



A study on
Strategic Approach
from National Actors
to deal with COVID 19 Impacts
on Access to Justice

Institute of Strategic and Socio-Economic Research (ISSR)



December 2020



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Access to Justice**

**As part of the project:
“A National Effort to Advance the Justice Agenda and the Implementation of
the Network Strategy in Nepal”**

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This study report is a part of the project **“A National Effort to Advance the Justice Agenda and the Implementation of the Network Strategy in Nepal”** covers the findings from a research done by desk study and by gathering information from relevant stakeholders through the set of questionnaires with 20 organizational respondents and 5 KII respondents. The study identifies the existing government legal and policy documents to know how far the poor and vulnerable people are protected by the state during the time of pandemic along with its implications and additionally incorporates the situation of the marginalized communities and the civil society organizations’ intervention to address the justice needs of the communities during the COVID-19 pandemic.

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ABBREVIATION

BFI	Banking and Financial Institutions
CBS	Central Bureau of Statistics
CCMC	Crisis Management Center
COVID-19	Corona Virus
CSO	Civil Society Organization
DPO	Disabled People's Organization
DRRM	Disaster Risk Reduction and Management
GBV	Gender Based Violence
GDP	Gross Domestic Product
HLCC	High Level Coordination Committee
ILO	International Labour Organization
KII	Key Informant Interview
MoHP	Ministry of Health and Population
MSMEs	Micro and Small Enterprises
NBA	Nepal Bar Association
NHRC	National Human Rights Commission
NLFS	Nepal Labour Force Survey
NRB	Nepal Rastra Bank
OCMCs	One-door Crisis Management Centers

EXECUTIVE SUMMARY

The COVID-19 pandemic remains a global public health crisis, causing significant mortality and morbidity by eventually inflicting health and socio-economic ramifications. Government across nations are adopting best measures to restrict the spread of the virus and address its harmful consequences. As the coronavirus pandemic has affected all sectors of the economy, the nation is countering a deep stagnancy on its economy, hinging on the national level macroeconomic indicators that have slowed down and created an adverse effect in the national economy. The tangible effects of COVID-19 has been distinctively seen on health care facilities, education, food security and employment. It has disproportionately affected lives of people along with having far-reaching socioeconomic implications.

The study was conducted in order to identify the existing government legal and policy documents to know how far the poor and vulnerable people are protected by the state during the time of disaster or pandemic along with its implications. It then devises recommendations for providing a roadmap to address the adversity created by the spread of the pandemic in the nation. The study was hence conducted with three major objectives in mind; conducting policy analysis of COVID-19 related policy framework issued by Government of Nepal to understand policy context along with overall human rights and access to justice perspective; and to suggest measures for legal empowerment and program initiatives that should be incorporated in the national and sub-national development plans in order to make state responsible to the needs of poor and vulnerable people during disaster or pandemic.

A qualitative research methodology was adopted to carry out the review of legal and policy framework. The study carried out desk review, where the most relevant documents and materials that provide policy/legal context, institutional mandates, roles and responsibilities were identified, collected and reviewed based on the human rights framework (Constitutional as well as international human rights obligations), with special attention to rights of most disadvantaged and marginalized people. The review attempted to identify the response and reactive measures carried out by the respective line agencies to control, prevent and respond to the pandemic and offer appropriate health services to those who tested positive for COVID-19 and address the ill consequences of the pandemic on the citizens' socio-economic life. The review was done from the perspective of human rights, gender and social inclusion, intersectionality, do no harm approach; principle of substantive equality, non-discrimination and positive discrimination/affirmative action.

With respect to the pandemic, the government can employ several legislations which includes the Infectious Disease Act, 2020, Disaster Risk and Management Act, 2074, and other recently introduced guidelines, protocols, and action plans issued by the line ministries. For instance the Ministry of Women, Children and Senior Citizens introduced several guidelines for stakeholders to provide support and assistance to senior citizens in crisis due to corona virus and different protocols were introduced i.e Coronavirus Infection, 2077, Health Safety Protocol, and Guidelines for Disability Stakeholders in the Campaign Against COVID 19 in order to combat the pandemic.

The study ascertains that the Government of Nepal has not made any specific directives and plan of action to ensure access to justice to address the adversity caused by COVID-19 pandemic. Even though various thematic ministries of Nepal government introduced various specialized and targeted directives, guidelines, and action plan for prevention and response to the COVID-19 pandemic, ensuring access to social justice in times of such crisis has become a pertinent challenge for the government, private sectors and non-government organizations. Furthermore, a comprehensive legislation in addressing the impact of COVID-19 is lacking, which calls for an inclusive approach to be adopted in various sectorial directives, guidelines and plan of actions to address health impact, socio-economic impact and so forth.

In a nutshell, it is the government that should adopt diverse approaches and consider the needs of the marginalized and disadvantaged groups while responding to the pandemic. The government should reform the legislative measures in maintaining the coherency among directives, guidelines and plan of action between the government and line of ministries in controlling the adverse impact of COVID 19 pandemic. Likewise consistency should be maintained in the transparency of policy making decisions of health services and implementation along with ensuring access to justice along with economic recovery.

Regarding, recalibrating the access to justice during the pandemic period, it is crucial that the justice sector institutions should develop a recovery plan and consider reinforcing capacities of justice sector actors to respond to the situation in a way that builds trust in institutions and ensures access to justice for all. The legal empowerment strategy must be developed to address the impact of the crisis.

With regards to the plummeting economy of the nation, a full economic recovery package is required to help struggling businesses and workers. The government should also seek for additional concessional loans and prioritize on multilateral lenders that have rapid disbursement facilities for emergency assistance and policy-based loans for budget support to help the government's agenda.

As education sector has witnessed a major turmoil, it is substantial that the education sector should be reformed by emphasizing on directives and guidelines used during the pandemic, to ensure equal education access for students belonging to all geographic locations and same level of education to all children, regardless of their economic backgrounds

Henceforth, the Government of Nepal should come with specific directives, guidelines and action plans in ensuring access to justice, since the state judiciary has been constantly struggling in delivering safe and effective justice during the crisis period. As a consequence, the general population and mostly marginalized groups, GBV victims, daily wage women workers including those women working in the entertainment sector and informal sector workers have been worst hit from the pandemic and have had no recourse to justice, causing further hardship.

Hence, in this regard, the government needs to tie up with private sectors including the MSME's and introduce effective health response policies along with policies supplementing the livelihood of large number of the unemployed population in mitigating the adversity of the pandemic.

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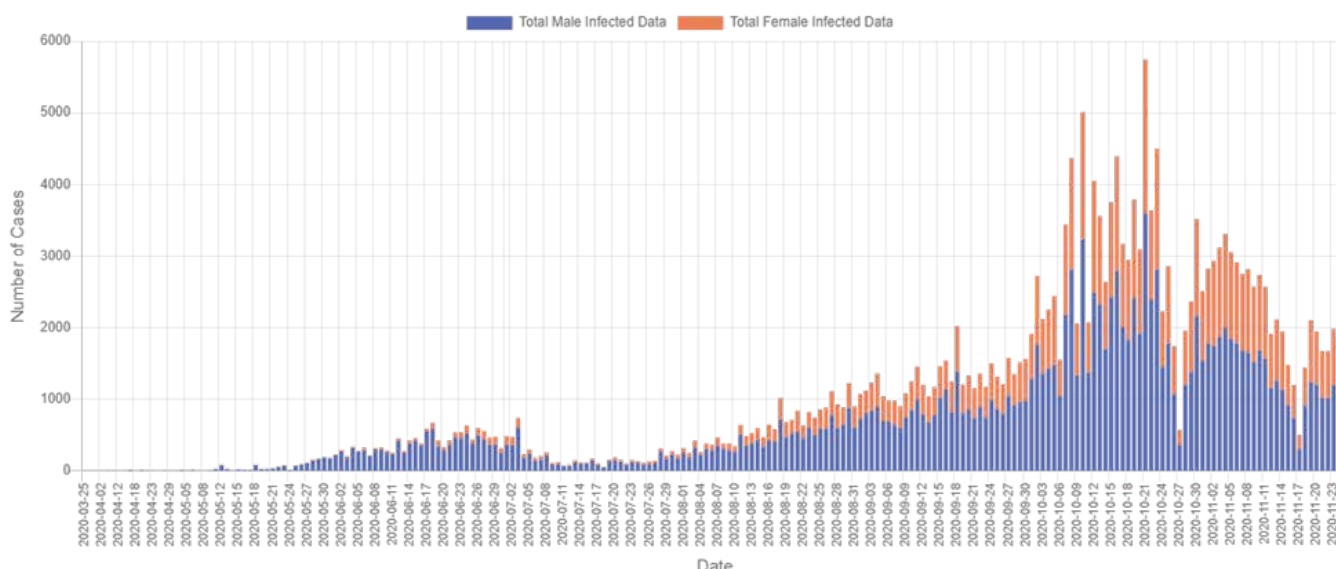
PART: I - REVIEW OF COVID-19 POLICY RESPOND OF GOVERNMENT OF NEPAL

SECTION 1: BACKGROUND AND METHODOLOGY

1.1 BACKGROUND

The COVID-19 pandemic remains a global public health crisis, causing significant mortality and morbidity by eventually inflicting health and socio-economic challenges across the globe. Governments throughout the world are undertaking unprecedented measures to limit the spread of the virus and cope with the ill consequences of it. The pandemic is deeply affecting the socio-economic status of the low income countries and aggravating their fragility. The pandemic is disrupting access to primary health services and care, access to justice, spreading social inequality and exacerbating supply chain bottlenecks. Like many other countries, Nepal is severely hit by the pandemic with pressing health and economic challenges.

As of 11/26/2020; 60,720,517 people have tested positive to the virus; the number is significantly escalating daily (<https://www.worldometers.info/coronavirus/>). As a response to contain the virus, the Government of Nepal had adopted strict wide lockdown measures from March 2020 to restrict the mobility of people to reduce the spread. The pandemic has disproportionately impacted the formal and informal economy of the nation. Among the most vulnerable are women, informal sector workers, migrant returnees, internal migrants, daily wage laborers, and those particularly involved in micro and small enterprises(MSMEs) .
(https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/briefingnote/wcms_748917.pdf).



Source: Ministry of Health and Population, 11/26/2020 <https://COVID19.mohp.gov.np/>,

The above line graph shows the number of corona cases from March 25 to November 23, 2020. The graph clearly shows the rise of the cases on a daily basis. The cases seemed to be under control during the lockdown period and appeared to have drastically increased during the post lockdown period. The blue color represents male cases whereas, orange represents female cases.

The COVID-19 pandemic has led to an increase in the numbers of violence due to the effects of lockdown and movement restrictions, which has exposed women and girls to higher risk of

violence. Such complexities are posing a threat to the women which requires a stringent national level response from the government. If adopted, such measures would contribute in providing the women and girls with safer spaces.

With the continuation of the ongoing pandemic, it appears that the rates of child marriages are likely to increase in the vulnerable communities. As large number of schools are closed owing to the pandemic, and poverty is deeply engrained in the grassroots and vulnerable communities of the nation it eventually leads to a

steep rise in child marriage impacting the lives of girls and making them more vulnerable to domestic violence, GBV and VAWG.

More than 100 million people have lost their jobs owing to the pandemic as per ILO. Consequently, large number of workers in the middle income countries and lower middle income countries are affected which has led to severe disruption in the economies following significant impediments in the global supply chains. Mostly the workers from informal sectors including daily wage labourers and seasonal workers have lost their jobs. Similarly, trade and industries are at the risk of closure where mostly the MSME's are hardly hit as their businesses are facing constraints as an impact of COVID-19. In order to accelerate the trade and economic sector, effective and efficient policies need to be in place and implemented with strong re-enforcement by the government that will serve as relief packages to the needy. (https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/briefingnote/wcms_748917.pdf)

Migrant workers have been contributing to the national GDP through remittance. Remittances in Nepal have been serving as a major lifeline for the sustenance of many households over the past decades. However, with the strike of the pandemic, nearly 3.5 million Nepalese migrant workers have been severely affected losing their livelihoods and ultimately the nation's economy is suffering. Forthrightly, the issue of Nepali migrant workers and their repatriation draws a major concern. Respectively, in addressing the problems of returned migrant workers, the government should prioritize in providing them with immediate and long term supportive/enabling measures.

Similar to other sectors, the agricultural sector is also not free from the adverse impacts of the pandemic. Due to the lockdown imposed by the government, the market suffered and faced huge losses in terms of distribution and supply of agricultural products. Likewise, as the business is not gaining momentum, the farmers are running out of cash due to which their ability to purchase agricultural inputs is diminished. This is leading to stagnancy in the agricultural market system and upsetting the balance of the demand- supply mechanism. The farmers are facing losses

of revenues due to the shortage of agriculture commodities due to which farmers are selling less produce and seeking for more credits on the agricultural inputs. This adversity of the situation demands a co-operative model from the local government in helping farmers of the affected areas in order to keep the agriculture sector afloat in the economy. (<https://myrepublica.nagariknetwork.com/news/govt-announces-economic-relief-measures-to-support-poor-businesses-hit-by-co-vid-19/>)

As a precautionary step by the Government of Nepal to combat and control the spread of COVID – 19, lockdown measures were applied which limited the movement of people. The government-enforced lockdown resulted in locking the victims of domestic violence into their homes and forced them to live with the perpetrators and were in dire need of the justice. The Human Rights treaties to which Nepal is a party emphasize on the right of equal access to justice for all individual including members of vulnerable group, for taking all necessary steps to provide fair, transparent, effective and accountable services that promotes access to justice. The Universal Declaration on Human Rights (UDHR) 1948 states that; "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the constitution or by law". Likewise, United Nations Committee on Economic, Social and Cultural Rights issued a statement on the Coronavirus Disease (COVID-19) Pandemic and economic, social and cultural rights on 17th April 2020 stating that the pandemic has severely affected the; marginalized and disadvantaged groups; barred from enjoying the civil and political rights; health care systems have been weakened; adverse effect on national and international economies; creating educational inequalities between rich and poor students owing to unequal access to education; and has deepened the gender inequalities (<https://undocs.org/E/C.12/2020/1>).

In this context, Institute for Strategic and Socio-Economic Research (ISSR) in coordination with Alliance for Social Dialogue, Foundation Open Society Institute (FOSI), has carried out this study on strategic approach from National actors (Government bodies and civil society organizations) on access to

justice addressing the COVID-19 impacts. As a part of the broader study, this study focuses on review of legislation and policies (i.e. Directives, Guidelines, Action-Plan) issued by Government of Nepal to address the COVID-19 pandemic.

1.2 OBJECTIVE OF THE STUDY

The objective of this study was to;

1. Conduct review of government legal and policy documents to know how far the poor and vulnerable people are protected by the state during the time of disaster or pandemic like COVID-19.
2. Conduct policy analysis of COVID-19 related policy framework issued by Government of Nepal to understand policy context along with overall human rights and access to justice perspective.
3. Suggest measures for legal empowerment and program initiatives that should be incorporated in the national and sub-national development plans in order to make state responsible to the needs of poor and vulnerable people during disaster or pandemic.

1.3 SCOPE OF THE STUDY

During the study, focus has been given to the following major areas:

1. General overview of the existing context of Pandemic related policy framework (The overview includes Constitutional, Legal, and Policy Context in addressing the COVID -19 pandemic and its impact on lives of the people).
2. Identification of gaps in policy and legal documents and their enforcement.
3. A narrative of best models adopted by government anywhere that best served the interest of poor and vulnerable people during the time of disaster or pandemic.

INSTITUTIONAL STRUCTURE RESPONSE TO COVID-19 PANDEMIC

The response is based on two key aspects: structural and functional. Following issues were been focused on an in-depth inquiry:

- Leadership,
- Policy frameworks, mandates,
- Organizational structures in terms of fulfillment of mandate of mechanism: monitoring, response, prevention and fulfillment of

impact of COVID-19

1.4 METHODOLOGY

Qualitative research methodology was adopted to carry out the review of legal and policy framework¹. The study carried out desk review, and took multi-dimensional approach to use primary and secondary sources of information. The following steps were followed to undertake this study;



Each step followed in carrying out the policy review are described as follows:.

1.4.1 DESK REVIEW

The most relevant documents and materials that provide policy/legal context, institutional mandates, roles and responsibilities were identified, collected and reviewed based on the human rights framework (Constitutional as well as international human rights obligations), with special attention to rights of most disadvantage and marginalized people. The relevant documents and guidelines issued by the line of ministries and departments working in the forefront to combat the global pandemic by the Government of Nepal were given priority in the course of desk review. The review attempted to identify the response and reactive measures carried out by the respective line agencies to control, prevent and respond to the pandemic and offer appropriate health services to those tested COVID positive and address the ill consequences of the pandemic on the citizens' socio-economic life. The desk review has also taken into account the Supreme Court's rulings handed down in the context of the COVID-19 as appropriate.

The documents reviewed as part of the desk review are listed below. The review was done from the perspective of human rights, gender and social inclusion, intersectionality, do no harm approach; and principle of substantive equality, non-discrimination and positive discrimination/affirmative action and so on.

¹Legal and Policy Framework refers to the body of enabling laws subsidiary legislation and policies in their totality. Legal and policy frameworks state out the ideal for what is to be done, who should do it and how it should be done. This framework include but are not limited to international instruments, Constitution, laws, Regulations, Rules, Ordinance, Decrees, National Plan of Action.

