should consider them when interpreting the constitution.

2. Analysis of specific dimensions of the right to adequate food

The FAO Voluntary Guidelines on the Right to Food clearly show the scope and complexity of this right and the wide spectrums of socio-economic, political and cultural aspects which should be analyzed in order to have a full overview of the realization of the right to food in a country. However, in this report the focus of the analysis is on some specific areas: a) access to means of production as part of access to resources and assets, b) healthcare and nutrition and c) political representation.

The criteria used for the selection of these topics are: the relevance of the issues in the country concerning the realization of the right to food of women, the knowledge of the situation FIAN Nepal has due to its case work and the utmost urgency of the issues that should be dealt by the CEDAW in its recommendations to the State party.

(i) To adopt a policy of providing economic and social security including lands to economically and socially backward classes including the landless, bonded laborers, tillers and shepherds.

(...)

35. State policies

(...)

(8) Pursue a policy of encouraging maximum participation of women in national development by making special provision for their education, health and employment;

(9) Pursue a policy of making special provision of social security for the protection and welfare of single women; orphans (...)"

Interim Constitution of Nepal, 2007.

2.1 Access to Means of Production

a) Property rights and land-ownership by women

Despite high contribution to the agrarian production by women in Nepal, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.

A report commissioned by the National Women's Commission (NWC) revealed startling discrimination against women in terms of ownership of assets and properties³⁰. The report, which assessed the situation in 68 of 75 districts in Nepal, exposed the skewed nature of property distribution. It revealed that only 0.78% of houses were actually (legally) owned by women (about three women in 500 had houses in their names). Only 5.25% of women had land-ownership certificates in their names. Likewise, only 5.45% of women owned livestock. About 17% of women had some kind of assets in their names³¹.

Since generations, women have been denied rights to access land according to the categorization by Hindu myth of women being a sub-ordinate category. According to the national census of 2001³², women hold 10.83% of all land entitlements out of which only around 3.5% entitlements are related to arable lands.

Advancing at the judicial level

During the last years, complaints brought to courts have been a basis for the development of jurisprudence establishing women's right to property, for example, in *Meera Dhungana vs. Government of Nepal*, reference Plaintiffs asked the Supreme Court to overturn a law that gave sons a share of ancestral property at birth but denied daughters a share until they reached the age of 35 without having married, and even then required that the land be returned to the family if a daughter subsequently married. Because the CEDAW Convention has the status of national law in Nepal, the case was argued both as a violation of the Convention and as a violation of the constitution's equality guarantee. The Supreme Court found that the law discriminated against women and directed the Government to "introduce an appropriate Bill to parliament within one year." This case is a landmark case for women to establish right over ancestral property. It is only after the 11th amendment of National Code (amended after the decision of this case) daughters are accepted as heir or recognized the equal rights of daughters and sons to entitle to have inheritance rights by birth to the ancestral property. Previously it was provided that only an unmarried daughter above the age of 35 has this right.³³

Likewise Lily Thapa vs. GoN, the Supreme Court struck down the discriminatory clauses in the property rights related laws which provisioned that a widow needed consent of her sons and unmarried daughters to dispose of all immovable property.³⁴

The Land Acquisition Act, 1977 accords the government the power of acquisition any kinds and area of land if it is deemed necessary to do so for the public purposes. But the government is required to pay

³⁰ www.global-sisterhood-network.org, visited 7 June 2011.

³¹ Ibid.

³² Central Bureau of Statistics, Nepal 2001.

³³ *Meera Dhungana vs. Government of Nepal*, writ No 55 of 2001.

³⁴ Writ no34/061,decided on December 15, 2005.

necessary compensation to the landowner as prescribed in the Act. GoN has also facilitated this process by giving 25% reduction on land registration revenue to encourage women entitlement on property. This has increased the land ownership in the names of women and has given a great sense of security and empowerment to women³⁵, nevertheless, in practice they do not fully enjoy the actual entitlement: the decision of selling, using, and transferring the property in fact still depends on the husbands.

Also on the issue of access to productive resources, it is relevant to mention that the majority of the victims of the decade long armed conflict are women and children as their male family members were abducted, killed, or disappeared.

The conflict has resulted in displacement of family members, property confiscation, drop out of school going children and encounter violence. In view of supporting the peace process, GoN has adopted a National Action Plan on UNSCR 1325 and 1820, with its focus on five major pillars namely; i) participation, ii) protection and prevention, iii) promotion, iv) relief and recovery, resource mobilization, and v) monitoring and evaluation (GoN, 2011). The areas of intervention under the action plan are therefore related to empowerment, access to resources, services and justice. They could be supportive in securing women's right to food in the long run. For this, structural reforms related to ensuring *de facto* women's access to productive resources, education, health, employment and income for food security and livelihoods are needed. Likewise, the Government has made an attempt to adopt the program for Gender Responsive Budgeting (GRB) to be used as a means to achieve the State commitments for gender equality under CEDAW, BPFA and MDGs along with others. In this line, the GoN has developed a measuring yardstick in evaluating Aid Effectiveness; in addition, a "Zero Tolerance to Violence against Women Policy" is being formulated.

Adequate implementation of these plans, which are gender sensitive and ensure the access to resources of women, is essential to guarantee women's possibility to feed themselves and their families. Moreover, monitoring mechanisms should be put in place, which allows women to exercise social control in the implementation of these policy measures from a gender perspective, as well as complaint mechanisms, which allow them to claim in case of non compliance or discrimination.

b) Access to forest resources

Forest and forest resources play a vital role in rural women's day-to-day life and survival. It is common that a number of activities such as preparation of meal, fetching water, collection of fuel wood, fodder, leaf litter and animal bedding are done by women in the rural areas. More than 80 percent of people living in the rural areas of Nepal depend on fuel wood for fulfilling their household's energy requirements, which is primarily managed by women. In addition, women are largely responsible for hulling and grinding activities with indigenous technologies.

By adoption of community forestry and leasehold forestry scheme, the Forest Act 1993 has linked forest management with the livelihood of the people; still the most marginalized households and the landless are yet to access this scheme. Thus further internalization and effective implementation of these schemes with additional emphasis on women and the most marginalized groups can strengthen the access and control over the sources of food producing resources for the right to food to be enjoyed.

The role of women is still not recognized adequately in the Act, e.g. chapter 6 deals with the provisions relating to the leasehold forest, does not adequately address participation of women in the Forest User

³⁵ Land and land tenure security in Nepal, Community for Self Reliance Centre, 2008.

Groups; the FUGs groups are generally led by men from the socio-economically and/or politically influential members of the community, and a mandatory inclusion of women in the FUGs is provisioned for. Furthermore it has to be ensured, that women take active part in the planning and budgeting targeted to forest and energy development, and that their representation in this process is increased to 50%.

c) Labor and income opportunities of rural women

Women in rural areas have traditionally less rights and fewer income opportunities than men because of patriarchal and conservative thinking models and structures, according to which only the male is perceived as a productive working force. Women are not considered as productive farmers as their male counterparts and are denied access to productive resources and other facilities. In fact, independently of how and how much – as family or income generating work force – women are active in agrarian production; their work and contribution is taken for granted and perceived as natural part parallel to their reproductive function in the society, i.e. family and household management. Their contribution and performance in the frame of food security is hardly acknowledged as work. Many women are land based wage laborers but do not own land, and women are generally excluded from the decision making in the rural parts of the country. As a result only 45.2 percent of women as compared to 68.2 per cent of men are classified as economically active³⁶.

The National Agriculture Policy, 2004, aims to increase women's participation to 50% in operation of agricultural programs. Besides, it also aims to identify and categorize the resource poor farmers (those having less than 4 ha. of land) and provide the prescribed facilities. The main challenge is in the proper implementation of the policy and programs, also as it does not clearly state the strategy of how and which way the participation of women is to be ensured. This has to be specified along with monitoring the effect of such policies and programs for direct outcomes and benefits to the targeted population.

However the policy has ensure making agriculture inputs easy and accessible for women e.g. credit facility, extension services, information, appropriate technology, skill development, and agriculture production inputs – land being the main along with irrigation, seeds, fertilizer, breeds and farming equipment. .

The Draft Land Use Policy, 2010 envisages addressing all land-related problems in next 15 years through a scientific land reform. Since the main objective of the policy is on land use, it basically focuses on reducing /controlling land fragmentation and misuse of agriculture land. The existing government's policy on land reforms so far has been to limit the size of land holdings. Despite the provision to distribute land to landless and deprived communities, *there is no specific focus on women landless / farmers*. Women representation has to be ensured in the land distribution commission and a transparent process has to be ensured for equitable distribution of land that can be well monitored. The policy also does not deal with the issue of joint ownership on land by the husband and wife.

The key problems and challenges should be addressed by this policy along with ensuring effective implementation of it: There is no actual data of the landless people. This data – in terms of gender disaggregated data – is needed for properly addressing the issue of landlessness of both men and women and for equitable distribution of land. For effective land use, land has to be regarded as a productive means of securing livelihoods. There is no focus on support for improvement of the livelihood of the agricultural women laborers.

³⁶ Ibid.

The Labor Act in Nepal guarantees “equal pay for equal work” for all persons in Nepal disregarding the caste and gender. It is spelled out under article 13(4) that there should be equal remuneration between men and women for the same work. It is noted that the local government - District Development Committee (DDC) has given the authority to raise the minimum wage in consideration of the economic status of the concerned district; nevertheless, such authority is not fully utilized for the benefits of the affected communities.

Also, under article 18, the right of employment of citizen is ensured. Despite this legal provision, women in Nepal are often being deprived of their labor rights as women’s participation in work force is largely considered informal. This situation is more pertinent in rural and remote areas in Nepal; however, women’s participation in the informal sector has increased significantly in both urban and rural areas. The legal provision of minimum wage (varies according to districts –however in average it is 150 NRs per day for women) in Nepal is very low and is far from adequate to provide for a decent standard of living for women workers and their families, e.g. women working as stone crushers. Without adequate remuneration allowing for an adequate standard of living for wage earners and their families, the right to food of women is at risk, and the workers are also physically worn out and further vulnerable to food and nutrition insecurity.

Informal sector labor engagements often puts a major burden on women and through them on their families, without any guarantee of secured and equitable income source, which would have enabled them to feed themselves and their families in dignity. GoN has to monitor and ensure appropriate policies and legal frameworks along with the implementation of these legal provisions to protect women against private actors or family members abusing of their right to equal pay for equal work.

Lack of proper wages, social security and health care leads to severe food insecurity and malnutrition of Gandharva Women, Jarbutta VDC, Surkhet district

In a hamlet composed out of small huts without doors or windows live fourteen landless women aged 22 to 45 belonging to the Gandharva community, traditionally musicians under the Dalit caste. They suffer from severe lack of food and basic health care facilities. These women have lived in Jhupra hamlet, Baluwatar 1, of Jarbutta VDC in Surkhet district since 1993, located in the Shiva community forest between two other community forests. Their daily work entails collecting sand from the Jhupra stream banks, crushing stone and loading the heavy stones into trucks that transport these to the cities, where the material is used for construction work. For this they hardly get paid 100 NRs (1.42 \$) a day by the middleman for work done from dawn to dusk. During monsoon, it is very challenging to draw out sand and stones from the river, often half dipped in the river so that they are compelled to extract sand and stones which they carry on their head and walk for 30 minutes on a steep and slippery path in order to bring the load to the truck at the roadside. At the most, they can make two trips with the loaded “doko” (a basket made of bamboo) and hardly earn 60 NRs a day. The baskets weigh approx. 30kg.