S. No	Ministry	Documents
1.	Nepal government	i. The Constitution of Nepal, ii. Infectious Disease Act, 2020 iii. Right to Housing Act, 2075 iv. Right to Food and Food Sovereignty Act, 2075 v. Infectious Control Disease Act 2020 vi. Disaster Risk and Management Act, 2074 vii. Public Health Service Act, 2075 viii. The Right to Safe Motherhood and Reproductive Health Act, 2075
2.	Ministry of Women, Children and Social Welfare	i. Ministry of Women and Senior Citizens' Guidelines for Stakeholders to Provide Support and Assistance to Senior Citizens in Crisis Due to Coronavirus Infection, 2077 ii. Health Safety Protocol iii. Guidelines for Disability Stakeholders in the Campaign Against COVID-19 Pandemic 2077 iv. Improve and address the effects of Coronavirus infection on women, children, and senior citizens with disabilities and to mobilize social organizations. v. Action plan to improve and address the effects of Coronavirus infection on women, children, persons with disabilities and senior citizens and to mobilize social organizations, 2077
3.	Ministry of Health and Population	i. Health Sector Emergency and Response Plan COVID-19 Pandemic ii. Health sector response to COVID-19 iii. Coronavirus Disease (COVID-19) Interim Guidelines for Reproductive, Maternal, Newborn and Child Health Care in the Time of the World Pandemic, 2077 iv. Health Care arrangements for person staying in quarantine
4.	Ministry of Federal Affairs and General Administration	i. Letter sent to the local level Government on 2076-12-09 regarding the implementation of the action plan related to COVID-19.
5.	Ministry Of Finance	i. Criteria for providing relief to working class and helpless working in unorganized sector, 2076 ii. Business Continuity Credit Flow Procedure 2077
6.	Ministry of Education, Science and Technology	i. Student Learning Facilitation Guide from Alternative Measures, 2077 ii. COVID-19 Educational Cluster Contingency Plan, 2020
7.	Ministry of Home Affairs	i. Security Measures for Managing Lockdown, 2077
8.	Nepal Rastra Bank	i. Monetary Policy 2077/78
9.	Supreme Court key Decisions on COVID-19 related cases	i. <i>Advocate Mina Khadka Basnet and others v. Office of Prime Ministers and Council of Ministers et.al, Writ Petition (076-WO-0932), Advocate Manish Kumar Shrestha vs. Office of Prime Minister and Council of Ministers, Writ Petition (076 WO-0935)</i> ii. <i>Advocate Bishnu Luitel vs. Office of Prime Minister and Council of Ministers, Writ Petition (076-WO-0933)</i> iii. <i>Prakash Mani Sharma (on behalf of forum for Protection of Public Interest) and others vs. Office of Prime Ministers and Council of Ministers et. al. Writ Petition (076-WO-0938)</i> iv. <i>Advocate Shom Prasad Luitel vs. Office of Prime Minister and Council of Ministers et al. Writ Petition (076-WO-0940)</i> v. <i>Advocate Shailendra Prasad Harijan and others vs. Office of Prime Minister and Council of Ministers et.al, Writ Petition (076-WO-0941)</i> vi. <i>Roshani Paudel and Others vs. Office of Prime Minister and Council of Ministers et. al., Writ Petition (076-WH-0962)</i>

1.4.2 KEY INFORMANTS INTERVIEW

Key Informants Interview (KII) was carried out targeting the relevant/strategic stakeholders including from within government officials as well as civil society organizations, lawyers, parliamentarians. Key Informants interviews were conducted based on the checklist developed by the consultant policy reviewer. (Checklist is available in Annex I). For this purpose, semi-structured questionnaires were shared to the key informants and the interviews were carried out virtually given the context. (List of KII in annex- II)

1.4.3 INITIAL DRAFT SHARING

After the preparation of the report based on the feedbacks from the meeting, the final draft of the report was shared accordingly in order to receive further feedback, if any.

1.4.4 REPORT FINALIZATION

A detailed consolidated report of the study was prepared based on the desk review of the policies and directives, guidelines issued by the line of ministries in order to combat the pandemic COVID-19. This report includes the process, methodology followed, quantification of knowledge, data processing, and analysis followed by providing the appropriate recommendation and conclusion.

1.5 LIMITATION OF THE STUDY

The limitations of this research are unpacked as follows;

- The research was limited to national legislations, policies, directives and action plan issued till 2020/ November/15 by the Government of Nepal and identified the gaps in the legislative/policy frameworks addressing the interest of poor and vulnerable people during the time of disaster or pandemic.
- The review did not identify or examine provincial and local government COVID response policies
- Most of the data was collected through online platform and the KIIs were held virtually, hence there could be slight hindrances to the additional insights that would otherwise be extracted through in person conversation.

SECTION 2: NEPAL'S FEDERAL MECHANISM AND ROLE OF THREE TIERS OF GOVERNMENT: PREVENTION AND RESPOND COVID-19 IMPACT

2.1 BRIEF OVERVIEW OF NEPAL'S FEDERAL MECHANISM

With the promulgation of the Constitution of Nepal, Nepal transitioned from a unitary to federal state structure. The three tiers of government-the federal, the province and the local government- have already been created and they are currently functioning. Article 56 (1) provides that, "The Federal Democratic Republic of Nepal shall have basic structure at three levels, namely the federal, provincial and local levels." Article 56(2) further provides that, "The federal, provincial, and local bodies shall exercise the state power of Nepal pursuant to this Constitution and laws." Article 220 also recognizes the roles of District Assembly and District Coordination Committees, as a part of local government.

The distinct exclusive powers of the Federal, State and Local Governments are provided for by the Constitution of Nepal in Schedule 5, 6 and 8 respectively. Schedule 7 provides for concurrent list of powers between federal and state government whereas, Schedule 9 provides list of concurrent powers between Federal, State and Local Governments. Regarding exclusive power, each level of government can exercise its legislative and executive power independently as enumerated in the respective schedules of Constitution of Nepal. In this regard, Disaster Management, under which COVID-19 falls, is provided as an exclusive power of the local government under Schedule 8. Disaster Management is also provided as a concurrent power between Federation, Provincial and Local Governments under Schedule 9.

Schedule	Power of Government	Remarks
Schedule 5, 6 and 8	Exclusive power of Federal, State and Local level government	Each level of government can exercise its legislative and executive power independently as prescribed by the Constitution
Schedule 7	Concurrent Power of federal and state level	- Federal Government sets policies, standards, and laws that apply to the Provincial Level. - The executive policies, standards, and regulations must be endorsed by the Council of Ministers. - If Provincial law is inconsistent with federal law then federal law shall prevail
Schedule 9	Concurrent power of federal, state and local level	- Federal Government sets policies, laws, and standards that apply to the Provincial Level and Local Level. - If Provincial law is inconsistent with federal law then federal law shall prevail. - Provincial Government sets policies, laws, and standards that apply to the Local Level. - If Local law is inconsistent with provincial law then provincial law shall prevail

To appropriately respond to the COVID-19 pandemic which has seen such a rapid rise in cases causing health as well as an economic crisis, a clear and structured delineation of roles and responsibilities with coordinated efforts and information channels need to be established. However, currently, the provincial and local governments are unclear of their roles and responsibilities in dealing with the pandemic as the federal has been predominantly taking all the major decisions. The mechanisms to facilitate inter-governmental fiscal relations have also not been established soundly for their smooth and

coordinated functioning. This has caused confusion in the response towards COVID-19 hence rendering many mechanisms ineffective.

The Constitution also has not mentioned the management of pandemics specifically in the list of exclusive and concurrent powers. Communicable diseases however falls under the Federal jurisdiction with the Federal Government having the power to declare a state of emergency nationwide.²

Level of Government	Power of three tiers Government	List of Matters
Federal Government	Exclusive Power Schedule 5	Health Policies, Health Services, health standards, quality and monitoring, national or specialized service provide hospitals, traditional treatment services and communicable disease control
State Government	Exclusive Power Schedule 6	Health Services
Local Government	Exclusive Power Schedule 8	Disaster Management, Basic Health and Sanitation, Collection of Local level statistics and records, Basic and Secondary Education
Federal Government and State Government	Concurrent Rights Schedule 7	Social Security and Employment, Early preparedness for, rescue, relief and rehabilitation from, natural and man-made calamities, Employment and Unemployment Benefit.
Federal Government and State Government and Local Government	Concurrent Rights Schedule 9	Disaster Management, Social Security, Education, Health

² Article 273: Emergency Power, 2015 Constitution of Nepal.

2.1.1 ROLE OF FEDERAL GOVERNMENT

The Constitution of Nepal does not specifically mention the management of pandemics while distributing powers amongst the three levels of government. However, the Constitution of Nepal gives the exclusive power to the federal government in relation to addressing Health related services, policies, standards, quality and monitoring and communicable disease control via schedule 5. As mentioned in the Constitution, it is the responsibility of the federal government to set up the policies, standards and laws in this matter.

2.1.2 ROLE OF STATE GOVERNMENT

The Constitution of Nepal gives exclusive power to state government to address health services. However, early preparedness, rescue, relief and rehabilitation, employment and unemployment benefit, disaster management and health fall under the concurrent list of powers as provisioned in Schedule 7 and 9 along with the federal and local government. The state government can make law, and policies in line with the legislative and policy framework of federal government to address the existing issues of the health services.

2.1.3 ROLE OF LOCAL LEVEL

The Constitution of Nepal has given exclusive power to the local government to collect the local level statistics and records, disaster management, basic health and sanitation along with basic and secondary education.

Article 11 (2) of the Local Government Operation Act, 2074 BS has specified the local policy, laws, standards, implementation of plans, monitoring and regulation, infrastructure development related to disaster management, and other functions at the local level. Similarly, the power of the local government in relation to health under Article 11 (4b) also includes the power to determine the goals and quality of health at the local level in accordance with the federal and state level goals and standards. Similarly, the local governments are entrusted with the powers related to public health, emergency health and pandemic control planning and implementation at the local level.

Some of the plans, directives, procedures and criteria issued by the Government of Nepal to address the pandemic of COVID-19 have also given important roles to the local government. They are as follows:

Topic	Responsibility given to the local Government
Health sector response to COVID-19	• Role of taking the test results of the PCR and RDT conducted
Campaign Against COVID-19 Pandemic Guidelines for Disability Stakeholders, 2077	• The nearest ward office at each level has to give priority to the persons with disabilities with the provision of relief and has given a role accordingly. • Responsible to create service facilities accessible to women and people living with disabled • To provide immediate free treatment and psychosocial counseling services to women and girls victims of gender-based violence. • Responsible for providing short-term and long-term rehabilitation by rescuing women affected by gender-based violence and continuous human trafficking during lockdown
Improve and address the impact of the COVID-19 infection on women, children, and persons with disabilities and senior citizens and to mobilize social organizations.	• To measure the impact of the lockdown on women from the most deprived and backward communities living on wages and women at risk of violence and sexual minorities, and to suggest Rapid gender analysis to address the problem. • To provide minimum sanitary materials, sanitary pads etc. to the disabled women in the shelter and to the women who have lost their mental balance. • To prepare data of rehabilitation centers within this municipality. • To make hotline services more effective for the victims of gender-based violence immediately and to make the hotline operated by the Women's Commission operational 24 hours a day. • To provide immediate free treatment and psychosocial counseling services to women and girls victims of gender-based violence. • To provide the necessary basic health care materials to the women staff working in the care and service of the women who have taken shelter in the rehabilitation center and also to provide them psycho-social counseling. • To coordinate with the thematic sector and the media to arrange for regular communication and dissemination of public awareness information and decisions in different languages for the reduction of various types of sexual violence including sexual exploitation and abuse. • Arranging for the Short-term and long-term rehabilitation for women affected by sexual violence and continued human trafficking during lockdown.
Implementation of the action plan related to COVID-19	• Cinema halls, cultural centers, stadiums, playgrounds, gyms, health clubs, museums, swimming pools, entertainment venues, dance bars, and clubs will be closed by mid-April and should be ensured by them. • To ensure that no more than 25 people gather in public places such as monasteries, temples, mosques, churches, party palaces for social, cultural and similar activities. • To disinfect and clean the public places where people gather on a daily basis
Criteria for providing relief to working class and helpless working in unorganized sector, 2076	• Record keeping • Relief distribution • Keeping records and reports of relief distribution

2.2 INSTITUTIONAL MECHANISM FOR DISASTER RESPONSE AND COVID-19 SPECIFICALLY

With the view to contain the pandemic of COVID-19 in the country; the Government of Nepal has introduced new ad-hoc mechanisms by executive decision of federal government: COVID-19 Disease Prevention and Control High Level Coordination Committee (HLCC) as central mechanism. The high-level committee is comprised of 11 members under the leadership of the Deputy Prime Minister including other 9 senior

members of the federal Council of Ministers and the Chief Secretary. The HLCC was given an extensive mandate to “carry out necessary functions relating to prevention and control of COVID-19”.

Within one month’s time of formation of the HLCC, the Council of Minister of federal government has formed another committee named COVID-19 Crisis Management Center (CCMC) with

detailed terms of reference, which replaced the HLCC. Currently, there is the CCMC at higher level which is also led by the Deputy Prime Minister & Defense Minister including five senior ministers from the Federal Council of Ministers, which is authorized to conduct the overall response to pandemic. Under the CCMC, the Action Committee has also been formed which is led by the Chief Secretary. In the Action Committee Secretary of the Federal Minister of Home Affairs and the chief of four security forces (Nepal Army, Nepal Police, Armed Police Force and National Investigation) are members. Likewise, four operations mechanism are setup under the Action Committee: Health services and treatment (Medical Ops), Supply Medicine and Equipment (Logistic Ops), Maintain Law and Order (Security Ops) and Information and technology Support (Media &IT Ops).

To respond to the COVID-19 impact and prevention at provincial and local level, similar mechanisms have been established. Provincial level CCMCs are led by respective chief ministers and local level mechanisms are led by respective chairs/mayors of the Palikas. It seems like a replication of Federal CCMC at provincial and local level. As part of the response work, provincial mechanisms have focused to establish isolation centers, testing labs and managing medicine and other essential services. The local levels are more focused on establishing and managing quarantine facilities, and distributing relief to the needy.

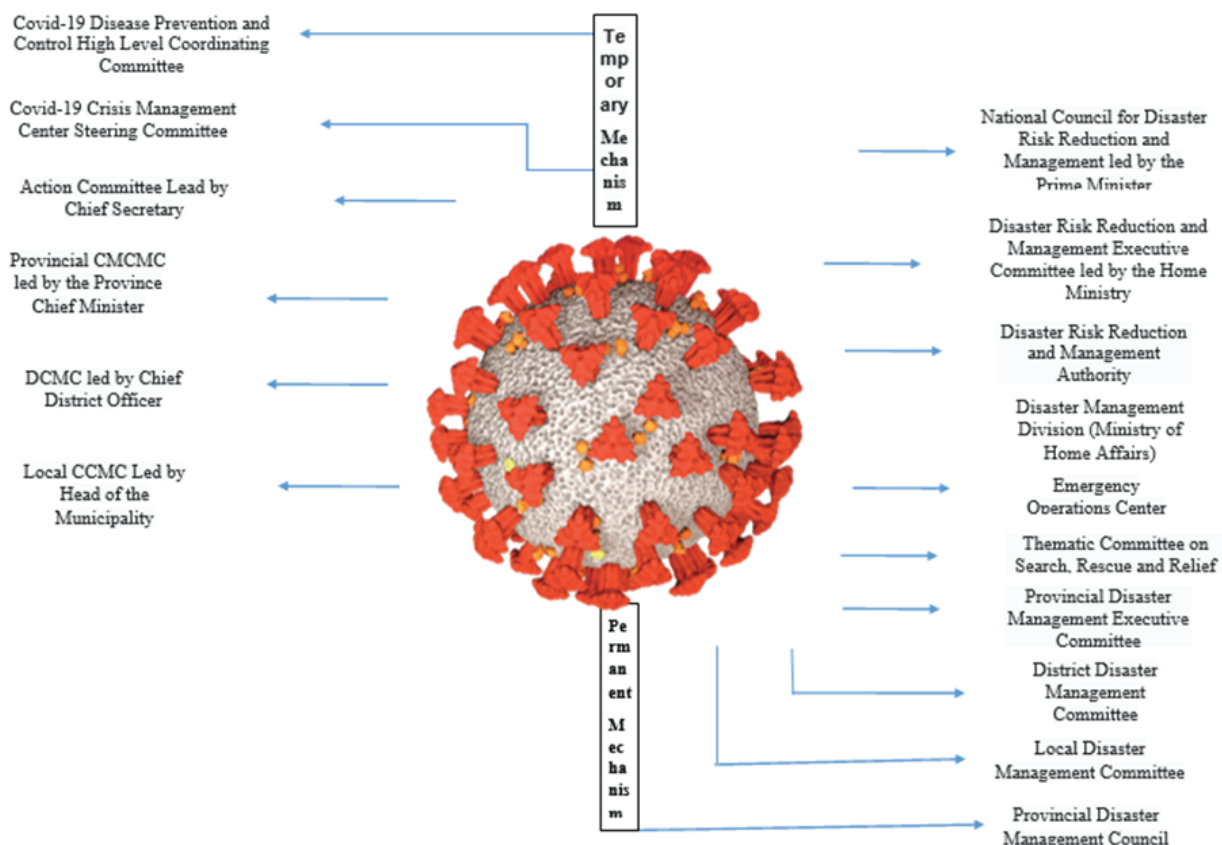
Overall, Nepal has adopted a centralized approach, though it is expected to work together and collaboratively with other tiers of government. Sub-national governments are not provided independent space to carry out prevention and response towards the COVID-19 impact. The sub-national governments are confined to carrying out the routine responsibilities. In contrast, District level CCMCs are set-up at district level, which is led by Chief District Officers, and they are provided greater authority and leadership over the COVID-19 response. Eventually, this limits the roles of provincial and local government in practice.

COVID-response-related ad-hoc mechanisms overshadow the mechanisms set out in the DRRM Act, 2074 such as Disaster Risk Reduction and Management National Council, Executive Committee, Disaster Management Authority, Provincial Disaster Management Committee, District Disaster Management Committee and Local Disaster Management Committees. Since these mechanisms are permanent mechanisms established on the basis of federal legislation, it would have been more effective and in line with federal spirit and norms envisioned by the Constitution of Nepal to enforce this mechanism. However, in practice, these mechanisms are not mobilized and activated to respond to COVID-19. In spite of that, the federal government has established parallel ad-hoc new mechanisms which had initially created confusion about the role of regular mechanisms that were created by the DRRM Act. It has also created misunderstanding between Deputy Prime-Minister and the Minister of Home Affairs at political level, which has also impacted the effectiveness of government intervention towards COVID-19 response negatively. Establishing ad-hoc mechanisms reinforce the centralized mindset of the decision-makers, which eventually reflects the mistrust of federal government towards the newly established sub national governments.³ Moreover, this struggle and conflict is “reflected in the state response to COVID-19, disguised under the claims of incapacity of sub-national governments. Sub-national governments are not yet fully clear about their roles and responsibilities which are overlapping and confusing and mechanism to facilitate inter-governmental relations are not yet fully developed. As a result, Nepal has faced a range of practical challenges in effectively responding to COVID-19”.⁴

The details of such structure are given in the figure below:

³ (Karki , 2020) https://law.unimelb.edu.au/_data/assets/pdf_file/0009/3475818/MF20-Web3-Nepal-Karki-FINAL.pdf

⁴ Ibid.

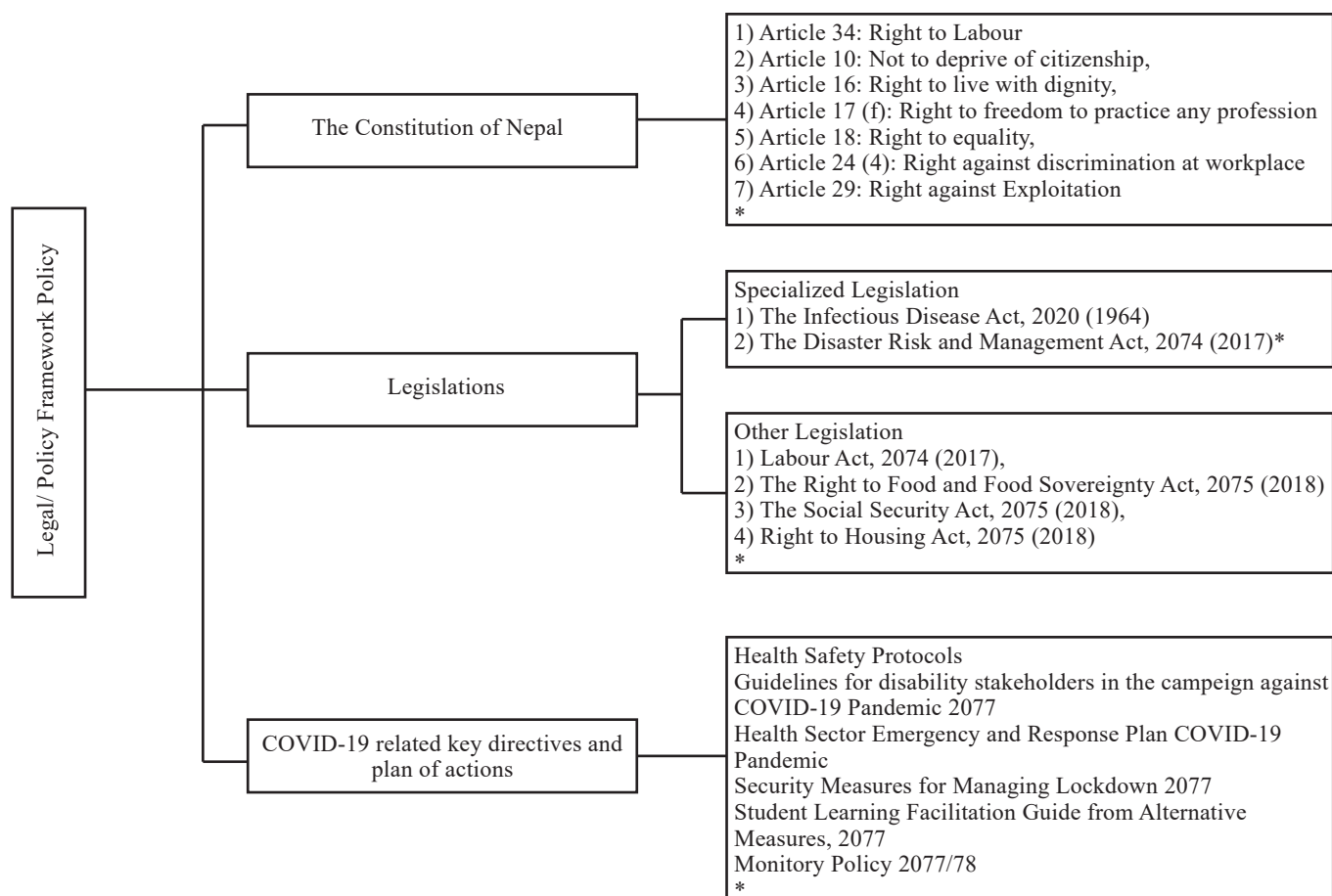


Apart from these mechanisms, the government has taken several other initiatives and adopted other mechanisms such as COVID-19 fund at the federal, provincial, and local level, to systematize relief distribution. The majority of the contributors of these funds are government agencies, insurance companies, banks and other private companies.

Government of Nepal from overall human right perspective that includes but is not limited to gender and social inclusion, intersectionality, principle of substantive equality, non-discrimination and positive discrimination/affirmative action.

SECTION 3: POLICY REVIEW RELATING TO COVID-19

Nepal has adopted various specialized legislation to address the disaster risk reduction management, infectious diseases along with legislations in order to implement the fundamental rights of citizens. In addition, after the onset of COVID-19, different line ministries of federal government have issued several directives, guidelines, policies and plan of action to prevent and respond to the impact of the Coronavirus (COVID-19). The section is focused to analyzing those policy mechanisms introduced by the



(* The provided are only the key legislation and guidelines)

3.1 CONSTITUTIONAL MEASURES

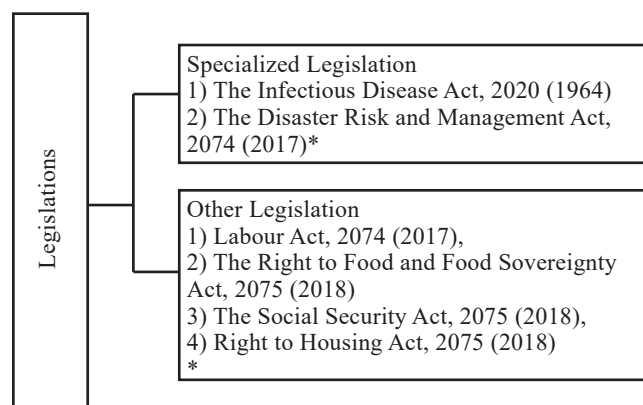
The 2015 Constitution does not specifically mention management of pandemic in relation to the distribution of power amongst the three levels of government. However, communicable disease control falls under the federal jurisdiction and an pandemic is one of the grounds for the president to declare the state of emergency throughout the country or any part of it. A provincial government also can request the federal government to declare a state of emergency. Nonetheless, there has been no such experience with this happening so far. While disaster management is part of exclusive competency of local government, the concurrent list of powers for all three levels of government also includes disaster related matters (The detail analysis has already provided in section 2.1 above))

In addition, 2015, Constitution of Nepal guarantees various fundamental rights including the right to equality, right to live with dignity and freedom. It is the duty of the State to ensures the enjoyment of the fundamental rights by everyone in its jurisdiction. The Constitution is the foundational legal document from which all other laws emanate. various rights guaranteed protection for the poor and vulnerable during the time of the COVID-19 crisis as well including: Article 10: Not to be deprived of citizenship, Article 16: Right to live with dignity, Article 18: Right to equality, Article 33: Right to employment, Article 34: Right to labour, Article 38: Rights of women, Article 39: Rights of child, and Article 43: Right to social security.

During the lockdown, the following fundamental rights were especially relevant for the protection of vulnerable communities: Article 35: Right relating to health, Article 36: Right relating to food, Article 37: Right to housing, and Article 42: Right to social justice, Article 21: Right of victim. Additionally, the Directive Principles and State Policies also provide certain provisions under Article 51 (i) that provide policy guidance: to rescue, provide relief and rehabilitate in order to mitigate risks from natural disasters (Policies relating to labour and employment and Article (51) (j): Policies relating to social justice and inclusion, and Article 51 (g) (9)).

3.2 LEGISLATIVE MEASURES

The Government of Nepal enacted various legislations that are pertinent for prevention and responding to the COVID-19 pandemic. These legislations can be divided into two categories. Firstly, specialized legislations that directly link to address infectious diseases and disaster risk reduction such as The Infectious Disease Act, 2020 (1964) and The Disaster Risk and Management Act, 2074 (2017). Secondly, other legislations that are very important to give direction to all levels of government to protect the fundamental socio-economic rights of citizen and affected population i.e. Labour Act, 2074 (2017); Right to Food and Food Sovereignty Act, 2075 (2018); Social Security Act, 2075 (2018); Right to Housing Act, 2075 (2018). Along with these, there are other specialized legislations that address gender-based violence among other issues, which are vital to address increasing trends of gender-based violence during COVID-19 impacted lockdown and post lockdown.



* The provided are only the key legislation.

3.2.1 SPECIALIZED LEGISLATION FOCUSING ON DISASTER AND INFECTIOUS DISEASES

A. The Infectious Disease Act, 2020 (1964)

The Infectious Disease Act, 2020 (1964), was enacted to root out or prevent any infectious disease from spreading to ensure that such disease does not reach its peak. As per the Act, the Government of Nepal has the power to take necessary action to root out the cause or prevent the disease from spreading and can issue necessary orders including controlling transportation and movement by any means, with applicability to the general public or group of persons. The Government of Nepal can designate any official and confer the necessary powers to them to carry out the prevention and control of the infectious disease. The CDO has the power to try and settle cases in relation to offences committed under the Act.

The penal provisions under the Act:

- Those who violate this Act or breach any order issued under this Act, shall be liable to imprisonment for a term not exceeding one month or a fine not exceeding NPR 100 or both.
- A person who obstructs a person authorized under this Act in the performance of his or her duties shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding NPR 600 or both.

The nearly 7 decades old Act has no capacity to address the impact of global pandemic like COVID-19. Particularly the following shortcomings of the Act are noticeable:

- The Act does not provide for the institutional mechanism responsible to address pandemic,
- There is no definition section to define the specific terms such as “infectious disease”,
- There is no provision at all about epidemic, pandemic.
- There are no provisions regarding prevention, response and rehabilitation and post pandemic and pandemic responses
- There are no provisions regarding mobilization of security forces for prevention, response and rehabilitation ,
- The Act has not authorized the executive to issue rules, directive and standards except the order stated above,
- There is no provision to establish funds and emergency purchases of goods that are required to respond to such pandemics and pandemics,
- There is no provision related to access to justice during the

pandemic,

- There are no provision to ensure affirmative rights for person with disabilities, minorities, disadvantages women, children, Dalits and excluded social groups and gender minorities.

Overall, the Act is insufficient to address the high magnitude of multidimensional impact of COVID-19 and any other pandemic in Nepal. The Supreme Court in *Roshani Paudel v. Government of Nepal* has also felt such a lack of sufficient law.

Overall, the Act is insufficient to address the high magnitude of multidimensional impact of COVID-19 and any other pandemic in Nepal. Such a lack of sufficient law has also been felt by the Supreme Court in *Roshani Paudel v. Government of Nepal*.

B. The Disaster Risk and Management Act, 2074 (2017)

The Disaster Risk and Management Act, 2074 (2017), has defined the “disaster” to include pandemic as well, but this Act is designed to address both man-made and natural disasters in general. The Act was enacted after the 2012 earthquake in the country, hence, heavily influenced by impact of earthquake while drafting. The Act has a provision to issue the state of emergency and issues necessary orders. There is a provision for emergency purchases of goods that are required to respond to such pandemic and pandemics as well.

Under Section 8 (m) of the Act, the executive committee for disaster management is mandated to bring about special plans and programs for women, children and marginalized communities who are at the risk of disaster. Section 8 (v) further mandates the executive committee to re-establish economical activities, create employment opportunities and income generation activities for livelihood in disaster affected areas. The roles of the authority established for disaster management under the Ministry of Home Affairs is prescribed under Section 11. They are: Section 11 (l): To temporarily rehabilitate people in disaster affected areas, Section 11 (q): To provide relief packages, Section 11 (w): To provide psychological counselling to victims. Section 21 (d) also mandates security agencies and other agencies to facilitate distribution of relief packages.

The Government of Nepal has established the institutional mechanism to address the disaster risk and management. Nonetheless, the Government of Nepal has not mobilized these mechanisms. Instead, the government has formed new mechanisms for prevention and responding to the COVID-19 impact. (The detail of such mechanism is provided in section 2.2 above)

C. Labour Act, 2074 (2017),

Section 80 of the Labour Act puts the onus on the employer to take appropriate measures to prevent and respond to infectious diseases in workplace. If any worker is so affected, the employer can stop the worker from coming to the work and ensure sick leave during the period of treatment. If annual sick leave is not enough, in such case employer can ensure additional leave without pay. In such situation, employee is responsible to respect the decision of employer.

3.2.2 OTHER LEGISLATIONS

There are a number of legislations that directly and indirectly contribute in prevention and response to the impact of COVID-19 with implications for common citizens, groups of vulnerable populations i.e. women (women daily wages worker, entertainment sectors workers, domestic workers, girl child, adolescent girls, women with disability, person with diverse gender identity), minorities and disadvantages groups. Some of the key legislations are listed below:

- Public Health Act, 2074
- Right to Safe motherhood and Reproductive Health Act 2075
- The Right to Housing Act, 2018
- The Right to Food and Food Sovereignty Act, 2075 (2018),
- The Social Security Act, 2075 (2018),
- Right to Employment Act, 2075 (2018)
- Crime Victim Protection Act, 2075 (2018)
- Domestic Violence (Offense and Punishment Act, 2066 (2009)
- Human Trafficking and Transportation Control Act, 2064 (2007)
- Local Governance Operation Act, 2074

The proactive enforcement of the legal provisions are vital to carry out effective prevention and response program and plan of action to address the COVID-19 impact. However, the majority of the above stated legislations are not executed yet as there are no regulations for these Acts, i.e., The Right to Housing Act, The Right to Food and Food Sovereignty Act, 2075 (2018), The Social Security Act, 2075 (2018), Right to Employment Act, 2075 (2018), Crime Victim Protection Act 2075 (2018). There are many other challenges to enforce such laws in effective manner. Mainly, as per laws, there are no institutional mechanism and services in place. Even the institutional mechanisms that are provisioned by legislations are not established and made functional. Hence, the governments of all levels have in many ways failed to provide the services to citizens.

Another important issue is that all stated legislations are designed to be enforced in normal situations, and there is no any dedicated or specialized provisions which can be revoked during crisis like natural disasters, calamities, pandemics, pandemics and other emergency conditions. None of these legislations have mainstreamed the disaster responsive mechanisms and substantive rights during such natural calamities, or pandemics. These legislations are endorsed by federal parliament with very centralized approach; therefore, the legislations have not defined role of State government and local level for enforcement of respective Acts. Overall, these legislations are “gender neutral”. These legislations have not been able to give effect to the specific rights of women, and Dalits in relation to employment, social security, education and health that are protected under the Constitution of Nepal as part of fundamental rights.

Likewise, there is a serious implementation gaps of Domestic Violence (Offense and Punishment Act, 2066 (2009) and Human Trafficking and Transportation Control Act, 2064 (2007) and so forth during the pandemic of COVID-19 as there has been no adequate response to the increased cases of domestic violence and the available support systems for victims of domestic violence have mostly been non-operational⁵. Furthermore, cases of human trafficking have also been reported during lockdown⁶.

3.3 COVID-19 PREVENTION AND RESPONSE DIRECTIVES, GUIDELINES AND PLAN OF ACTION

There is no comprehensive legislation to prevent and address the massive consequences of COVID-19 in the country as analyzed above. However, the Government of Nepal has issued various sectorial directives, guidelines and plan of action to address impacts in terms of health and socio-economic life and so forth. The section is focused on the analysis of those relevant measures.

3.3.1 HEALTH RELATED DIRECTIVES /GUIDELINE/ACTION PLAN

Following the pandemic, Ministry of Health and Population has issued a total of four guidelines, directives, policies instrumental to curb the impacts of COVID-19 crisis. Enlisted below are the reviewed documents including the Ministry of Health and Population’s administrative decision that respond to the health issues linked to COVID-19.

Health Sectors Related Directive/Guidelines/plan of action

1. Health Sector Emergency and Response Plan COVID-19 Pandemic
2. Quarantine Operations and Management Standard for COVID-19
3. Coronavirus Disease (COVID-19) Interim Guidelines for Reproductive, Maternal, Newborn and Child Health Care in the Time of the World Pandemic, 2077
4. Health Care arrangements for person staying in quarantine

3.3.1.1 HEALTH SECTOR EMERGENCY AND RESPONSE PLAN COVID-19 PANDEMIC

Key plan and strategies

1. Public Health and Social Measures

- i. Quarantine Management
- ii. Community Engagement and Risk Communication
- iii. Case investigation and Contact tracing
- iv. Surveillance
- v. Screening at point of entries
- vi. Community level screening and testing
- vii. Emergency response teams
- viii. Other socio-administrative measures

2. Hospital Based interventions

- i. Hospital care and referral
- ii. Laboratory services and other areas of hospital interventions

⁵Dahal, M., Khanal, P., Maharjan, S. et al. Mitigating violence against women and young girls during COVID-19 induced lockdown in Nepal: a wake-up call.