From working in the cold river and due to carrying heavy loads twelve of eighteen women are found physically worn out – with backache and joint problems. Six of them have serious uterine ailments. Their access to healthcare is limited as the nearest health post is located 2 hours walk from the hamlet and they do not have money to pay for the services.

Nutritionally these women hardly get to eat two meals a day and most of the time they have to make do with simple rice taken with “fado”, a mixture of water and wheat flour. This gets even more severe during the pre-natal and postnatal conditions with lack of diet and detrimental effects on the health and

nutrition of both mother and child. There is a lack of protein intake (i.e. milk, egg, fish) during pregnancy. Women have to work during their entire pregnancies and also immediately after giving birth.

These women do not have alternative work options and other income source. Hunger and malnutrition exacerbate these health problems. The women who are underpaid - their earning is even below the minimum wage per day declared by the local government - have to manage the daily food requirements of 4-8 family members as well as the health and educational needs of their children. Besides that, lack of drinking water supply for the 16 households and long waits for water collection also adds workload to these women.

The state of Nepal is duty-bound under its obligation to the ICESCR to protect and fulfill the right to food of its people. In the case of the Gandarva women, the state failed to monitor the proper implementation of the minimum wage payment, thus breached its obligation to protect their right to food. The state has further failed to fulfill the right to food, as there is neither a proper safety net in place, nor alternative employment opportunities which, if implemented, would have prevented these women from working under such bad conditions. Moreover, as complementary to possible food provision, the state should adopt measures to ensure that in the medium and longer term these women are able to have sustainable access to resources and income, which allow them to feed themselves and their families in dignity.

d) Water

The right to water is not just recognized as a Human Right by the UN General Assembly³⁷ and the General Comment 15 of the CESCR, moreover its relationship with the right to food is also recognized in these legal sources.³⁸ The right to water plays a relevant role to guarantee the realization of the productive and nutritional dimensions of the right to food.

GoN investments in urban water supply and sanitation are primarily guided by its Twenty-Year Vision (1997-2017), which seeks for countrywide or overall coverage by 2017, and the National Water Plan. Government's 3 Year Interim Plan (2007- 2010) provides the most recent guidance on urban sector priorities highlighting, in particular, the need to address the effects of rapid urbanization on service levels, water quality and scheme maintenance. GoN's Local Self Government Act (1999) provides the legal basis for the devolution of responsibilities and authorities for social, economic, institutional, and physical infrastructure development, including water and sanitation systems, to local government. While periodic district plans have been formulated in 52 districts a decade long political conflict, including the absence of locally elected officials for most of this period, have frustrated implementation plans³⁹. Most of the programs are concentrated on the urban areas.

In Nepal, the policies, programs and plans for improvements and investments in water are based on division between domestic and productive water. In fact, this division produces a discriminatory effect. Therefore the livelihood and health of the peasants especially from rural and remote areas and in particular the women are often deprived due to water shortage. Women are normally the family members responsible of collection and transport of water, putting an extra burden on them.

³⁷ Sixty-fourth General Assembly, 108th Meeting 28 July 2010, "General Assembly Adopts Resolution Recognizing Access to Clean Water, Sanitation as Human Right", www.un.org/News/Press/.../ga10967.doc.htm.

³⁸ ICESCR, GC 15, par.3.

³⁹ Urban Water Supply and Sanitation Sector Policy, August 2008, GoN.

Lack of Access to Clean Drinking Water for Women of Hangloyu VDC Mugu district

In Mugu district, 332 women in Hangloyu VDC and 1747 in Rugha VDC are facing severe shortage of drinking water, as there is no proper water supply system from the government. The women have to spend nearly two hours walking (10-15 kilometers), every single day to fetch drinking water from the river Karnali, which is according to district drinking water supply office a non safe source for drinking water. Hence, the use of water from river Karnali has led to water borne diseases among the villagers. However, ensuring adequate water is a huge responsibility of women in the community in order to meet the families' demand for water. Women are the collectors, users, managers and often guardians of the water resource required for the household tasks e.g. drinking, cooking, washing, and child caring. The fetch of large amount of water from long distance walk with empty stomach has resulted in physical (e.g. vomiting) and mental stress which is grossly sidelined. Furthermore, lack of access to water resources has significant negative implications on women's education and health due to long hour consumption of time for water fetching. Although the women have through some of their village leaders requested the local government /VDC to install a safe and accessible drinking water supply system in their village for the past 5 years, however no actions has so far been taken by the district water supply authority. The local government has failed in fulfilling the right to food of the villagers and further putting the women at risk in terms of health and economical implications.

The Government of Nepal is duty-bound under international law to fulfill its people's human right to water, necessary for the realization of the right to adequate food. By not providing access to safe drinking water, the state of Nepal has breached the state obligation to fulfill, and hence violated the people's right to water. In addition, the human rights principle related to the rule of law has not been followed either by the state: in spite of the request of the VDC leaders, no action had been taken to improve the situation of the affected women and their families.

The state has so far not adopted adequate measures for the provision of safe drinking water especially for rural women, with severe implications on their human rights to food and health. Therefore, the government has to take immediate measures to provide an adequate water supply to these communities.

2.2 Access to Healthcare and Nutrition – The specific case of HIV/AIDS affected women

An adequate health condition is essential for women to be able to work and feed themselves and their families; moreover, just a healthy body is able to assimilate nutrients. Sickness, on the contrary can affect the nutritional intake and negatively affect the access to food of the entire family, especially of children and elderly members of the household.

Nepal received a Millennium Development Goal (MDG) award for its outstanding national leadership, commitment and progress towards achievement of improved maternity health under the MDG-5. Under MDG-5 entitled "Improve Maternal Health", the state reduced the maternal mortality ratio (MMR) from 415 deaths in 2000 to 229 deaths in 2010 per 100,000 live births. As the target was set in MDG-5 that 'reduce the maternal mortality ratio (MMR) by three quarters' by 2015, the MDG report of Nepal 2010 shows that it will likely meet the target.⁴⁰

⁴⁰ NPC/UNCT (2010) Nepal Millennium Development Goals: Progress Report 2010 (www.undp.org.np/pdf/MDG-Layout-Final.pdf) accessed on 6/6/11.

Despite this reported advance on different MDGs, Nepal is one of the countries of the world where life expectancy for women is lower than that of men. One fifth of women get married in the early age of 15-19. High birth rates, low life expectancy, high infant and maternal mortality rates and high death rate indicate the poor health status of women. National statistics show that male and female literacy rates stand at 63 and 39 percent respectively, implying a wide gender gap. The national literacy rate is projected at 51 percent.⁴¹ This situation reduces their possibility to participate actively in political, social and economical life and in the decision making, including for the right to food and nutrition. It also makes it difficult for these women to define their own course of life, including their reproductive health, and thus has a significant impact on their health and nutritional situation.

The HIV/AIDS epidemic is having a devastating impact on women in Nepal, in particular women in rural areas. Girls and young women continue to be vulnerable to HIV/AIDS. According to the report published by National Center for AIDS and STD Control (NCASC), Nepal; in 2009 approximately 63,528 people were infected with HIV, which was equivalent to 0.39% of the total youth population (youth is defined by WHO as those from 15-24 years)⁴². Out of 15000 infected people more than 1000 are children and about 4000 are single women. People with HIV have special nutritional needs. The HIV infected patients undergoing antiretroviral (ARV) treatment demand 30 % more calories than usual and the treatment is reported to be more effective when patients are adequately nourished. In another word, inadequate nutrition may lead to deterioration of their health condition. In Nepal where majority of women suffer from hunger; their access to nutritious food is limited and in particular challenging when infected HIV women undergo ARV treatment.

Right to Adequate Food Violations of HIV/AIDS Infected Single Women of Rakam Karnali VDC, Dailekh District, Nepal

Dailekh district in the Mid-western region of Nepal is one of the most affected districts in Nepal concerning HIV/AIDS infected cases. Rakam Karnali VDC is regarded as the most vulnerable VDC with reported records of 22 persons affected by HIV/AIDS out of which 18 are single women. These cases are mainly due to sexual transmission of the diseases from husbands to wives who are infected by the diseases from the husbands who work as seasonal / migrant workers in Mumbai, India to earn a living. Working as a migrant /seasonal worker in India is a common practise and in average one male member per family in this community as land ownership is marginal and gainful and regular employment opportunities are scarce. Women often get blamed for getting HIV/Aids even though their male partners have caused it.

Many households of the infected HIV/AIDS have been compelled to sell lands and other assets in order to afford medication and food. This weakened socio-economic status has led many households in Rakam Karnali VDC into a situation of hunger and malnutrition. Widows, often themselves affected with the disease, are left with the responsibility to feed their families without the financial assistance previously provided by the labour of healthy adults. In addition, as HIV/AIDS infected, they are physically weak, and they have to struggle with social stigma and discrimination. Majority of these women are also rejected from their family circles, and thus have no right to property of their marital and natal house. Many of the women are struggling to survive without any proper shelter.

The rights to health and to food are interlinked. A sick person is unable to access and afford food as efficiently as the others. The disease has an impact on the entire family as the family becomes food

⁴¹ CBS (2004) Nepal Living Standards Survey 2003/04, Statistics Report.

⁴² World Health Organization (1998), Strategies for Adolescent Health and Development South-East Asia Region, New Delhi.

insecure due to reduced capability of the affected individuals to earn a livelihood. Those affected are less able to earn money to purchase food or to produce food for self-sufficiency through cultivation. At the same time, the person living with HIV/AIDS is required to have nutritious food and health care. The situation worsens when a woman loses her husband, who is often the primary bread earner of the family. Subsequently she may also lose her property, access to treatment and increased suffering as she too often is infected with HIV/AIDS. The single women in Rakam Karnali VDC are therefore a very vulnerable group; without husbands to earn and supplement, no land to produce food and lack of employment opportunities. These women are burdened with disease and dealing with the additional responsibility of taking care of their family members – often children and elderly. In order to avail public health services, women from Rakam Karnali have to travel to the district headquarter, and are thus burdened of transportation and lodging costs. As a consequence, many women miss out their medication and treatment which eventually weakens their health condition further.

Due to the poor socio-economic situation, these women can't afford to feed themselves. There is an immediate exigency to provide them proper food, at least if to take with the ARV treatment related medicines. However the Governments obligation to fulfil the right to food of the infected women has failed. Furthermore measures to facilitate HIV/Aids infected can enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications is not adequately taken care of by the Government.⁴³

The described situation is a clear violation of the CEDAW in its articles referred to Discrimination – Art 1 and 2. Moreover, in light of General Comment Nr. 12 of the CESCR, it constitutes a violation of the human right to adequate food of women due to the non-compliance with the state obligation to fulfil the access of these women to adequate food. Moreover, this situations implies a violation of the rights to health (Article.12 of CEDAW, Article 12 of ICESCR, Article 16.2 of the Interim Constitution of Nepal), right to employment (Article.11 of CEDAW, Art 7 of CESCR and Article 18-1 of Nepali Constitution) and right to social security for single women, orphans, old aged people, disabled etc. as enshrined as Fundamental Rights in the Interim Constitution of Nepal, 2007 (Article 35-9), in coherence with Art 13 of CEDAW and Art 9 of ICESCR.

As a state party to the ICESCR, the situation demands the State to meet its obligation to fulfil, in this case by providing appropriate safety nets and other income possibilities.