Global Health 16, 84 (2020). <https://doi.org/10.1186/s12992-020-00616-w>

⁶<https://study.soas.ac.uk/indo-nepal-border-human-trafficking-persists-amid-pandemic/>

In response to the current pandemic, the Ministry of Health and Population has endorsed a response plan, "Health Sector Emergency and Response Plan COVID -19 Pandemic", which comprises of various emergency measures necessary to contain the virus. The emergency response plan has provisioned for maintaining current health system capacity and key consideration for proper management and delivery of the health care facilities. The response plan includes strategic approaches and key interventions in a wide range of areas including public health, social protection, quarantine management, community engagement, case investigation and surveillance. The response plan also includes the management and oversight of frontline staff, resource management and capacity building along with monitoring evaluation and its reporting.

The Health Sector Emergency & Response Plan related to COVID-19 Pandemic has provisioned for a clear policy guidance for timely health system preparedness and readiness to respond to the pandemic. The ministry emphasizes in providing timely, efficient and effective response to the pandemic and provides official guidance to prepare and implement specific interventions applicable at all spheres of governments and level of health care delivery. It also accentuates the support to policy makers and managers in exploring the options and making the decisions for resource allocation and management. The plan highlights the health sector response to control the virus and effective measures that are to be taken in light of the pandemic such as management of quarantine facilities, maintaining health and safety protocols, provision of isolation wards and food supplies for people who are staying in isolation.

To ensure efficient and effective service to affected populations, the ministry ensured the Monitoring of the people infected with COVID-19 along with interventions and control practice for prevention and controlling the spread of infection. Simultaneously, the action plan also prioritized to keep record of data related to the epidemiology and rapid testing for assessing the Public Health Impact, which would eventually support information and knowledge management.

With response to the relief program, the Ministry of Health and Population (MoHP) directed all the hospitals in the Kathmandu Valley to postpone all non-emergency surgeries for the time being; and instructed to perform regular surgeries only after the COVID-19 infection is under control. The Ministry has also stated that all government hospitals in the valley will be made COVID hospitals. This policy adversely impacted emergency health services and regular health services of the people, particularly, those who are suffering from chronic diseases.

3.3.1.2 QUARANTINE OPERATIONS AND MANAGEMENT STANDARDS FOR COVID-19

The WHO (2020) recommends that the authorities should ensure the following if the decision to implement quarantine is taken:

- The quarantine setting is appropriate, and that adequate food, water, and hygiene provisions can be made for the quarantine period;
- Minimum Infection Prevention and Control measures can be implemented; and
- Minimum requirements for monitoring the health of quarantined persons can be met during the quarantine period.

For the better management of quarantine centers, Government of Nepal issued "Quarantine Operations and Management Standard for COVID-19". The existing three tiers of the government have shared their responsibility for managing necessary infrastructure at quarantine and isolation centers along with provision of food and other services to those staying in those centers. Most of the schools and other public places have been used for quarantine and isolation centers in order to control the transmission of the virus. The security personnel were deployed to maintain the security. These standards also required facilities for the people staying in the quarantines and isolations. Though the police personnel were deployed to maintain security at quarantine centers, people were still found to breach the social distancing and quarantine rules. On July 30, the government issued directives to concerned authorities stating that schools should not be used as quarantine centers and ordered to sanitize the schools that had been used as quarantines facilities. However, most of the state authorities which maintained quarantine centers, failed to do so and were miserably managing the centers without even providing timely and hygienic food to those living there.

(<https://kathmandupost.com/province-no-5/2020/05/19/quarantine-facilities-in-province-5-crowded-and-mismanaged>) The foods provided were unhygienic and violated the standards set by the federal government and orders passed by the Supreme Court.

The Government of Nepal, Office of the Prime Minister and the Office of the Council of Ministers has prepared and implemented the criteria for conducting and managing quarantine related to Coronavirus, 2076. This standard entrusts all three security agencies, including the Nepal Army, Nepal Police and the Armed Police Force with responsibility for the management of the quarantine. Under this, Nepal Police has been given the following role:

- To prepare separate security personnel as per the need of the special place for 24-hour security of the quarantine site and to deploy them with necessary training and health equipment.
- All police offices will have to prepare an objective security plan in coordination with their respective offices for the immediate mobilization and management of police personnel in a systematic manner in case of any unusual situation that may arise due to relaxation of the lockdown.

Though Nepal government has introduced various policy directives, numerous challenges were observed in terms of the implementation during the lockdown and post lockdown. In this context, the Women Empowerment Division of the Ministry of Women, Children and Senior Citizens had written a letter to the Ministry of Home Affairs on July 20, 2020 to ensure effective services. The letter was illustrative of ineffective services. The letter stated that during the detention caused by the Corona pandemic, women in the quarantine facilities were deprived of safe accommodation, were kept in the same quarantine room as men, and there were cases of rape in quarantine centers along with numerous other human rights violations.

In this regard, the Ministry of Women, Children and Senior Citizen has requested the Ministry of Home Affairs to mitigate the following challenges for the protection of women's lives and conduct PCR testing rapidly across the nation:

- To make necessary arrangements for the provision of women volunteers and women police in the quarantine of women,

- Mandatory separate quarantine for men and women,
- Monitoring the provision of specialized services to pregnant and lactating women in quarantine and isolation,
- To bring the women victims of the incident that took place in the quarantine area of Kailali under the purview of law by making arrangements for legal treatment and taking action against the perpetrators.

It shows that the guidelines are not implemented in inclusive manner to address the need of children, person with disability, women and diverse gender identity.

3.3.1.3 CORONAVIRUS DISEASE (COVID-19) INTERIM GUIDELINES FOR REPRODUCTIVE, MATERNAL, NEWBORN AND CHILD HEALTH ARE IN THE TIME OF THE WORLD PANDEMIC, 2077

The Ministry of Health and Population issued the interim guidelines to address the impact of COVID-19 on reproductive health, maternal, newborn and child health care in during the pandemic called the “Coronavirus Disease (COVID-19) Interim Guidelines for Reproductive, Maternal, Newborn and Child Health Care in the Time of the World Pandemic, 2077”. The ministry prioritizes the registration of the maternal and newborn health services in the last few months along with the collection of telephone numbers of pregnant women who have come for pregnancy test. Similarly, the guideline draws specific attention towards the health and safety of pregnant women and specifies that the women health volunteers should get information about the pregnant women families and pregnant women with symptoms of Covid-19 such as fever, cough, and difficulty in breathing and are advised to follow the suggested precautions and perform necessary tests. As specified, the pregnant women with covid-19 symptoms are sent to Covid-19 clinic for isolation as per schedule. The pregnancy check-up services are directed to be carried out in the isolation ward only.

3.3.1.4 HEALTH CARE ARRANGEMENTS FOR PERSON STAYING IN QUARANTINE

The document briefly accentuates about the rules and regulations to be followed by the people staying in quarantine and the minimum criteria of health care service to be provided by the quarantine centers. This guideline is applied for all strata

of the society. As specified by the rules and regulations, people must follow the code of conduct and at least maintain a gap of 2 meters during their stay at quarantine. With regards to the health care facilities to be availed in the quarantine, there must be an availability of a nurse and a general physician with required health care equipment. The ministry shall ensure that there is a provision of health care in the health institution and quarantine centers for people who have been infected or suspected to be infected with Covid-19. They should also be provided with an isolation room if required. The provisions include daily check-up of the people staying there, a stand-by ambulance, daily disinfection and cleaning of the center; along with all kinds of the health safety and security measures to be applied.

Despite the fact, the government has introduced the guideline regarding the person staying in quarantine; however it has been difficult for people to make them understand regarding the safety and precautionary measures that should be applied during their stay in quarantine centers. Nevertheless, the implementation of such documents issued by government regarding the infection prevention control mechanisms are not strictly followed by the people staying in quarantine. As a consequence, healthcare personnel's are not being able to aware people about the pandemic's impact deeply. (<https://nagariknews.nagariknetwork.com/editorial/386711-1606011062.htm>)l

3.3.1.5 SAFETY STANDARD DURING THE LOCKDOWN, 2077

The Council of Ministers also took a decision and specified the Safety Standards to be applicable during the lockdown, 2077, it is a general standard that applicable for all individuals in the country. In order to ease the daily lives during the pandemic and also an effort to contain the virus; managing the day to day services, industries, banks and financial institutions, construction works, proper management of import and export taking these all into consideration and stop the spread of virus Government of Nepal came up with the decision to impose lockdown. The guideline highlights the safety and security protocol to be maintained in order to properly manage during the lockdown period. Paying attention to personal and public health, the guideline permits to leave the home only for the urgent works.

In case of going out of the home for work, it requires for following the health and safety protocol such as using mask or face shield, maintaining social distance, sanitizing or washing hands frequently as much as ppossible. People who are permitted to cross international border are required to maintain social distancing along with the rule to stay at quarantine. The guidelines provides that every person must abide by the health and safety protocols and carry out regular operations only. The guideline mentions about maintaining social distancing and following the rules of the quarantine upon the return from abroad. The guideline emphasizes the compliance with precautionary measures during the mandatory social and cultural rituals such as marriage, festivals, death ceremony not exceeding the involvement of more than 15 peoples i. The guidelines also provides for limitations upon the operation of the industries and factories including physical and developmental works where not more than 10 people are allowed to gather in one place. The guideline has also prioritized mobilizing the national security personnel in order to implement the health and safety protocols.

Nonetheless, despite having all these directive and guidelines as part of the COVID-19 response, quarantine centers have been established in the three tiers of government to contain the people coming from abroad. In some of the quarantine centers, it was reported that even basic standards—in accordance with the International Health Regulations (2005)—were not maintained. Although substantial provisions are made as a response from the Health Ministry, there are pressing challenges including in relation to impediments in service delivery to the needy during the time of pandemic. Hospitals that are responsible for treatment of Covid-19 patients lacked adequate personal protective equipment which was deliberately putting health workers at high risk of exposure. In response to the pandemic, the government has designated 97 hospitals as Covid-19 treatment facilities and allocated 1,624 isolation beds. (<https://kathmandupost.com/health/2020/10/07/we-may-not-have-enough-health-workers-to-attend-to-patients>)

According to the Ministry of Health and Population,, out of the NPR 6.8 billion that was allocated for emergency COVID-19 response, 34% was allocated for quarantine management.

Despite the government directives to ensure proper quarantining measures, meager efforts have been implemented so far in the makeshift centres. For example, the guidelines stipulates that every 100 people in quarantine must have at least one doctor, one nurse and one paramedic. But, this provision was not implemented appropriately.

Thus, it is important to appoint more health workers and security officials from comparatively less affected areas and deploy them in the highly impacted areas until they are needed elsewhere. Test kits and the ventilators should be provided based on the need basis along with providing necessary equipment, including PPE, surgical masks, gloves, goggles, face shields, spray machines, and infrared thermometers to the hospitals. Private hospitals should be mobilized to serve patients with flu and other diseases, also strong mandates should be implemented on the availability of the hospital beds for people infected with Covid-19 for their treatment and expanding the ICU bed capacity, which remains as the foremost priority of the government. (Source:<https://www.nepalitimes.com/latest/quarantine-guidelines-impossible-to-meet-local-governments/>)

3.3.2 COVID-19 AND MINORITY AND DISADVANTAGED GROUP RIGHTS

With the surge of corona cases daily, the Ministry of Women, Children and Senior Citizens along with the Office of the Prime Minister and the Council of Ministers have issued several guidelines, action plan, and quarantine operation standards targeting women, persons with disabilities, senior citizens and other disadvantaged groups. Above all the guidelines and policies stated are also equally applicable to minority and disadvantaged groups. Enlisted below are the guidelines, action plan and quarantine operation standards issued by ministries;

Targeted COVID-19 Response guidelines and action plan to Minority and Disadvantaged Groups

- Guidelines for Stakeholders to Provide Support and Assistance to Senior Citizens in Crisis Due to Coronavirus Infection, 2077
- Improve and address the effects of Coronavirus infection on women, children, and senior citizens with disabilities and to mobilize social organizations; Action Plan, 2077
- Health Safety Protocol
- Guidelines for Disability Stakeholders in the Campaign Against COVID-19 Pandemic 2077
- Criteria for Operating and Managing Coronavirus Quarantine Centers, 2076

3.3.2.1 GUIDELINES FOR STAKEHOLDERS TO PROVIDE SUPPORT AND ASSISTANCE TO SENIOR CITIZENS IN CRISIS DUE TO CORONAVIRUS INFECTION, 2077

The Ministry of Women and Senior Citizens enacted the *Guidelines for Stakeholders to Provide Support and Assistance to Senior Citizens in Crisis Due to Coronavirus Infection, 2077*". In light of the pandemic, the Ministry of Women, Children and Social Welfare had released several documents as measures to prevent the spread of the virus. The directive emphasizes the stakeholders' need based relief packages that were introduced for the senior citizens. This highlights the measures introduced by the guidelines in disseminating information about how the senior citizens are affected due to COVID-19 and precautionary measures to be adopted by senior citizens. The guidelines also elucidates the testing services available and the importance of informed citizens and role of community based organizations with respect to the pandemic, roles and responsibilities of the house and family in the time of pandemic. The guideline comprises of the importance of the operation and precautionary measures to be inherited for maintaining safety and security in the old age homes and stresses on the responsibilities carried out by the local level in times of pandemic. The Ministry precisely focused on developing an action plan and implementing and evaluating the actions completed based on the given action plan. The ministry also stress to keepa close co-ordination with the social welfare council, national and international institutions to mobilize human resources effectively in responding to the current situation along with the provision of tools, programs, budget and power.

3.3.2.2 HEALTH SAFETY PROTOCOL

Respectively, the Ministry of Women, Children and Social Welfare had published a “**Health safety protocol**” to contain the severity of the pandemic. The health protocol emphasizes the control of the virus through social distancing, wearing mask and sanitizing or frequent hand washing considering the increasing cases of COVID-19. The protocol reflects on the possible impacts of the pandemic on the basic lives of the people and at working place. This protocol has strictly forbidden to spit in the public places; avoiding unnecessary touching at eyes, nose and mouth. The protocol stresses on ensuring the applicability of the electronic financial transactions; making sure of wearing mask when coming in close contact with the people suffering from the fever, common cold and maintain the gap.

The protocol set for the institutional domain includes compulsory checking of the temperature of the employees and clients and similarly ensuring that all the required information are updated in a daily basis at their websites or any other e-sites. The health safety protocol emphasizes on setting up such services where the service seekers can express their queries via sms, email or any other electronic means and responding through the same means. It accordingly prioritizes the disinfection of the door handles, tables, chairs and any other equipment’s that are frequently used by the employees.

The policy encourages local government to establish electronic system to express service seekers queries regarding health related issues, which is a positive step. However, the policy seems incompetent to address the issues of common citizens particularly disadvantaged and marginalized communities who have no technical knowledge and skill to use such electronic systems. Additionally, larger population of marginalized and disadvantaged communities still do not have access to such equipment and devices. In such context, the policy has not offered alternative effective ways to receive information about health safety related information.

3.3.2.3 GUIDELINES FOR DISABILITY STAKEHOLDERS IN THE CAMPAIGN AGAINST COVID-19 PANDEMIC 2077

The Ministry of Women, Children and Social Welfare had released “*Guidelines for Disability Stakeholders in the Campaign Against COVID-19 Pandemic 2077*” for the stakeholders in relation to the containing the spread of the virus and its impacts within differently abled people. The guideline broadly provides for prioritizing the differently abled people for proper provisions and services during the time of pandemic. The guideline emphasizes the need for confidentiality, non-discriminatory treatment, coordination and collaborative approach and services for ensuring security and safeguarding the rights of women, children, PWD and senior citizens.

This policy also encourages people with disability and individuals who take care of them to order online and delivery for their basic daily needs to avoid health risks due to COVID-19. The government initiation for developing such targeted guidelines is very praiseworthy, however, while developing such policy, the government also needs to consider the reality of the society and its capacity.

In the context of Nepal, only very few urban cities have availability of online shopping services. Moreover, buying goods from online is comparatively expensive than regular market price. Hence, such policy may be supportive to urban rich populations. In this situation, those person with disabilities who live in rural municipalities and remote areas may not be benefited from such policy. To ensure the accessibility of daily consumable goods to person with disability living in remote areas and from marginalized communities, policy should provision to make local governments accountable to ensure accessibility to such service mechanism.

3.3.2.4 IMPROVE AND ADDRESS THE EFFECTS OF CORONAVIRUS INFECTION ON WOMEN, CHILDREN, AND SENIOR CITIZENS WITH DISABILITIES AND TO MOBILIZE SOCIAL ORGANIZATIONS, ACTION PLAN 2077

The Ministry also published “*Improve and address the effects of Coronavirus infection on women, children, and senior citizens with disabilities and to mobilize social organizations, Action*

Plan 2077”, which concretely provides for the effective ways to contain the impacts of Covid-19 in women, children and senior citizens with disability, and also comprises of ways to address the challenges and operate the social institutions. The Action Plan 2077 can be taken as an important action plan to improve and address the effects of Coronavirus infection on women, children, persons with disabilities and senior citizens and to mobilize social organizations. One of the main objectives of this action plan is to address the impacts on women, children, persons with disabilities and senior citizens, and to mobilize national and international social organizations to address violence, abuse, and exploitation of individuals and groups at risk in the context of the current global pandemic. By arranging necessary response to prevent discrimination and to provide emergency services and mobilizing the resources of national and international non-governmental organizations it helps in protecting and managing the people, classes and communities affected by the COVID-19 infection through an integrated system. It also provides for making necessary arrangements for the provision of women volunteers and women police in the quarantine of women, mandatory separate quarantine for men and women and monitoring the provision of specialized services to pregnant and lactating women in quarantine and isolation.

3.3.2.5 MIGRANT WORKERS

According to Nepal Labour Force Survey (NLFS) 2017/18, there are approximately 3.2 million migrants abroad, including those who migrated for work, education, or other reasons. The same study estimates that over 37 % of the total Nepali migrants were in India (CBS & ILO 2019). Because of the COVID-19 pandemic, millions of Nepali migrant workers in destination countries had confronted multiple forms of risks and challenges.(Nepal et al. 2020).