Being a state party to CEDAW in 1991, the Government of Nepal has to implement provisions to ensure women's rights such as the right to social security, such as monthly allowances, treatment expenses, benefits, welfare fund, insurance and compensation particularly in cases of unemployment, sickness, invalidity and old age and other incapacity to work.⁴⁴

Nepal is one of the 189 countries committed to the MDGs, a pledge renewed in its Three-Year Plan 2010-2013. Among the eight goals of MDGs which is to be achieved by 2015, Goal 6a includes Combat HIV and AIDS, Malaria and other diseases. Though, Nepal has succeeded to halt the spread of HIV/AIDS as per the data from MDG Progress Report for Nepal 2010, the progress has not been sufficient to achieving universal access to treatment for HIV/AIDS for all those who need it.

Testimony

⁴³ Id., Article 14(h).

⁴⁴ Id., Article 11(e).

“My husband had gone to Bombay, India for earning money due to inadequate food from our little land. I expected him to bring home money but instead he brought the dreadful incurable disease HIV/AIDS. My husband died eight years ago due to HIV/AIDS. I came to know about the cause of his death only during my treatment. It’s been three years that I am suffering from this terrible disease. After my husband’s death I am living in my natal home. I am facing discriminatory behaviour from my in-laws. I was thrown out from my husband’s home and have been barred from access to any type of family property also. I have ten years old son also, but my in-laws restrict me from meeting him or living with him. It’s only sometimes that I get to see him and talk to him. I want my son to study. I have pleaded my in-laws for this, but they have not responded yet. I don’t have land to cultivate; I cannot do any labour work due to ill health and cannot feed myself. Sometimes, I don’t have that minimum food required to eat before taking my ARV medicine and sometimes I just take it with plain water. I wish to get support for education of my child and my living for fixed term.” Kausi Devi Acharya – 35, Single Woman

In 1995, **an initial policy on HIV/AIDS** was adopted by GoN to ensure its commitment on preventing HIV/AIDS. The 1995 HIV/AIDS policy which only focused on prevention aspect had in the meantime been revised, and further two strategic plans (2002-2006 and 2006-2011) have been developed to fill the gaps in treatment, care and support services. To meet the HIV related target of Millennium Development Goal (MDG), a "National Policy on HIV and STI, 2011" has been drafted and is about to be endorsed by the GoN. The newly drafted policy has given high priority not only to prevention, but also to treatment, care and support works which addresses programs related to rehabilitation, livelihood, career development and social security of HIV positive and affected people as well as high risk groups. The policy also includes special programs adopting the principle of gender inclusion for HIV infected and affected women and children. In addition, a National Action Plan (NAP) on HIV and AIDS 2008-2011 has been developed to carry out the strategic plans (2006-2011). The NAP covers the full continuum of HIV services from prevention to treatment, care and support.

It is noted that as part of prevention strategies, GoN has provided HIV prevention services for certain at-risk groups of young women and girls i.e. trafficked women, pregnant women and female headed households. Besides, a strategy for the prevention of mother to child transmission (PMTCT) is also being developed and implemented. Such action plans include developing information, education and communication materials for use during antenatal care and ensuring that all HIV positive pregnant women can access antiretroviral.

In the aspect of treatment, care and support strategies, the GoN has also partly fulfilled their commitments by distributing the ARV drugs freely which are widely available at district headquarters. The National HIV and AIDS Strategy (2006-2011) states that the numbers of such service centers should be offered in a wider variety of health-care settings so as to increase access. In 2010, GoN has also started to provide one packet of flour per person/month containing 3 kg to the infected persons in selected districts to ensure the nutrition requirement is achieved for effective treatment.

The National HIV/AIDS Strategy (2006-2011) have incorporated the livelihood support strategies e.g. , income generation activities especially for women PLHIV which anticipates to cover approximately 1,250 PLHIV, 25 persons in each of the 50 high risk districts, however the implementation is hugely lagging behind.⁴⁵

⁴⁵ National HIV and AIDS Strategy 2006 – 2011 Ministry of Health, 2006.

However, there is still improvement needed, in particular with regard to the right to food of the HIV/Aids infected women. The National HIV/AIDS Strategy (2006-2011) does not have any specific references to the sexual and reproductive health and HIV prevention service needs of girls and young women. There are limited plans on addressing the infected and affected women's issue of livelihood opportunities and social security schemes and ensuring their nutrition requirement for effective treatment.

Voluntary counseling and testing (VCT) services, ARV drugs and substitution drugs which are only available in district HQs are not easily accessible for the affected communities in particular those who live in rural remote areas.

Lack of funds for transportation and stay during the treatment has become major hindrances as there is no provision for monetary support and assistance to cover for the expense of long distance travel and stay during the treatment. Limited sensitization and orientation of HIV/AIDS implications and care among family members of the infected, community members and many health workers has resulted in furthering the stigma and discrimination, especially for women along with reluctance of infected persons to voluntary visit and access the available services.

2.3 Women Representation in the Political Process

Traditional practices of exclusion and discrimination of women over generations in the political sphere and decision making has led to limited influence of women to promote the needed structural, systemic and socio-economic and political transformations. These are needed to ensure women's access to resources and income opportunities which will enable them to feed themselves and their families in a dignified manner and thus enable them to realize their right to food.

In Nepal, space for women to raise their voices is gradually being transformed contributed by the struggle of women rights advocates, institutions and other supportive factors. The decade long (1996-2005) armed conflict has to some extent brought about changes in the understanding and struggle against discriminatory mindset, policies, culture and practices. After the fall of the Royal Regime, Nepal held constitutional elections in April 2008 towards restructuring and building a New Nepal. The Constitutional Assembly (CA) constituted, to formulate a new Constitution, has one third of total representation i.e. 33% of women representatives. Out of 601 members, 240 members were elected through direct electoral system on the basis of First-Past-the-Post, 335 members under the proportional electoral system and 26 members were nominated by the interim Council of Ministers, on the basis of consensus, from amongst the prominent persons of national life. The principle of inclusiveness is taken into consideration. There are female members in each of the 11 constitutional committees formed to discuss respective areas and draft the new Constitution. Women members have formed a caucus in the assembly to mobilize and put pressure on the committees to raise and include women related concerns. A total of 218 indigenous members are represented in the CA⁴⁶.

The decision of the Government of Nepal (GoN) to ensure 33% representation of women in all state structures paved the way for women to fight for their legal space in public services, private sector, and other development spheres⁴⁷. The advocates of gender equality and women rights organizations are to

⁴⁶ Bylesjö C., Rumbidzai A., and K. Nhundu, 2010, Electoral processes, discussion paper 4, The International Institute for Democracy and Electoral Assistance, Lalitpur, Nepal.

⁴⁷ Article 142(3)(c),⁴⁷ Interim Constitution of Nepal, Article 142(3)(c) 2007.

keep on lobbying for 50% proportional representation of women throughout the state, government and private sector in the long run.

Table 1: Women representation in local bodies

| Local Bodies | Total Representative | Share of Women (%) |
|--------------------------------|----------------------|--------------------|
| District Development Councils | 10000 | 1.5 |
| DDC | 1117 | 6.7 |
| Municipalities | 4146 | 19.5 |
| Village Development Committees | 50857 | 7.7 |
| Village Councils | 183865 | 2.1 |
| Ward Committees | 176031 | 20.0 |

Source⁴⁸:

A number of affirmative provisions in favor of women have been made in the Interim Constitution of Nepal, 2007. The constitutional framework aims to enhance social harmony through equality, equity, inclusiveness and proportionate representation.

Much valuable legislation has been enacted or amended, such as the Domestic Violence (Crime and Punishment) Act, the Human Trafficking and Transportation (Control) Act, the National Women Commission Act, the Citizenship Act, Domestic Violence Act, Civil Service Act, among others.

Accordingly many rules are framed and plans, action plans and programs are being implemented, for example:

- The national Three Year Interim Plan (TYIP) 2010-2013 has included various development programs for women, aimed at gender equality and women’s empowerment and enunciated gender mainstreaming in several economic sectors including agriculture, local development, rural infrastructure and drinking water;
- Government initiatives such as the Production Credit for Rural Women (PCRW), Micro Credit Project for Women (MCPW), and establishment of Women only Small Farmers Cooperatives have been expanded to cover all the 75 districts of the country;⁴⁹
- The Government has made an attempt to adopt the program for Gender Responsive Budgeting (GRB) throughout its mechanisms with its objectives to use it as a means to achieve the State commitments for gender equality in CEDAW, BPFA and MDGs along with others. In this line, the GoN has developed a measuring yardstick in evaluating the Aid Effectiveness and “Zero Tolerance to Violence against Women Policy” is being formulated;

Furthermore, the National CEDAW Committee (NCC) led by the Secretary of Ministry of Women, Children and Social Welfare (MoWCSW) has formulated a National Plan of Action on CEDAW which is being practically implemented in Nepal during fiscal year 2003/2004 (2060/61 BS) to 2006/2007 (2063/64 BS). The NPA outlines various programs for the advancement and empowerment of women through awareness campaigns, training, publications and dissemination. It has targeted the special provision of 33% participation of women, which is being achieved progressively. Incorporating gender-

⁴⁸ Women in Local Government Status Report, UNDP Nepal, 2004.

⁴⁹ Department of Women Development, Lalitpur, Nepal, 2009.

friendly provisions in the new Constitution, ensuring women's increased participation at different levels of governance, formation of women's caucuses and groups so as to protect and promote women's rights and interests in the society are some of the core issues high on the national agenda at the moment. The Nepalese civil society has played a supportive role to bring about this positive change⁵⁰.

Furthermore, local government units play a very important role in implementation of different development programs. Village Development Committees (VDCs) and municipalities are also mandated to allocate budget for activities regarding the protection of vulnerable persons (orphans, children, elderly, disabled and Dalits). In **the Local Self Government Act, 1999** there is a legal provision of up to 20 percent representation of women in the local bodies, while one woman representative in each level of local government body is mandatory. The provision for women to participate in the municipal committee board is higher. And to nominate six members from among the social workers, disadvantaged, deprived and scheduled castes and indigenous people of the population for the municipal committee. One among them should be a woman considering the above provisions. There are no constraints, whether formal or informal, which intend to prevent the women to voice their opinion, concerns about the policies adopted or formulated by the municipality.

However, the provisions of act are not properly implemented and since 2002, the local bodies' election has not been held and most of the position remains vacant. The Local Self Governance Act 1999 does not contain any specific provisions directly relevant to food security-related safety nets.

Despite of many efforts by government supported by the many development agencies programs the situation of women has not changed much in terms of their holistic empowerment. According to the Human Development Index of Nepal UNDP 2009, the gender-related development index (GDI) is 0.499 and Nepal ranks as Nr 65 of 102 countries⁵¹. At large, women's contribution is limited mainly in informal and reproductive responsibilities, for which the valuation of care economy in terms of their contribution to the Gross Domestic Product (GDP) is not recognized properly. It has remained so due to the perpetuated patriarchal mindset, discriminatory policies and practices that still exists in different forms. In terms of women representation in decision making forums, their share in the government structures is still quite low especially in the technical sectors related to agrarian reforms⁵², which is due to limited involvement in technical and vocational education sectors. There have been some tangible changes in terms of women representation in the user's federations such as Federation of Community Forestry Users of Nepal (FECOFUN) currently led by woman with 40% women in the central executives (FECOFUN, 2010). However, similar federations like e.g. the National Cooperative Federation (NCF) board have only two women out of 18 Directors (National Cooperative Federation, 2010).