Owing to the pandemic on March 2, 2020; Supreme Court of Nepal directed the government to halt flights from and to the countries that pose high risk of COVID-19 infection. The Supreme Court, in a writ petition had asked the government to prioritize the health needs of Nepali migrant workers living abroad and to repatriate vulnerable citizens Nepal. The Supreme Court of Nepal has succeeded to direct the Government to fulfill

its duties and obligations expressed under various statutes.

Responding to a writ petition, the Supreme Court of Nepal directed the government to ensure free transportation facility to the stranded migrant workers to enable them to reach their homes. The court asked the government to conduct rapid diagnostic test for Coronavirus on all those stranded persons. In doing so, the court directed the Government to stand by for the cause of society.

- There are recognized and shared norms and legal instruments such as the Foreign Employment Act 2007 which makes the state responsible to rescue and repatriate its citizens in times of crisis and pandemic like COVID-19 (Foreign Employment Act 2007), which should be the key priority for the government in rescuing the migrant workers.
- The Government of Nepal enforced various measures to mitigate the challenges of pandemic, including the closure of international flights since 20 March 2020, which included that all kinds of on-arrival visas were suspended and new labour permits were not issued. The travel restrictions led to situations, where millions of migrants and mostly migrant workers got stranded in various destination countries.
- In case of the migrant workers, around 1,500 labour permits of Nepali expire every day (Baniya et. al. 2020) which implies huge challenges on the part of the government in terms of repatriation, testing, and quarantines as well as rehabilitation and (economic, social, and psychosocial) integration. According to the Nepal government's speculation, there were total 407,000 migrants expected to return; this included at least 127,000 workers in need of immediate repatriation and about 280,000 Nepali who lost their jobs in GCC and Malaysia alone (Mandal 2020b).
- Many Nepali migrants have lost their jobs overseas and are now stranded and unable to return and pay the loan, their house rent (Nepal et al. 2020).

In this context, in rescuing the stranded migrant workers, the government and its agencies have carried out several efforts. For example, Nepal's High-Level Coordination Committee for Prevention and Control of Covid-19, on March 24, 2020, informed the Nepali migrant workers to remain safely where they were, and appealed to the destination countries for their safety.

Nepal's diplomatic missions were directed to be in constant touch with the migrant workers for providing and gathering crucial information and extending necessary support (Khadka 2020, Nepal et al. 2020) and they were also engaged with countries of destinations for ensuring basic services and protection for stranded migrants (Kamat 2020).

The government also carried out efforts in repatriating its citizens, for which the groundwork was laid out in coordination with relevant ministries as well as diplomatic missions including the necessary budget for new fiscal year 2020/21 (GoN 2020). The Government of Nepal also communicated with their counterparts in the destination countries (Ministry of Foreign Affairs 2020) requesting for the social protection and medical care of the Nepali migrant workers, and asking for the cooperation in matters of employment and job security of Nepali workers.

The Ministry of Labour, Employment and Social Security (MOLESS) and diplomatic missions in various destination countries had been collecting data about problems faced by Nepalese migrant workers and need for immediate repatriation (Embassy of Nepal in Malaysia 2020; Nepal et al. 2020). The GoN has been consulting with the governments in destination countries over the issue of treatment, visa and work permits, and repatriation (Baniya et al. 2020).

The Supreme Court ordered the government to pay for tickets by using the foreign employment welfare fund to repatriate Nepali workers living in highly vulnerable conditions (Prasain & Mandal 2020a). Responding to the huge demand, the government subsequently decided to bear the cost of bringing home all the stranded Nepali workers who had gone for foreign employment and rendered jobless within a year due to the pandemic (Mandal 2020g).

However, there are pertinent loopholes which require an urgent action in responding to the challenges in situation where numerous Nepali migrant workers are infected with the coronavirus in the destination countries, Nepal's labour migration should have concentrated on applying safety issues for ensuring

their safe accommodation, which is usually squalid and mostly crowded.

As Nepali missions abroad have to conduct the risk assessment before resuming the foreign employment, the experiences of Nepali migrant workers during the pandemic indicates that mere provision and existence of national and international instruments and frameworks aimed at ensuring the protection of labour and human rights of migrant workers is useless, unless it is strictly enforced and implemented by the state parties.

Most important of all, the fact that the evidence has reinforced the government's existing policy of ending 'forced migration for employment' must be implemented. Hence, public policy responses from the governments of Nepal should be such that it provides opportunities for youths at home and mitigate erratic migration abroad.

3.3.3 ACCESS TO JUSTICE AND GENDER IN THE CONTEXT OF COVID-19 LOCKDOWN AND POST LOCKDOWN

Even under normal circumstances, access to justice has been a challenge for the people of least developed nations and specifically women and minorities are the worst affected. Access to justice has become a major challenge for victims of gender-based violence and marginalized and disadvantage groups as legal remedies are difficult and out of reach. The judiciary has been challenged to deliver safe, effective and speedy justice in line with the concept of ensuring access to justice to general populations and specifically marginalized groups i.e. GBV victims from women with disabilities, persons with diverse gender identity, women working as daily wages that include women workers from entertainment sectors etc. Government of Nepal has not made any specific directives and plan of action to ensure the access to justice during lockdown and post lockdown of Covid-19 context.

In view of the precautionary measures to be taken to avoid the pandemic of Covid-19, a meeting of full bench of the Supreme Court was held on April 22, 2076 to control the congestion inside the court. The Supreme Court had informed the public through a press release that the decision to suspend other services would be

made by arranging for regular hearing of petitions related to the custody of children, habeas corpus, The decision was announced at various times through press releases throughout the lockdown. The decision defines what important and urgent issues are. However, it does not include overall access to justice as essential services. This hinders the overall access to justice of common citizen in the country.

3.3.3.1 POLICY FRAMEWORK TO ADDRESS GENDER-BASED VIOLENCE AND COVID-19 PANDEMIC AND ACCESS TO JUSTICE

Various Ministries of the Government of Nepal and the Nepal Police have issued and implemented various response plans, guidelines, and standards which are directly and indirectly relevant to address GBV and access to justice during the lockdown and post lockdown period listed in Table no. 1. This seems to be more significant in addressing gender-based violence against women and children during lockdown:

Table No. 1 : Action plans, guidelines and criteria issued by the Government of Nepal to address COVID-19

- Health sector response plan related to COVID-19, 2076
- COVID-19 Pandemic Control and Response Plan of Nepal Police, 2076
- Coronavirus disease (COVID-19) Interim guidelines for reproductive, maternal, newborn and child health care during a global pandemic, 2076
- Health related arrangements for the persons in quarantine
- Campaign Against the COVID-19 Pandemic Guidelines for Disability Stakeholders, 2077
- Action Plan for the Improvement and Operation of Social Organizations to Improve and Address the Impact of Coronavirus Infection on Women, Children, Persons with Disabilities and Senior Citizens, 2077
- Guidelines for Disability Stakeholders in the Campaign Against COVID-19 Pandemic, 2077
- Criteria for providing relief to the working class and the helpless working in the unorganized sector, 2076
- Student Learning Facilitation Guide from Alternative System, 2077
- COVID-19 Educational Cluster Contingency Plan, 2020

In addition, the Ministry of Law and Justice along with the Nepal Bar Association (NBA) established mobile legal aid clinics, which provided legal services to the needy and vulnerable. Besides these, the National Human Rights Commission (NHRC) introduced mobile human rights camps to monitor and provide necessary human rights counseling to the poor and vulnerable.

3.3.3.2 ACTION PLAN FOR IMPROVING AND ADDRESSING THE CORONAVIRUS INFECTIONS ON WOMEN, CHILDREN, PERSONS WITH DISABILITIES AND SENIOR CITIZENS, AND ACTIVATING SOCIAL ORGANIZATIONS, 2077

The Ministry of Women, Children and Senior Citizens of federal government has stated that *“Improve and address the effects of Coronavirus infection on women, children, and senior citizens with disabilities and to mobilize social organizations.”* In the action plan, the Ministry has proposed a program in Schedule 1, which includes addressing GBV during the lockdown and post lockdown. The Nepal police was assigned as a supportive and responsible body to implement the following programs:

- To make various hotline services effective for the victims of gender-based violence and to make arrangements for the hotline

operated by the Women's Commission to operate 24 hours a day.

- To provide immediate free treatment and psychosocial counseling services to women and girls affected by gender-based violence and to provide basic health care to the female staff in the care and services of the women sheltered in the rehabilitation centers and also to provide them psychosocial counseling.
- To coordinate with the conservation thematic sector and media to make arrangements for regular communication and dissemination of public awareness information and decisions in different languages for the reduction of various forms of gender-based violence including sexual exploitation and abuse.
- Arrangements will be made to rescue the women victims of gender-based violence and human trafficking and send them to short-term and long-term rehabilitation centers during the lockdown.

3.3.3.3 COVID-19 PANDEMIC CONTROL AND RESPONSE PLAN OF NEPAL POLICE, 2076

Nepal Police has implemented the COVID-19 Pandemic Control and Response Plan, 2076 to deal with COVID-19 pandemic. This action plan highlights the role and priorities of the Nepal

Police in controlling the outbreak of the COVID-19 pandemic, the precautionary measures to be taken by the Nepal Police during the lockdown and the post-lockdown situation. The action plan covers public health, law enforcement, public awareness, ensuring regularization of supply arrangements, providing coordination and security in relief distribution, facilitating safe movement of migrants, ensuring safety and welfare, enforcing traffic restrictions, assisting people in distress and endangered groups. It also provides for rescue, to make arrangements for the operation of essential services, to re-establish industries it covers a wide range of areas, including assistance in operations, police security, and control and prevention of crimes of a changed nature and frequency.

In order to address the impact of the pandemic on a large scale, security and peace arrangements will be made for hospitals and health workers in the areas of public health and public awareness. In this regard, the local level and private sector's additional roles are: to assist in the establishment and management of quarantine sites, to protect and coordinate the security of the site and the interests of those in quarantine, to take legal action against violators if any violation is found, to set up checkpoints and health and help desks, quarantine those gathered at border points, health check, and law enforcement and movement.

Nepal Police has also included the issue of gender-based violence in its action plan. The following action plans are prioritized under the heading of the formation of a special unit to investigate, control and prevent crimes of a nature and frequency that have changed with the action of the action plan:

- To make arrangements for the operation of helpline (104) to eradicate the increase in domestic violence, child violence and sexual crimes,
- To activate hotline services of 100 and 103,
- Coordinating with NGOs, hospitals and rehabilitation centers,
- Coordinating and cooperating with Maiti Nepal, Saathi Sanstha, WOREC and other organizations working in the field of women and children.
- To arrange information mechanism locally.

Similarly, the action plan has also given priority to the issue of controlling cybercrime, which is as follows:

- Effective monitoring of social networks by cyber bureaus,
- Conducting citizen level programs against crimes such as rumormongering, cyberbullying, hate speech and fake news

Similarly, the issue of ensuring non-discrimination and protection from harassment is also included in the program. As provided, legal action is taken against those who discriminate and stigmatize people who have fallen ill due to Coronavirus.

The following organizational structure has been provided to implement this action plan:

- Health desk.
- Arrangement of Nodal Officer
- The Central Health Desk will prepare the central strategy and response plan and the subordinate office will prepare and implement the local security plan in line with it.
- To arrange control room with adequate amount of necessary materials (arrangement of Covid help desk at state and district level and liaison officer at subordinate level,
- Appointing the nodal officer and informing the public about nodal helpline.
- Arranging PCR van with GIS arrangement,

In addition to this, internal communication arrangements have been made for the communication related to COVID-19 which is as follows:

- It is mandatory to regularly inform the front line police personnel for the implementation of the orders and directives of the organization.
- Arranging brief debriefings at the beginning and end of the shift,
- Arrangements to be made to prepare a jingle with information and motivation for the police.

3.3.3.4 BASIC GUIDELINES FOR EFFECTIVE SERVICE DELIVERY ON GENDER-BASED VIOLENCE IN THE CONDITION OF THE COVID-19 PANDEMIC, 2077

Nepal Police Women, Children and Senior Citizens Service Directorate, Police Headquarters, Naxal introduced Basic Guidelines for Effective Service Delivery on Gender-based Violence, 2077, targeting all police personnel and offices implementing laws against gender-based violence in the event of

COVID-19 pandemic. The main objectives of the guidelines are as follows:

- To provide basic information to the police personnel about the tendency, nature and causes of incidents of gender-based violence against the vulnerable sections of the society during the enforcement of restrictions including the ban in the context of the pandemic such as COVID-19.
- To provide information on alternative means and measures that can be adopted to guarantee continuous justice to the victims of violence even in the extraordinary circumstances of the pandemic.

Part 1 of this guidelines outlines the background, purpose, target group, and possible causes of gender-based violence in pandemics and captivity. Part 2 deals with addressing and managing gender-based violence. A provision has also been made for addressing and managing gender-based violence during the pandemics, alternative means of complaint in special circumstances and remedial actions, public awareness and preparation, addressing and coordination under reactive actions. Part 3 deals with the data management, monitoring and evaluation.

Under special circumstances and alternative means of addressing complaints in special circumstances, the team mobilized from the special desk will reach the victim themselves or the police close to the victim to understand the facts of the incident and take action as required. In addition, the following arrangements have been made:

- If physical presence of the complainant is not possible in a situation like lockdown, emphasis should be given to other alternative means of complaint. For example: hotline number, email address, mobile apps, etc.
- Whether the complaint is received through verbal or online means, the team mobilized from the service center or the special desk mentioned above will reach the victim himself or the police close to the victim to understand the facts and take action as required. They will always follow the basic principles of conservation.
- To activate various community level groups and networks to make the complaint environment accessible and comfortable

(Community Partnership Group, Gender-based Violence Control Network, Health Volunteers with Easy Access to Victims, Local Judicial Committee, Various Youth, Women and Children's Clubs etc.).

- In addition, since all target groups (illiterate or low-income women, children, senior citizens, persons with disabilities, etc.) will not be able to access services based on phone, internet and SMS, simple and easy complaint options can be developed. For example; putting up awareness posters in places with easy access to victims, shops, water fountains, health facilities, neighborhoods, etc.
- In the case of recurring complaints of domestic violence, arrangements should be made to keep such households under constant surveillance and to keep them separate as far as possible with the consent of the victim and the perpetrator.

This embodies the basic values of protection, including security, privacy, respect, and non-discrimination. These beliefs are crucial to ensuring access to justice for those affected. It motivates the public to report the incident through various means including helpline and social media as an alternative for those not being able to go directly to the police to lodge a complaint in case of detention, and also directs to increase the police presence as much as possible. It also urges the police to report incidents of violence in a timely manner, with vehicles and human resources required for emergency relief and rescue of victims and affected persons to be kept stand by, liaison bodies should be contacted, the affected person should be present to lodge a complaint or the complainant should be present. It also states that arrangements is made to file an application as soon as possible. The guideline also draws on some information for public awareness, emphasizing the need for public awareness and preparation under countermeasures.

3.3.3.5 GENDER-BASED VIOLENCE DURING COVID- 19 PANDEMIC AND SUPREME COURT

Taking into account the precautionary measures to be taken to avoid the pandemic of COVID-19, the full court meeting of the Supreme Court held on April 22, 2020 decided to suspend other services related to personal freedom and other essential services to control congestion in the court. This has created a situation where the cases of women who have been or are being subjected

to domestic violence; their plea for interim protection and interim relief couldn't be heard.

Out of the writ petitions filed in the Supreme Court regarding the ban imposed by COVID-19 and its impact, it appears that the Supreme Court has issued orders in 22 writ petitions as of June 10, 2020. In these orders, the Supreme Court has ordered various bodies of the Government of Nepal to address the special needs of women, children, daily wage workers, senior citizens and persons with disabilities while addressing the ban and its effects caused by Coronavirus (COVID-19).

The Supreme Court, in *Roshani Poudyal v. Government of Nepal* (writ petition Writ Petition (076-WH-0962)) has ordered to refrain from health investigation of domestic violence due to the lockdown. But it has not yet been implemented by the Government of Nepal. As a result, women, children, adolescents, sexual and gender minorities, persons with disabilities, senior citizens, victims of domestic violence and other forms of sexual violence (mental, sexual, economic and physical violence) have been deprived of access to justice. In this context, the Supreme Court made the following verdicts:

- Provide special care to the women who are in need of special protection from the pandemic especially the women who are pregnant, infants, the elderly and the people with illness from the point of entering the border of Nepal till the period specified for staying in quarantine or isolation.
- Acknowledging the fact that women are particularly vulnerable to domestic and other forms of violence during lockdown, the Court observed that the exercise of their rights ensured in Article 38, Clause (3) of the Constitution of Nepal can only be possible when women have easy access to justice. In this context, Supreme Court issue the order to respective agencies to register complaint under Section 4 of the Domestic Violence (Offenses and Punishment) Act, 2066, and do the necessary investigation and action as per the law. In addition, if any complaint is lodged in the court as per sub-section (2) of section 5 of the same, it should be registered immediately and necessary action should be taken immediately as per the law.
- Make an arrangement for the children to receive the vaccines and needles to be administered, to ensure the right to privacy of

the affected person, and to disseminate personal information only with the consent of the person concerned.

- Do not allow anything to affect pregnant women from undergoing regular health check-ups and receive immunizations and injections for them and their infants and children in view of the right to safe motherhood and reproductive health as guaranteed by Article 38 (2) of the Constitution of Nepal.
- Giving effect to the inviolability of the right to privacy of the affected person, the Court ordered the government to disseminate personal information only with the consent of the concerned person considering the possible impact on the affected person and his/her family when issuing information in the public interest.

During the time of COVID-19 pandemic, issues related to gender-based violence are not being included in the hearing list. The government seems to be limited on operating hotlines provision as alternative measures to register the cases. There is no clear provision on how to manage incidents, internal communication related to gender-based violence, etc. There is also a lack of effective arrangements in coordination and cooperation among the stakeholders and also lack of new service providers and existing service providers to victim are not adequate and effective. For instance the government has set up a legal aid committee, service center, rehabilitation center, health service and various funds to ensure the rights of the victims. Currently, there are 36 service centers, 10 rehabilitation centers, 41 one-door crisis management centers (OCMCs) and legal aid committees in 77 districts in different parts of Nepal. In order to make these services effective, various Acts have stated that funds should be created to manage the necessary resources from the fund. However, the established service centers and rehabilitation centers have not been able to come into full fledged operation. This has raised questions about the effectiveness of service providers. Moreover, due to the Corona pandemic, these service centers are not in a position to provide effective services due to lack of resources to adopt additional health care.

3.4 ECONOMIC IMPACT OF COVID-19 AND NEPAL GOVERNMENT'S INTERVENTION

The COVID-19 has affected all the sectors of the economy. The Covid-19 outbreak in Nepal happened to exacerbate the situation as it hit in the second half of the fiscal year the period when a majority of economic activities occur. The outburst of pandemic and the lack of contingency plans in smoothening the consumption trend along with supplies induced hardships for the poor and vulnerable. Currently, many businesses had to face financial stress and are on the verge of collapse. During the lockdown, approximately 90 percent of economic activities came to a grinding halt. The pandemic intensified the crisis further through agricultural inputs crunch (especially to harvest winter crops, connect to agricultural markets, and preparations for summer crops). This crisis is likely to increase the fiscal deficit because of lower than expected revenue mobilization and nominal GDP growth, and higher than expected expenditure needs. In terms of economic impact, the effects are both at macro and micro levels. As per the Central Bureau of Statistics, the economic growth plummeted to 2.27 percent indicating that COVID-19 has adversely affected the economy (CBS, 2019 & 2020). The lockdown severely disrupted the supply chain and further created hurdles in the availability of essential goods and services. It disproportionately affected the livelihood of common people with far-reaching socio-economic implications.

The implications of COVID-19 can be seen manifold. A survey conducted by the Nepal Rastra Bank shows that 39 percent of industries and businesses were partially operational during the lockdown period and 61 percent were forced to be completely closed. Likewise, one of the rippling effects was tangible in the formal economy where one-fourth of the staff / workers were cut off from their jobs during the period of the lockdown. The salary was reduced by an average of 18.2 percent and the production/turnover of 96.7 percent was decreased by 73.8 percent. Further, due to the return of a significant number of Nepali workers from countries in the Middle East, including India, there is breakage in the influx of remittances. (Timsina, Covid-19, World Economy and Nepal, 2020)

Many economic activities were halted with the enforcement of the lockdown with a few essential classed activities allowed to operate. With the shutdown of businesses and industries, many domestic migrants chose to return to their villages on the presumption that the lockdown would last several more weeks. Soon after, migrant's worker working abroad also returned to Nepal in thousands, causing difficulty for the government to manage quarantine facilities for returnees. All such workers faced a sudden halt in income to sustain their livelihood. Micro financing institutions were also subsequently affected as the economy started to stagnate. In response to the stagnancy, the NRB came up with various policies and regulatory provisions which were designed to foster growth in the economy through incentivized loans for businesses, increase of cash flow, reduced repo rates to financial institutions and other attractive financial incentives. It also removed penalties and interests on loans taken by certain types of institutions and activities impacted by the pandemic.

The Government of Nepal also allocated 32 percent additional budget of the Fiscal Year 2020/21 for the health sector. Out of this, 6 billion has been allocated to address the health sector needs due to COVID-19. The budget also provides for free insurance of NPR 0.5 million to all the health care workers.

Nepal Rastra Bank (NRB), the central bank, issued 'Business Continuity Credit Flow Procedure 2077' to support Covid-19 affected individuals and businesses, includes providing refinancing facility to at least 10,000 for the micro, small and medium sized enterprises. The Ministry of Finance will facilitate NRB to arrange for the refinancing facility. Nepal Rastra Bank will operate the account to provide short term loan for cottage and small industries and tourism business to pay the wages for the staffs and operating the business mainly focused to those who are unable to operate the business who cannot pay the salary of their workers. The details of the loans and its classification is tabulated below;

Loans Classification	Loan Amount	Areas
1. Highly Affected Areas	Annual wage of the workers and employees in the most affected areas and additional 50 per cent of it for the business continuity is total amount or maximum of Rs. 100 million	• Tourism, • Air and Transportation for tourist • Entertainment sector • Movie Production and Distribution • Migrant Worker etc.
2. Moderately Affected Areas	Annual wage of the workers and employees and 50 per cent more of it (for business continuity) is the total amount or up to a maximum of Rs. 70 million	• Industries related to the production, sale and distribution of plastic, domestic utensils, metals • Construction • Transportation • Consulting service and profession related to Legal, Accounting, Engineering, • Hospital, Clinic, Diagnostic Centers • Beauty Parlors, Saloon • Health club and fitness center • Forest and mines related industries etc.
3. Less Affected Areas	Annual wage of workers and employees and 50 per cent more (for business continuity) is the total amount or up to a maximum of Rs. 50 million.	• E-commerce businesses • Hydropower plant linked with national transmission grid. • Food production, processing and storing. • Daily consumer goods • Import business • Petrol, pump, gas and water related business • Medicine selling and distribution • Advertisement service • Internet service etc.

The interest rate varies and is categorized in three strands listed below;

Institutions	Interest Rate for First Year	Interest Rate for Second year
Eligible Businesses who receives loan entitled to pay interest	5 %	6%
Financial Institutions (A and B Grade BFI's) who get approval to provide loan	2%	3%
The loan received from the amount deposited by full and partial government owned institution in coordination with Ministry of Finance.	> 5%	>5%

Apart from these, the 'Business Continuity Credit Flow Procedure 2077' has provisioned for the duration of payback of the loan, eligibility of receiving loan, procedures of loan sanction, provision of mortgage, monitoring and supervision of loan, responsibility of financial institution who gets authority to provide loan, responsibility of business holders, role, responsibility and rights of Nepal Rastra Bank.

Similarly, a provision has also been made for electricity consumers on the basis of consumption unit tariff and demand waiver of electricity for the period of shutting down of industries, increase in refinancing fund to provide loan up to 5 percent concessional rate to corona affected domestic and small and medium enterprises, 50 percent discount on collective corona insurance fee up to NPR 1 lakh.

Responding to the crisis, the central bank reduced the required cash reserve ratio from 4 percent to 3 percent and the bank rate from 6 percent to 5 percent to ease the liquidity situation in the economy through monetary policy. The government to reduce the adverse impacts of covid-19, has provided credit in 5%, and allocated NPR 50 billion in establishing the related fund for revitalizing the MSME's and corona affected tourism business. Attempts have also been made to address the extreme liquidity crises that may appear in the financial sector as the impact of COVID-19 diminishes.

Despite these provisions, there are significant gaps which are found to create hurdle in the economic relief programs in the time of pandemic. The COVID-19 pandemic has caused severe sudden disruptions in the economy. The impacts have already surfaced in sectors such as tourism, trade, health, and disrupted supply chains. The pandemic exacerbated the situation through agricultural inputs crunch (such as workers and fertilizers), especially to harvest winter crops, connect to agricultural markets, and prepare for summer crops. Similarly, weak capital spending and the lack of an investment-friendly environment affected industrial output before the pandemic. The Covid-19 outbreak in Nepal happened to exacerbate the situation as it hit in the second half of the fiscal year—the period when a majority of economic activities occur. Within the services sector, a deceleration of remittance income and decline in imports were already affecting retail and wholesale trade, which has the second-largest share in the GDP. Travel and tourism-related activities such as hotels and restaurants, and transport, storage and communications are expected to contract. Other services activities that are badly hit are financial intermediation, real estate and business activities, and education. Nepal's economic growth rate has shrunk to 2.28 percent in FY 2076/77. Consumers' consumption has shrunk as cheap Chinese goods have not arrived, and arrived goods are costly. Development projects that were running with Chinese assistance are not under operation because Chinese workers have not returned back to Nepal, due to the inability of Chinese workers to return, the transaction of commercial goods from China is thoroughly disrupted. Hotels, restaurants, air transport sector are suffering huge losses. Production has started declining due to shortage of

raw materials and closure of labor movement. On the other hand, both production and trade have slowed as demand for non-essential commodities has declined. The corona outbreak is expected to bring financial sluggishness in the nation. (Timsina, कोभडि-१९, विश्व अर्थतन्त्र र नेपाल, 020)

3.5 EDUCATION

Thousands of school going students across the country continues to be severely affected by COVID-19 and deprived of education due to lack of access to electronic mediums like the internet, television and radio. The government gave permission to the private schools to enroll students and operate online classes, by issuing '*Student Learning Facilitation Guideline- 2020*'. In this way, the Ministry of Education has been encouraging educational institutions to continue teaching and learning through online learning medium. However, the online education system has created a huge gap in between the students belonging to private and public schools.

In light of the pandemic, the Ministry of Education, Science and Technology had postponed all education activities and schools and educational institutions have been closed from end of April 2020. The Ministry also issued a directive and suspended Secondary Education Exams (SEE), which were scheduled to begin from 6 Chaitra 2076 BS and ongoing other examinations of higher education sector and similarly closed all public, community and private ECED/PPE centers, basic and secondary schools, educational institutions and universities. As per the decision made by the Ministry no school shall enroll new students in any grades or levels and carry out activities such as charging fee in any forms in the name of enrollment. Owing to the pandemic, the Ministry of Education, Science and Technology published, "*Alternative System Student Learning Spelling Guide, 2077*". Under the given guideline, the government has managed several provisions to ensure that students who are deprived of education due to the COVID-19, should be provided with favorable environment to study regardless of their geographical setting and emphasizes the education service providers to adopt the alternative education system for learning. Under the guideline, the provisions include creating a friendly environment for facilitating the education system through an

effective system. According to the guideline, technology has been defined as the materials used to educate the students such as radio, FM radio, television and online medium. The provision defines alternative education as the possibilities and usage of alternative such as radio, FM radio, television, online, offline, curriculum course, self-study, distant learning medium, running smoothly aimed is defined accordingly.

The guideline comprises the provisions of student identification and division which prioritizes the students who are vulnerable one's who are deprived of access to education, students acquiring the facilities of radio, FM and television and creating discrimination between students having computer and internet services and not having either of it. The guideline emphasizes the open, group learning, and attempts to include those students who are deprived of education in the time of pandemic. The guideline states that students should be allowed to study the subjects as per their desire and also simplify the techniques for imparting educations in the early child development.

The guideline explicitly includes that the required materials in conducting online classes should be available and similarly prepare schedule for online classes and group classes.

The ministry will co-ordinate with three tiers of the government and support in developing the schedule for television broadcast, ensure that the learning materials are developed by teachers. Similarly, the ministry has made provisions for providing affordable data packages to the needy students for easy access to online classes, and in lieu of this, the ministry will co-ordinate with the Nepal Telecom and Internet Service Providers for those who access to nothing.

The Ministry has made arrangements for broadcasting materials and making necessary coordination and facilitation in the grassroots level and necessary to implement the program through the Directorate of Education Development.

3.6 ROLE OF SUPREME COURT TO RESPOND THE IMPACT OF CORONAVIRUS (COVID-19)

In response to a number of writ petitions filed in the Supreme Court in the context of the COVID-19 and its effects, it is

noticeable that the Supreme Court has issued orders in 22 writ petitions as of 27th June, 2077 BS. In these orders, the Supreme Court has directed various bodies of the Government of Nepal to address the special needs of women, children, daily wage workers, senior citizens and persons with disabilities while addressing the impact of the Coronavirus (COVID-19).

In the cases of Advocate Mina Khadka Basnet v. the Office of the Prime Minister and the Office of the Council of Ministers (Writ No. 076 (WO 0932), Advocate Manish Kumar Shrestha v. the Office of the Prime Minister and the Council of Ministers (Writ No. 076 WO 0935), the Supreme Court ordered for necessary arrangements to bring back stranded Nepali citizens to Nepal by coordinating with the concerned countries through diplomatic channels and ensure the right of Nepali citizens to return to their homeland. As per the order, if not possible to work abroad, the government has to make arrangements for the ones who are facing shortage of food, shelter and medical treatment abroad or in distress. The Government of Nepal was also directed to make necessary arrangements to protect the rights and interests of the citizens by making reasonable arrangements for food, shelter and health treatment in the affected areas.

In the case of Advocate Shri Vishnu Luintel v. Office of the Prime Minister and Council of Ministers (Writ No. 076 (WO 0933) where an interim order for the immediate food relief to low-income workers, daily wage earners, laborers and the poor was sought, the Supreme Court has ruled that the country should be kept in the lockdown due to the pandemic of COVID-19. Taking the situation of people being deprived of their right to food seriously, the Court directed that such people in need should be permitted to come in contact and seek relief in such a difficult situation. The Government of Nepal was ordered to make necessary special arrangements by coordinating among all levels of government to guarantee them their fundamental right to food in reality.

On behalf of the Forum for Protection of Public Interest, senior advocate Prakash Mani Sharma also filed a writ petition against the Prime Minister and the Office of the Council of Ministers, Singha Durbar, Kathmandu (Writ No. 076). In response, the

Supreme Court issued the following directives:

(A) Considering the interests of the people of this class and group and the wider society of the people who have been forced to leave their villages and towns on foot due to lack of alternatives and are currently living in various urban areas including Kathmandu, the Supreme Court ordered to mobilize mobile teams of local healthcare providers, conduct rapid tests and take all necessary measures for safety, with the highest priority to provide free transportation from all highways to their destinations as soon as possible.

(B) The Court also ordered the Government to give priority and extend special protection to women, children, senior citizens and physically ill persons. The Court further directed to make sure that those who are suspected to have Covid-19 are immediately placed in quarantine/isolation as needed, and that they are safely transported to their destination only after they have recovered.

(C) The Court ordered to provide intensive psychosocial counseling through appropriate means considering the mental health of the people who are infected with COVID-19, those who are at risk and those who have lost their jobs and are in stress.

In the case of *Advocate Shom Prasad Luitel vs. Office of Prime Minister and Council of Ministers et al.* (Writ Petition (076-WO-0940)), a demand was made to immediately prepare a report on the health status of Nepali citizens in foreign employment infected with the Coronavirus through the Nepalese embassy or labor attaches without any discrimination by following the guidelines set by WHO. The Court also ordered to establish diplomatic communication and coordination through the Ministry of Foreign Affairs to protect the individual rights of the citizens and the interests of the majority of the people in life. An interim order was issued to hold the Government accountable for taking necessary administrative, financial and managerial initiatives to bring back health and security in a balanced, serious and sensitive manner.

In the case of *Advocate Shailendra Prasad Harijan and others vs. Office of Prime Minister and Council of Ministers et al.*, (Writ

Petition ,076-WO-0941), the Supreme Court issued an interim order not to require a proof of Nepali citizenship certificate or or household identity card or driving license to receive interim relief. In view of the fact that the state should respect the right of every person to live with dignity even in the event of an pandemic, the Court ordered to provide immediate relief without any discrimination on the basis of the "economic condition" specified as a prohibited ground under Article 18 (2) of the Constitution of Nepal and taking into account the right to food of Article 36 and the inherent human dignity of a person concerned, his/her needs and circumstances.

In response to *Advocate Shri Vishnu Luintel v. Office of the Prime Minister and Council of Ministers, including Singha Durbar* (Writ No. 076 (WO 0933)), the Court ordered to distribute relief by focusing on the people whose source of income has been stopped due to lockdown by maintaining transparency. Mindful of the policy declared by the government that "no one goes hungry in Nepal" and "no one dies of hunger", the Court made such interventions. Similarly, the Court ordered for making an arrangement of monitoring of compliance with the quarantine standards established by WHO in different parts of the country. The Court order also requires the authorities to make a concerted effort to locate them at the local level and keep them in quarantine as required or with surveillance in the home quarantine. If those who have entered Nepal by air and land from abroad are not found to be in quarantine,

Nonetheless, the implementation of these decisions are still far way.

SECTION 4: CONCLUSION AND RECOMMENDATIONS

4.1 CONCLUSION

To counter the terrible impacts of the pandemic, the government adopted several initiatives and mechanisms along with the mobilization of COVID-19 fund at the federal, provincial and local level to systematize relief distribution. Though the federal government has been making exclusive decisions to respond to

the pandemic, the provincial and local governments are still falling short in responding to the crisis and facing uncertainty in dealing with the pandemic effectively. It is noticeable that there are significant impediments in facilitating the inter-governmental fiscal relations. as they have not been clearly established which has led to inefficient mechanisms. Overall, Nepal has cultivated the culture of adopting a centralized approach, where the sub-national governments are often not provided with enough space to carry out any prevention and response related task towards the COVID-19 impact independently.

Nepal has adopted constitutional provisions and legislations to address the pandemic, natural disaster and calamities. For instance, there is a Disaster Risk and Management Act, 2074. This act includes pandemic in the definition of non-natural disaster and a pandemic flu which defines disaster as an emergency situation in place with a loss of people, and property. In terms of definition, the types of disaster includes any natural or non-natural disasters that affects livelihoods and environment. This act has provisioned for the risk reduction, disaster response, immediate search, rescue and relief and especially all activities related to post-incident rehabilitation and reconstruction which should be immediately implemented. However, the government has not mobilized any such mechanisms to its fullest capacity in addressing the socio-economical and health damages caused by the pandemic.