Regardless of the valuable advance in the legal or policy structures, these provisions still have not been enough to meet the requirements as envisaged by Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and other international instruments. They have paved the way towards securing the rights to employment, income and dignified livelihoods of women, nevertheless, progress in the processes, which can generate a result in the improvement of realization of the right to adequate food and other human rights of women is still needed. Nepal being a signatory of many international instruments including CEDAW has its mandate to realize the rights of girl and woman at the individual level.

⁵⁰ National Plan of Action 2060 on CEDAW, Government of Nepal , Ministry of Women, Children and Welfare, 2nd Edition 2008 (2065).

⁵¹ Nepal Human Development Index Report, UNDP 2009.

⁵² Ministry of General Administration (MOGA) 2009 Report.

To facilitate identification of the main steps to be taken to achieve effective implementation of the normative advances, an important measure would be to set up a monitoring mechanism, which allows women and authorities to identify specific obstacles in the implementation at different levels and to develop proposals of corrective measures towards better implementation.

Moreover, accessible accountability mechanisms should be guaranteed, to allow women to claim for their rights in the situations of non compliance of such pro-women regulations and situations of violations affecting the fair realization of their human rights, including their right to adequate food.

The promotion of the right to food, nutrition and gender equality among others women taking part in key decision making processes /institutions are an essential pending task. Only if women and their counterparts are well informed and sensitized of the structural causes of hunger and malnutrition resulting from among others the traditional discrimination and violence, women will be enabled to propose and implement decisions to bring positive changes from the perspective of enjoying the rights of women.

Part III: Conclusions and Recommendations

In the current socio-political and economical transformation process of Nepal, the right to adequate food of women, in particular, of the socially discriminated and economically poor is being frequently violated. Limited access to and control over productive resources, to employment and income generating options and space for women to voice and decide for their rights are the major obstacles.

To overcome hunger and malnutrition in Nepal with special regard to vulnerable groups, e.g. women, the state of Nepal has formulated several constitutional provisions, laws, policies, plans and programs. However, the institutional frameworks and capacity for implementation of the right to food is weak: the sectoral policies, laws and programs are not properly harmonized and coordinated as to respond to the human right to adequate food and related rights of women. Implementation of monitoring systems, transparency and accountability, as well as mechanisms to assess and ascertain the quality of change in the lives of people in particular women, are still pendent of implementation.

In consequence and on the basis of our report, we kindly request to the CEDAW to take into account the following recommendations:

1. On legal and policy framework:

- a) The inclusion of the right to food and food sovereignty in the Interim Constitution is a great advantage to support the fight against hunger and malnutrition. The state of Nepal should adopt all necessary measures to ensure the adequate provision of the right to adequate food, including food sovereignty and nutrition under a gender perspective in the new Constitution to be adopted and its direct applicability.
- b) The work of the judiciary in the protection of the right to adequate food has been a great advance against discrimination against woman and for the right to adequate food. The state of Nepal should disseminate judicial decisions which protect the right to food and the rights of women to access productive resources, as well as respect and promote the work of human rights defenders supporting victims of violations of the right to food to bring their cases to justice.
- c) The constitutional Directive Principles include important clauses for the protection of the right of women; the state should adopt all necessary measures to ensure that these are applied by all parts of state authorities including the officers. Judicial officers should consider and apply these principles in the decision of cases concerning the right to adequate food of women and related rights. These principles should also be included in the new constitution.
- d) The State should review related laws, policies and regulations on right to food issues in order to be gender sensitive and give priority to those women belonging to vulnerable groups; more than that, it has to be ensured, that proper implementation takes place, according to legal provisions and in coherence with human rights principles.
- e) The situation of hunger and malnutrition in Nepal is severe, especially concerning, women and girls. The lack of adequate policies, legal environment, adequate implementation and monitoring for effectiveness of these are key obstacles in reducing their risk for hunger and

malnutrition. In order to strengthen and synergize the demands related to the right to food, a new comprehensive policy and legal framework along with capacity strengthening of related institutions to ensure implementation of these provisions have to be immediately framed, with special emphasis on gender aspects and sensitivity.

- f) The capacity of the National Human Rights Commission (NHRC) for monitoring and promoting human rights of women, in particular economic, social and cultural rights has to be further strengthened, and cooperation with human rights and other civil society organizations has to be intensified to increase the attention of the GoN towards realization of the right to food of women.

2. On Access to resources

- a) Although the state of Nepal has advanced with regard to legal provisions to combat discrimination against women, there is still a long way to go in order to eliminate *de facto* discrimination affecting the right to food and nutrition of woman. Therefore, the state should adopt all necessary measures to correct such oppressive and violent traditional practices which affect negatively the human dignity of woman. These measures should aim to reach equality in the households and communities, especially concerning access to productive resources and food.
- b) Legislation on working conditions and legal payment also for the informal sector workers are a good framework to eliminate discrimination in access to income for women. Nevertheless the socio – economic structures still condemn women and most are confined to do the informal work that does get properly accounted for in the countries development statistics. Their work in the rural areas is not recognized and they do not receive adequate remuneration. The state of Nepal should adopt all necessary sanction measures to protect women from third parties abusing their labor rights and therefore causing abuses of their right to food. Moreover, the State should adopt necessary affirmative measures for creation of opportunities for women to be able to enter into the formal sector and to have their rural and family labor recognized and remunerated in a fair manner. GoN shall enforce its existing Labor Act which guarantees equal pay for equal work in all sectors in particular in rural areas of Nepal. A monitoring committee could be set up in each district to ensure that labor rights are not violated.
- c) The GoN should collaborate with the Nepal civil societies, media and INGOs to sensitize and orient them on issues related to rights which include access to adequate food, health benefits, leave, employment protection, and non-discrimination across the region.
- d) The role of women work in forest activities should be recognized by the state in its legal regulations. The state should guarantee the participation of at least a 50% of women in the forest user groups and other similar local level user groups e.g. on water, farmers.
- e) A special program should be implemented to support rural and low resource / income base women of marginalized and traditionally disadvantaged groups to access and utilize the natural resources for their livelihood.
- f) State should adopt all necessary measures to guarantee the access to natural and productive resources including production related inputs to sustain a agriculture based livelihood in Nepal and give due recognition of women's contribution including the adequate remuneration.