Even though the various thematic ministries of Nepal government introduced various specialized and targeted directives, guidelines, and action plan for prevention and response to the COVID-19 pandemic, ensuring access to social justice in times of such crisis has become a pertinent challenge for the government, private sectors and non-government organizations. The COVID-19 pandemic has caused severe sudden disruptions in the economy, trade, health, education and socio-economic aspects. Furthermore, a comprehensive legislation in addressing the impact of COVID-19 is lacking, which calls for an inclusive approach to be adopted in various sectorial directives, guidelines and plan of actions to address health impact, socio-economic impact and so forth.

So far, the Ministry of Women, Children and Senior Citizen has issued targeted directives and guidelines to address the issues of person with disability and other socially marginalized communities along with victim of gender based violence. However, issues of victim, marginalized and disadvantages have not been mainstreamed in the Health Sector Response to COVID-19, 2076. The Interim Guidelines for Reproductive, Maternal, Newborn and Child Health Services, 2076, during the Coronavirus Disease (COVID-19) World Pandemic COVID-19 Pandemic Control and Response Plan, 2076, education, economic and other sectorial directives and guidelines.

The response plan, guidelines and directives brought by the Government of Nepal have, to some extent, acknowledged the issue of women and children, person with disabilities, marginalized communities and person at risk of gender based violence through introducing targeted guidelines and directives, But, these guidelines, directives and plan of action failed to consider the intersectional impact of COVID-19 within such groups because of their sexuality, gender, sexual orientation, ethnicity, class, caste, geographical locations, age, economic status along with discrimination and inequality that perpetuate by patriarchal values and norms against women in general.

The study ascertains that the Government of Nepal has not made any specific directives and plan of action to ensure the access to justice to address the adversity caused by Covid-19 pandemic.

When defining and listing the most important and urgent issues under essential services during the lockdown period, women's issues and gender issues and access to justice for such victims (who are mentally and physically at high risk) have not been included. Therefore, women victims of violence are not being able to go out and seek the services from the police, judiciary and other service providers.

During the times of pandemic, access to justice became very challenging in the context of developing nations, and women, marginalized and disadvantaged communities were the worst affected during such crises. Providing legal remedies for the victims of gender-based violence has become a major challenge

in ensuring access to justice. The Government of Nepal lacks specific directives, guidelines and action plans in ensuring access to justice, wherein the state judiciary has been constantly struggling in delivering safe and effective justice during the crisis period. As a consequence, the general population and mostly marginalized groups, GBV victims, daily wage women workers including those women working in the entertainment sector and informal sector workers have been suffering enormously in their life.

Hence, government has failed to take into consideration the needs of the marginalized and disadvantaged groups while responding to the pandemic. The government has shifted all focus on health sectors and has failed to realize the fallout of the lockdown caused at economic, access to justice, social justice and so on. Hence, the government needs to take stringent measures to interweave different sectors such as health, formal sector economy, education, trade and tourism, agriculture and maintain peace and harmony with its citizens. On this regard, the government needs to tie up with private sector including the MSME's and introduce effective health response policies along with policies supplementing the livelihood of large number of the unemployed population in mitigating the adversity of the pandemic.

4.2 RECOMMENDATIONS

Based on the findings of the in-depth review of different policies, directives and research papers, this Study came up with the following recommendations;

4.2.1 REFORM LEGISLATIVE MEASURES

The federal government should amend the existing legislations including in relation to disaster management and infectious disease as follows:

A. REFORM INFECTIOUS DISEASE ACT ADDRESSING FOLLOWING ISSUES:

- Define the institutional mechanism to address pandemic,
- Define the term “infectious disease”,
- Insert provisions related to pandemic and pandemic
- Insert provisions regarding prevention, response and

rehabilitation after the effect of the pandemic and pandemic,

- Insert provisions regarding mobilization of security forces for prevention, response and rehabilitation ,
- Define the role and responsibility of the executive to issue rules, directive and standards except the order stated above,
- Include an explicit provision to establish funds and emergency purchases of goods that are required to respond to such pandemics and pandemics,
- Make a provision to ensure access to justice during pandemic and pandemic

B. THE DISASTER RISK AND MANAGEMENT ACT, 2074 (2017)

The Disaster Risk and Management Act, 2074 (2017), has defined the “disaster” which include pandemic as well, but this Act is designed to address both manmade and natural disasters in general. The Act was enacted after the 2012 earthquake in the country, hence, heavily influenced by impact of earthquake while drafting. Hence, there is a need to mainstream the comprehensive provision regarding pandemic and to review and amend this Act from ensuring child responsive disaster and pandemic response and services.

C. REFORM OTHER LEGISLATIONS

Nepal government should amend the following legislations (not limit to this) in order to make responsive towards disadvantage and marginalized populations and responsive to disaster and pandemic.

- Public Health Act, 2074
- Right to Safe motherhood and Reproductive Health Act 2075
- Labour Act, 2074 (2017),
- The Right to Housing Act, 2018
- The Right to Food and Food Sovereignty Act, 2075 (2018),
- The Social Security Act, 2075 (2018),
- Right to Employment Act, 2075 (2018)
- Crime Victim Protection Act, 2075 (2018)
- Domestic Violence (Offense and Punishment Act, 2066 (2009)
- Human Trafficking and Transportation Control Act, 2064 (2007)
- Local Governance Operation Act, 2074

Following matter should be prioritized during reform:

- Provisions to ensure the specialized rights of women, and Dalits' specialized rights of employment, social security, education and health during emergency, pandemic and pandemic that ensured by the Constitution of Nepal as a fundamental rights.
- Acts should be inclusive and GESI responsive.

4.2.2 COHERENCE AMONG DIRECTIVES, GUIDELINES AND PLAN OF ACTION

- The Government of Nepal has issued various Directives, guideline and plan of Action, but above analysis shows that they are too general. However, there are pertinent loopholes which require urgent actions in responding to the challenges by bringing about policy coherence across various sectors while ensuring implementation and formulation of policies related to health, economy, education, tourism and trade etc. and ensure their strict enforcement. The government sector should adhere to the LNOB principles and should introduce regulatory mechanisms to address the disproportionate impact of the COVID-19 based on ethnicity, gender identity, class, caste and so on.
- GESI is cross cutting issues as well, hence, it should be mainstreamed across the directives, guidelines and plan of actions that have issued by all level of government.

4.2.3 MAINTAIN CONSISTENCY IN THE POLICY DECISIONS OF HEALTH SERVICES

- In order to ensure effective implementation of the directives, guidelines and plan of action, government should maintain uniformity and consistency in its policy decisions.

4.2.4 ACCESS TO JUSTICE

- Access to justice should be listed out as essential services, particularly, targeting to victim of gender-based violence during lock down and post lock down. Supreme Court should bring special strategic plan of action for responding access to justice issues.
- The justice sector actors and institutions should focus on strengthening access to free legal aid for those who are being disproportionately impacted and "left behind" by emergency regulations or practices and carry out oversights by utilizing the

strategic litigation to address discrimination in access to services.

- The justice sector institutions should develop a recovery plan and consider reinforcing capacities of justice sector actors to respond to the situation in a way that builds trust in institutions.
- Local level judicial committee soon informed about the users guidelines develop by Ministry of Law, Justice and Parliamentary Affairs and operate the judicial committee accordingly.
- Role of paralegals should promote to make the law enforcement agencies more accountable towards legal duties and obligations.

4.2.5 ECONOMIC RECOVERY

- There is a requirement for a separate and comprehensive multi-year planning and financing framework which should target short term, medium term and long term economic recovery.
- The economy urgently needs a fiscal relief package for the vulnerable population and micro, small and medium enterprises (MSMEs), followed by a recovery package after the spread of Covid-19 is largely contained. A detailed relief and recovery package is should introduced. The focus should be on stabilizing aggregate demand and to lower the burden on workers due to unemployment and income shock which is possible through the expansion of social protection measures and easing regulatory as well as liquidity constraints faced by MSMEs.
- A full economic recovery package is required to help struggling businesses and workers. The government should also seek for additional concessional loans and prioritize on multilateral lenders that have rapid disbursement facilities for emergency assistance and policy-based loans for budget support to help the government's agenda.

4.2.6 EDUCATION

- Government must ensure that no student will have to lose their academic year due to the pandemic. Every student should be able to continue with learning process.
- The ministry should introduced feasible options for the total eight million students, who attend public schools and lack computers and smart technology for having accessibility to the internet.
- The government should introduce regulatory measures for mitigating the gaps in the levels of learning achievement within public and private schools by coordinating with three tiers of the

government.

- The education sector should be reformed by emphasizing on directives and guidelines used during the pandemic, to ensure equal education access for students belonging to all geographic locations and same level of education to all children, regardless of their economic backgrounds.

4.3 STRATEGIES

Strengthening the capacity of oversight mechanism to ensure the inclusive legislative framework, directives, guidelines and plan of action and its implementation as following:

CIVIL SOCIETY ORGANIZATION

- Devise and implement awareness raising and sensitization programs towards empowering the disadvantage and marginalized populations,
- Organize advocacy activities and strengthen civil society movement to make government entities accountable to address the COVID-19 prevention and impact,
- Implement capacity development program of civil society organization on advocacy work and movement building for introducing specialize regulation to execute the labor law in the sector and implementation of various specialized and general laws to improve the adverse impact of the COVID-19.

HUMAN RIGHTS INSTITUTIONS

- Conduct nationwide public hearings on the issues related to Pandemic Legislative Policy Framework.
- Strengthen targeted monitoring mechanism of violations of directive, guidelines and plan of action related to COVID-impact and provide recommendation to government to take actions.

HUMAN RIGHTS INSTITUTIONS

- The Parliament should focus on parliamentary oversight in order to implement the labor laws and related directives, guidelines and plan of action in the context of COVID-19 crisis,
- Strengthen Federal Parliament and provincial assembly committees with financial or logistical support from the executive branch. They require external support to carry out their core functions: research and analysis, conducting oversight of government programs and carrying out outreach activities.

4.4 APPROACHES, PRINCIPLES AND VALUES

All the above stated key stakeholders should adopt following approaches while implementing the recommendation provided above:

Approach

- Intersectionality approach,
- Human Rights based approach ,
- Gender and Social Inclusive approach,
- Do no harm approach,
- Participatory approach,

Principles

- Substantive Equality
- Non-discrimination,
- Positive discrimination/affirmative action

Values

- Empathetic towards most marginalized, disadvantages and vulnerable communities and groups,
- Respect dignity of individuals

PART: II - COVID-19 AND CSOs RESPONSE FOR JUSTICE AND LEGAL EMPOWERMENT IN NEPAL

1.1 BACKGROUND

COVID-19 pandemic has affected the entire world in multiple aspect of lives. The COVID situation and extraordinary situation has posed special threats and challenges to the justice system of the country. The impact of the crisis as well as the legal and policy responses developed by states to counter the spread of COVID-19 have much wider ramifications that affect a broad range of human rights, including the ability of people to access justice in a timely, fair, and effective manner⁷. The pandemic has also exposed entrenched inequalities: widespread discrimination, structural inequalities, historical injustices, lack of access to healthcare and other basic services, vulnerability of workers, fragile or wholly inadequate health systems and increasing domestic violence⁸. The impact of COVID was /is higher to the marginalized group who are forced to live more vulnerable lives. They are at the higher risk of leaving behind from accessing justice services in fair, just, affordable, quick and transparent way. The crisis has also highlighted the ‘justice needs’ of marginalized group such as women who are forced to confine at home and endure the domestic violence, who also bear burden of work more than the regular time. The existing inequality and discrimination has become more visible during the pandemic. The fall down of economy has pushed the marginalized group more vulnerable affecting their right to employment, access to health, social protection, access to legal aid services and access to justice systems including to adopt the preventive measures, for children, women, people with disabilities, old aged people, LGBTQ, daily waged labors, migrant workers, domestic workers, displaced people, refugees, stateless population, asylum seekers etc. It has further created obstacles / challenges in implementing Sustainable Development Goal, particularly Goal: 16 from the perspective of Access to Justice.

Civil society organizations/ members are one of the key actors who have paid their effort to respond the COVID -19 crisis. CSOs as per their experience, expertise has started working on different areas of justice and legal empowerment to respond the justice needs of people during the pandemic. The effort of CSOs as a respond to COVID -19 effect is manifold. For example: some have provided legal aid, some provided legal awareness to the

community, health awareness, some provided health services, psychosocial counselling, relief distribution, monitoring the cases, advocacy with the government for the better health services and protection of fundamental rights etc. However, the contribution of CSOs during the pandemic including other crisis is less recognized.

On this note, it is important to identify and the document the effort of CSOs made during the COVID-19 pandemic to promote access to justice and legal empowerment in Nepal. Thus, we plan to map the legal empowerment effort of CSOs during COVID-19 pandemic in Nepal. In this effort, we tend to document the effort of OSF’s partners mostly including other CSOs effort.

1.2 OBJECTIVES OF THE PAPER

- To understand the role played by the civil society organizations (CSOs) working on justice and legal empowerment issues to resolve justice related crisis that was felt by the poor, marginalized and vulnerable people during COVID- 19 pandemic, and to promote the community legal empowerment in Nepal.
- To recognize the role and responsibility of the civil society organizations working on justice and legal empowerment agenda to fight against justice related crisis that arise during the COVID 19- pandemic.

1.3 METHODOLOGY

The COVID-19 has impacted to almost all the people; however, the marginalized communities like people with disability, women and Dalit have been deeply marginalized and it has deteriorated their situation. This paper incorporates the situation of the marginalized communities and the civil society organizations’ intervention to address the justice needs of the communities during the COVID-19 pandemic. The information is gathered from the civil society organizations through the set of questionnaire, review of existing literature and information available in websites of the organizations. The total response received from the organizations are 20, who have been working to promote the rights and justice of the most marginalized and vulnerable communities. The organization are selected from the

⁷Ensuring Access to Justice in the context of COVID-19 , UNODC Guide Note

⁸https://reliefweb.int/sites/reliefweb.int/files/resources/undp-bpps-rol-Access_to_Justice_and_COVID19.pdf

⁸: <https://www.protectioninternational.org/en/news/joint-declaration-role-civil-society-organisations-during-and-post-COVID-19-world>

list of partners supported by the Alliance for Social Dialogue (ASD) and Open Society Foundation (OSF) in Nepal. Apart from OSF's partner organizations, the work of other few civil society organizations has also been incorporated in this paper. Due to the limitation of time and current context of pandemic, the paper is fully based on the information received from the organization who are making intervention in COVID-19.

1.4 COVID-19 PANDEMIC AND STATE OF JUSTICE IN NEPAL

The ongoing public health crisis caused by COVID-19 pandemic, has affected Nepal too. As an underdeveloped country of South Asia embedded with structural inequalities, economic disparities, corruption, political conflict with weak rule of law and democratic practices, the state of human rights, justice and rule of law became more fragile in Nepal during the COVID-19 period. The government imposed the lock down from March 2020 to prevent the spread of diseases and protect the people from its infection, which continued from March 2020. The government's emergency measures to control the spread of the corona and reduce its impact, created extraordinary and grave situations in the lives of people, mostly to the poor and marginalized population. The health crisis followed by lock down posed threat to the justice system, democracy and rule of law of the country. The various reports show that the pandemic and government's response contributed to expand the inequalities, discriminations. The fundamental rights of people have been violated such as their access to health, employment, justice and livelihood. The poor and vulnerable people such as people with disabilities, landless people, people living in slum, Dalit people and people living under the poverty are still struggling to adopt preventive measures and use the basic medical equipment. According to the media and CSOs report, quarantine services provided by the government does not comply with basic human rights principles, it lacks basic health and sanitation services, and it is not gender friendly. Even the rape case, attempt to rape, committed by the government's quarantine service provider, is reported. The right to labor and right to employment of many daily waged labors, employee is violated, they have been forced to leave their jobs. Many pregnant and lactating women have been deprived of accessing health and medicine services. Number of death have been reported because of people's deprivation of

accessing regular health services and treatment. The justice system is failed to provide protection and legal aid to the domestic violence and even in the sexual violence cases. Caste based discrimination is heightened.

The torture of police is reported to the civilians who are compelled to go out to buy basic needs foods. The gender based violence (domestic violence, rape, harassment) has been increased over the period of lockdown for a month. As per the monitoring report of OSF's partner organization- Mukti Nepal, within 15 days of lock down, 25 cases of domestic violence and rape has been reported by their community paralegals in Siraha district only. The daily newspaper, Kantipur daily reported 40 cases of rape within the three weeks of lock down (www.ekantipur.com, April 15, 2020). However, the greatest challenge is many of the cases of rape of domestic violence have not come to the reporting to the justice institutions because of fear from family and no access to go to the paralegals during the lock down period. Those who dared to seek the legal protection are even denied of justice because of the denial of police to register the cases during the lock down period and the fear of COVID-19. The obstacles and lack of immediate, quick response of justice institutions on the gender based violence cases in the name of abiding lock down is another serious challenge for women's access to justice during COVID-19 situation. This has further pushed women to endure further violence, fear with the threat of life. The violence affected women were / are dependent on the short term shelters of the nongovernmental organization which is very insufficient. The local Judicial Committee of the government was unable to ensure the safety and justice for those violence affected women. There are several other incidents of violations of people's fundamental rights that has lead them towards more vulnerability during the COVID-19 and subsequent lock down. It is more affecting on people's socio economic rights and right to justice. However, government's focus is more on relief, COVID test and quarantine management which is also poor. The respond on the basis rights violations is not in the priority of government that pushing people towards more vulnerability.