Moreover, monitoring and accountability mechanisms has to be further strengthened at different levels to ensure the compliance of this access and to allow women being affected by discrimination in access to land to claim their right to adequate food and nutrition.

- g) In this context, the forthcoming Agriculture Development Strategy (which is in the process of being developed) should address the issue of food and nutrition security – including land resource related issues, gender sensitivity, climate change, sustainability, and making agriculture economically viable. The strategy should shift focus from production towards access to productive resources (land; seed; water), and have the perspective from the most marginalized. Sustainable small-scale agricultural practices should be promoted rather than the agro-industrial model of agriculture, as to protect small (women) farmers.
- h) State should facilitate easy and accessible credit facilities to small holder and marginal farming families – in particular households headed / managed by women e.g. agricultural credit facilities and facilitate women’s access to opportunities and economic resources in order to participate fully and equally in the economy. These programs should not put additional burden on the women, but contribute towards realizing their right to adequate food. If the agricultural services e.g. women friendly technologies, extension services and agricultural inputs mainly land entitlement are ensured, through this it will empower women and enable them to become equally constructive forces of developing the society. Since this kind of programs can change power structures in the families and communities and this situation can generate violence against woman, such programs should include gender education trainings which involve men.
- i) An effective monitoring mechanism should be set up to ensure all programs under related policies (i.e. Draft Land Policy 2010 and Land Reform Act), to be carried out without discrimination and to benefits of the peasants, in particular women /small holder farmers.
- j) The GoN should revise the Land Act Acquisition Act 1977 to include relocation and compensation issues for those living in public land for more than 15 years.
- k) State should adopt all necessary measures to produce up-to-date data on access to and control over natural and productive resources for livelihood - disaggregated by gender. This information should be transparent and accessible for right holders in order to allow them to participate in the design, adoption, implementation, and monitoring of corrective policies which are coherent with international human rights obligation of the state, the right to food and nutrition of women.
- l) A mechanism of enforcement of the property rights of women (especially of extreme vulnerable women, such as HIV/Aids infected women) upon divorce and widowhood has to be promoted and put in place. Women should be given the rights to access their marital assets without any discrimination.
- m) The differentiation on water regulations for rural and urban areas is hindering further the traditional impediments on access to water in rural areas. This affects especially woman and girls, who traditionally are condemned to reach to water sources and fetch /carry water. The Nepal state should adopt all necessary legal, policy, implementation and monitoring measures necessary to ensure the access of rural woman to water in conditions of dignity and according to the General Comment No. 15 of the CESCR.

3. On health care and nutrition of women suffering HIV/AIDS

- a) The GoN should develop AIDS Law implement the HIV/Aids strategy and plan of action and as to guarantee the rights and needs of those living with and affected by HIV, to eliminate stigma and discrimination and ensure their right to food and right to health. Women suffering from HIV/AIDS should have the opportunity to participate in the design, adoption, implementation and monitoring of this law in order that the implementation of these benefits the affected women.
- b) The policy on HIV/AIDS and STDs should incorporate different vulnerability and needs at prevention levels. Proper and functional mechanism at different levels has to be strengthened and sustained as to discourage discriminatory practices against people living with HIV and AIDS. Related issues that affect women should be mainstreamed into all relevant policies and programs in which each policy and program is supported and reinforced. Besides, there should be a monitoring mechanism/ measure on policies enforcement at the local government level in order to ensure the relevant policies and programs are being carried out properly and desired impact on the lives of the affected communities.
- c) GoN and local governments should ensure the availability and accessibility of care and support services to women living with HIV/Aids at the VDC level. The support services should include economic and income-generation skill development, educational programs, intermediary economic and housing support, counseling and referral services. Besides, such support services, social security schemes should be extended to the infected single women, their children.
- d) GoN should ensure that women as in the case of the Gandharva community access the healthcare as provisioned by laws and programs extending it to their food and nutrition security – even more so for women during the pregnancy period and after delivery.

4. Women representation in the political process

- a) GoN and in particular the local government shall ensure that people living with HIV (PLHIV), especially women/single women have equal involvement and participation in the policy making, implementation processes at different levels of state structure which can contribute towards policies and programs that contribute towards their right to food and health.
- b) Single women should be allowed to participate in VDC/DDC meetings and to take decisive role to advocate their demands/rights and access the resources allocated under disadvantaged groups.
- c) GoN should implement and set up monitoring mechanism to ensure genuine, effective and meaningful participation from different groups of women and in particular of marginalized communities, in their commitment to include women employment and participation in the civil sectors.
- d) The GoN can better monitor and execute VDC /DDC level activities and responsibilities through increased genuine inclusion and appointment of women and marginalized groups in VDCs / DDCs structures.

- e) The GoN is urged to collaborate and coordinate with national and international organizations on programs regarding sensitization and orientation of human rights, particular the economic social and cultural rights that implicate realization of the women's rights, especially in rural areas.
- f) The state should adopt all further necessary measures to guarantee de-jure and de-facto enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres - political, economic, social, cultural and civil has to be ensured.
- g) State should strengthen capacity of women through ensured and de facto participation from community level to policy making forums, not as objects as till date, but as capable citizens in such processes. Specific interventions are strengthening their resources base, in sustainable use of natural resources – forest, water and land, interventions to reduce economic vulnerability, develop leadership competencies – and contribute to strengthen their right to food.
- h) Since active participation of women in all levels of decision-making is a must to reduce hunger in Nepal, education opportunities should be guaranteed in order to allow them to be aware of the importance of participation and to be prepared to promote and adopt the necessary measures to change structural causes of hunger and malnutrition from their own perspective.

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