1.4.1 CSOS, RESPOND TO COVID-19 CRISIS

As the COVID-19 pandemic swept the world, civil society stepped up to make a difference. Civil society was a source of vital support, advice and information, a guardian of human rights, an enabler and defender of communities, a determined advocate for inclusive and rights-oriented policies, a corrective to state and market failures, a driver of sustained mobilization, creativity and innovation, a trusted partner and an essential guarantor of accountability over state and private sector decisions⁹. Civil Society Organizations (CSOs) and individual civil society or groups in Nepal, have worked on the frontline on many of those issues. They bring range of skills and services during the crisis. They have either provided direct services; relief materials, relief services, legal services, justice services, psychosocial services, awareness raising services, information dissemination about the prevention of pandemic and about the health and relief services of the government or they have been documenting the issues/ human rights, justice cases during the pandemic, and advocating for change/reform of the policy and practices. CSOs in Nepal have been playing a remarkable role during the pandemic for the protection of fundamental rights of people and to ensure their justice. Many CSOs have become the first responder in the COVID -19 by challenging government's unjust decisions, policies that was announced / endorsed during the lock down in the name of prevention of COVID-19. For example; number of PILs have been filed by CSOs/ Lawyers against government's adhoc and unconstitutional decisions about the Nepalese migrant workers who stranded in the boarder and in the foreign countries. Number of PILs were filed for the protection of the health rights of prisoners. There is a significant advocacy effort from the women's rights organizations to make the government accountable in developing the gender friendly policies, guidelines and mechanism for the protection of the rights of violence affected women. While the cases of rape, sexual violence on women and marginalized women/ girls (Dalit girls , women with disabilities) were highly reported during the pandemic, the effort of CSOs working particularly on women's rights, Dalit rights and disability rights is significant in providing emergency support , services to the violence affected women including relief (food, health equipment , sanitary items) , counselling, legal aid shelter , and conducting the advocacy even through virtually for

the fair, quick, affordable, transparent services from the government for the justice of those women. NGOs working for the rights of sexual minority who were even denied to access the government's relief materials, and were more stigmatized by the society during the pandemic because of their gender status, have responded to those group by providing food, health care services, medicines and psychosocial counselling. The mobilization of media, use of internet by many CSOs helped to enhance community people's access to information about the basic health care services, about the COVID status and about the prevention of corona virus, and about the free legal aid, free counselling. In Nepal where state is slow to respond the crisis from the rights and justice perspective, CSO took the essential role to fulfill this gap. They responded quickly from the service and right based approach for the protection of the fundamental rights of marginalized people. As a result of advocacy and effort of CSOs, a High Level Joint Monitoring Mechanisms was formed at the central, province and district levels including the National Human Rights Commission, NGO Federation of Nepal, Nepal Bar Association and Federation of Nepali Journalists, mandated to monitor the human rights situation of the country during the pandemic and draw government's obligation to protect the human rights of people during the pandemic.

Based on our study, CSOs work during the pandemic is divided in following seven categories: Immediate Relief Services and distributions, Awareness Raising about Public Health and COVID-19, Free legal aid and Justice Services Monitoring, Research, Documentation, Tracking the Cases, legal action and Litigation, Psychosocial Counselling, Policy Advocacy and Capacity Building. Organizations working for marginalized group particularly for women, people with disability, Dalit and LGBTQ have responded to COVID-19 with special concern of the rights and justice of these group in the following way:

1.4.2 ENSURING THE RIGHTS AND JUSTICE OF PEOPLE WITH DISABILITY: INTERVENTIONS FROM THE DISABLED PEOPLE'S ORGANIZATIONS (DPOS)

The impact of COVID to the people with disabilities are more adverse, it's level and magnitude was different as per the nature and vulnerability of people with disabilities. For example;

⁹(A report on Solidarity in the time of COVID-19 by Global Civil Society Alliance (CIVICUS), 5 November, 2020.)
https://www.civicus.org/documents/reports-and-publications/SOCS/2020/solidarity-in-the-time-of-COVID-19_en.pdf

visually impaired people had a different challenge whereas deaf people, hard of hearing people, physical disability people, intellectual disability people, people having with down syndromes and, with other kind of disabilities experienced the different forms of problems and difficulties during the pandemic as per the nature of their vulnerability. Women with disabilities across all the categories, had to bear additional burden and impact of pandemic based on their status of women and disability¹⁰. Thus CSOs working on disability rights issues took different initiatives to address the need and challenges of people with disabilities, as per their expertise, skills and available resources.

1.4.2.1 ACCESS TO INFORMATION OF DEAF PEOPLE

COVID-19 pandemic forced to face number of challenges to deaf community. Due to lack of sufficient signs and having no sufficient inclusion of sign language in the government and televisions notices, deaf people faced difficulties to access and understand them. Due to the communication barrier, deaf people faced challenges in getting proper information on lock down, lock down program rules, safety and protective measures to be adopted to be safe from COVID-19 etc. Many deaf people did not know the notice about the relief program, the dateline, process and place to fill up the forms, even where the ward office is, and hence, many deaf people were deprived to receive the relief.

National Federation of the Deaf Nepal (NDFN), during the lock down period, worked to increase access to information and services of deaf people. NDFN developed the sign language videos of the information, safety measures, rules, updates, government relief programs and providing relief to deaf people and disseminated through its Facebook page so that many deaf people receive the correct information. The organization developed over 15 videos in sign language on COVID-19 and natural calamities and loaded in own Facebook to reach to deaf people. NDFN developed sign language video on information and awareness about CORONA, Lockdown, safety measures to get protect against CORONA (<https://www.facebook.com/NDFNNepal/>) NDFN disseminated the information and supported to solve the problems of deaf people through video calls. NDFN informed the deaf people and its province and districts networks to coordinate to support to

deaf people in the community for their access to information, relief and other needs. NDFN developed form and loaded in website and requested deaf community to fill up about their information, needs, and problems. With the information, NDFN lobbied with the government agencies responsible in emergencies like Ministry of Health, Ministry of Women, Children and Senior Citizens, Ministry of Communication, COVID-19 Crisis Management Committee, Nepal Television for the full inclusion of sign language in all the notice/information on COVID-19, safety, access to relief, access to interpreter service etc. In addition to its worthy work on access to information, NDFN provided immediate relief materials (food, rice, health kits, soap, sanitizer, and mask) to 272 families of deaf people. It provided psychosocial counselling to 355 deaf people (male and female) who suffered from psychosocial trauma because of their inability to access information, loss of work and loneliness/isolation.

1.4.2.2 ACCESS TO EDUCATION OF CHILDREN WITH DISABILITIES

NDFN advocated with the government to develop online teaching learning materials in sign language to the deaf students. NDFN in collaboration with Centre for Human Resource and Educational Development is developing the online learning materials in sign language to the deaf students studying grade 1 to 10 in schools. The organization in a collaboration with DECC Nepal is developing teaching guidelines during the crisis like COVID-19. NDFN is also developing the mobile application in sign language targeting the learning of deaf children of early grade reading. NDFN is also coordinating to develop different stories in sign language targeting to the learning of deaf children of basic level.

1.4.2.3 ENSURING THE RIGHTS AND JUSTICE OF WOMEN WITH DISABILITIES

Nepal Disabled Women's Association (NDWA) has been outreaching directly to the community to provide relief materials (food, Health hygiene kit, wash hygiene it) to the person with disabilities. It provided its service to 1100 people with disabilities. The organization also distributed Gender Friendly Relief Packages for Women and Children with Disabilities and also advocated with other stakeholders and the government for the easy access of such relief materials (e.g.: Hygiene Kits, Accessories, Food, Dignity Kits) to all women with disabilities.

¹⁰Physical disability, Disability related to vision, Disability related to hearing, Deaf-Blind, Disability related to voice and speech, Mental or psycho-social disability, Intellectual disability, Disability associated with haemophilia, Disability associated with autism, Multiple disability (According to disability rights act 2075)

NDWA is working with the theme of Leave No One Behind in COVID-19 Pandemic Control and in its Response Actions with a particular focus on women with disabilities issues. The organization is sharing the information for the community awareness and policy advocacy on COVID-19 preparedness, response, recovery from a Gender Equality and Social Inclusion (GESI) Lens. For the policy advocacy the organization conducted the study (mapping) about the challenges and impact of COVID-19 to the women with disabilities. It also documented the stories of women with disabilities to use it for the community awareness, and to demand government's accountability in formulating disable-women friendly policies, guidelines, mechanism and services for the crisis respond. The organization through its network and community paralegals in all 7 provinces identified the violence cases of women with disabilities, and it provided shelter support, legal support and counselling support. The policy advocacy effort of NDWA was mostly centered on the reform and implementation of the following policies to address from the lens of disability and women issues as well. The organization advocated for the formulation and amendment of the laws and policies like: shelter Management Protocol on COVID 19 prepared by National Women Commission and interim guideline / directives 2077 on Essential health and rehabilitation service flow for Person with Disability in the context of COVID-19 pandemic.

Blind Women's Association Nepal (BWAN) has put its effort mostly on the legal education, legal awareness and advocacy on how to minimize the impact of COVID-19 on blind women whose life has become more miserable after the COVID-19 breakout in Nepal. Blind women are struggling for their livelihood, access to education, access to justice on the violence and discrimination cases. Health care services, access to relief, medical equipment, health and sanitation materials, and have displaced from their income generating work. BWAN has dedicated its significant time on case management, paralegals mobilization, research and media advocacy for creating disaster risk reeducation plan, policies, and services for blind women. In addition to this it also provided seed money for the income generation activities of blind women who lost their job. During lockdown period, government made decision to cut social

security allowance of blue card holder (the 2nd category of severity of disability). BWAN conducted joint advocacy along with other organizations, to correct government's decision and reform the policy accordingly. Policy reform has been made to continue the social security allowance to 2nd category of disability. BWAN's major response during the pandemic are: Legal sensitization trainings to the grassroots people including blind women; legal services to the violence affected blind women; Policy advocacy: Interaction programs with the stakeholders, government agencies about the issues of blind women during the pandemic and address it through policy reforms i.e. social security allowances, livelihood budget for women with disability from the local level are assured; media campaign, legal aid, remote counselling and training manual development for the blind women's capacity building.

Enablement Nepal, a Kathmandu based organization working on disability issues, focused more its work during the pandemic for community justice service in Dolakha district apart from its advocacy work at the federal level. Enablement helped 15 people to access disability card during the pandemic and it has documented 50 cases for legal service. It contributed in building the capacity of local DPOs on how to provide justice services to the people with disabilities including case management and referral services during the emergencies, crisis period, and in normal time. During pandemic, the organization conducted series of discussion and dialogue on the need of advocacy to ensure rights of persons with disabilities among Network of Access to justice (NAJ) members thereby NAJ members were active in advocacy during the COVID-19 crisis for example: the network member organization- Shruti was success in advocacy to Ministry of Information for live captioning daily update of COVID-19 information.

1.4.3 ADDRESSING GENDER BASED VIOLENCE AND EMPOWERING WOMEN DURING THE COVID-19 PANDEMIC: RESPONSE FROM WOMEN'S RIGHTS ORGANIZATIONS

The approach and interventions of women's rights organizations during the COVID-19 is diverse on some issues and there are some similarities on their work, based on their strategy, skills, experience and expertise. Organizations working particularly

on dalit women emphasized more on the need and problems of dalit women whereas organizations working on women with disability and single women focused their work more on addressing their problems and issues respectively. The organizations having the expertise of policy analysis and policy advocacy put their more effort on analyzing the existing public policies and mechanism from women's lens perspective whether it is just, nondiscriminatory and constitutional or not to respond the health crisis- pandemic, from the perspective of addressing women's different needs and their fundamental rights women's need to respond the crisis.

1.4.3.1 INTERVENTION OF THE WOMEN RIGHTS ORGANIZATION BASED IN KATHMANDU

The organizations such as Himal Innovative Development and Research Institute (HIDR) played a very proactive and valuable role in reviewing the public policies for disaster/ crisis response mainly from the gender / women's point of view. It also provided its policy input to other women's rights organization's data, evidences who intended to conduct the evidence based policy advocacy. The organization like Women's Rehabilitation Centre (WOREC) dedicated its time and effort for the broader policy advocacy and institutional reform to address the challenges of violence affected women. The Legal Aid and Consultancy Centre (LACC) spent its major time on providing free legal aid and legal counselling, legal awareness to the women who were in need of legal services during the pandemic. LACC's services was in two fold; online services in Kathmandu, direct services in the community through its branch offices in the districts. The Feminist organization - Tarangini provided diverse range of services (Psychosocial counselling, self-care training to the head of Local Judicial Committee and Violence affected women), relief services to pregnant, lactating and other needy women during the pandemic. Tarangini led a vibrant discussion, debate from the federal, provincial to the local level amongst diverse range of stakeholders, policy makers, women human rights defenders about the issues of women, gender based violence, issues of migrant women, quarantine situation, safe house for women and on other different right based issues of women to be addressed by the government during the crisis like COVID-19 pandemic. The organization has carried a movement feminist

advocacy approach to demand government's accountability in addressing women's rights during the COVID-19 pandemic. AMAKSH Nepal working on migrant women issues is visible in reusing migrant women, providing them temporary shelter, legally and mentally empower them, and enhance their skills, capacity for the income generation including the advocacy for the reintegration of returnee migrant women. Women for Human Rights (WHR) working on the issue of single women, massively deployed its team for the relief distribution to the needy population, providing shelter to returnee migrant women, and conducting policy advocacy to ensure single women's right to social security during the pandemic. During the locked down, WHR provided food and relief material to the needy people. Feminist Dalit Organization (FEDO) was more proactive on evidence generation of the justice issues of Dalit women, and advocacy both virtually and direct on the street for the justice of Dalit women who were raped and faced violence during the pandemic. Centre for Women Awareness and Development worked closely in a collaboration with local government of Kathmandu and Bhaktapur Municipality in providing its technical input, expertise for the local health guidelines, for the training manual of paralegals and providing legal aid even during the pandemic. Relief distribution to its targeted beneficiaries was almost the similar work for the organizations who has network at community and work on advocacy. The organizations led itself by marginalized women such as slum women, women working on entertain sector, domestic workers women, women working on informal sector, women sex workers, were more engaged in outreaching their community / group , identifying their need and providing economic relief materials including allying to the mainstream women's rights organizations, network seeking support to amplify their voices for the policy advocacy for the recognition of their work, identity and ensuring their right to employment, labor, right to housing provide safety , security to them who suffered from violence and ensure basic health services for them during the pandemic.

The government of Nepal has issues various Directives, guideline and plan of Action, but analysis of above organizations shows that they are too general. However, there are pertinent loopholes which require urgent actions in responding to the challenges by

bringing about policy coherence across various sectors while ensuring implementation and formulation of policies related to health, economy, education, tourism and trade etc. and ensure their strict enforcement. The government sector should adhere the LNOB principles, should introduce regulatory mechanisms to address the disproportionate impact of the COVID-19. The major policies and laws reviewed, analyzed by CSOs/ women's rights organizations during lock down/ pandemic, and advocated for the policy reform and its effective implementations to ensure the rights of marginalized group during the crisis are on multiple areas¹¹.

1.4.3.2 COMMUNITY ACTIONS BY THE COMMUNITY BASED ORGANIZATIONS

The community based women's rights organizations have been directly engaged in the field to provide emergency support to the violence affected women and poor women despite government's urge to abide lock down, and bearing the risk of COVID-1. They are regularly engaged in monitoring the quarantine whether it is women friendly or not. They regularly out reached to community women via phone and by door to door visit through community paralegals, and identified if women need any legal, medical or psychosocial support or not. Community organizations working on Dalit rights issues mostly on women such as Dalit Feminist Upliftment Organization (DAFUO) in Province no.5- Baridya , Dalit Women's Rights Organization (DWRf) in province no.7 - Kailai, Commit Nepal in province no.5- Banke, REDEF Nepal and HURF in province no. 1 – Morang , Illam and all the districts of Province , quickly moved after lock down to map the impact of COVID-19 to Dalit women including Badi Dalit women and engaged in local policy advocacy , relief delivery to the violence affected, migrant , daily waged Dalit women impacted by COVID 19 in their respective working areas. WPRDC from Province no.1- Morang, Mukti Nepal and Safe Nepal from Province no.2- Siraha and Dhanusha regularly monitored the cases of VAW in Core Terai including the challenges faced by Madheshi women, Dalit women. All of these organizations mobilized their team including paralegals to monitor local government's response to COVID-19 crisis and if it is able to address women's specific rights and needs or not. Since the sexual violence, rape, domestic violence cases on Dalit women

and girls mostly on Dalit girls during the lock down period was increasingly reported in province no.7 and across the country but the services of justice institutions was unfairly responsive to provide immediate protection, security and justice to those women.

All the above organizations provided free legal aid, counselling and shelter services to those needy women. They conducted consistently demanded the accountability of local justice institutions including Local Judicial Committee, Police office, Legal aid office, Court, one stop crisis center for the emergency response and fair justice services to violence affected women during the crisis period. The advocacy by the community women's rights organizations were conducted in both ways, virtually and directly by coming in to the street. Despite having the small scale of resources funded by donors at the local level, these communities based women's rights organizations made a rigorous effort to raise the fund individually, institutionally to establish the safe shelter for women and they are success to establish it during the lock down in the far western region where there is no emergency shelter run from the government for violence affected women. The community paralegals, network of community women and rooted in the community were the strongest part of community based organizations that they were able to immediacy respond to the community women's need affected by violence and COVID-19 pandemic. During the pandemic period, each organization have provided free legal aid and psychosocial counseling services (justice services) to 100 women in average by each organization. One organization has mobilized 30-50 women paralegals in average during the pandemic period [see detail in Annex-1].

1.4.4 FIGHTING AGAINST CASTE BASED DISCRIMINATION AND INJUSTICES DURING THE PANDEMIC

From the beginning of lock down enforcement, Dalit NGO Federation (DNF) and Feminist Dalit Organization (FEDO) has been engaged in tracking the incidents of caste based discrimination, human rights violation and other forms of violence against the Dalit Community in Nepal. DNF's priority group is all the Dalit people whose rights are violated during the pandemic whereas FEDO focused on only Dalit women whose

¹¹The Disaster Risk and Management Act, 2074 (2017), Public Health Act, 2074, Right to Safe motherhood and Reproductive Health Act 2075, Labour Act, 2074 (2017), The Right to Housing Act, 2018, The Right to Food and Food Sovereignty Act, 2075 (2018), the Social Security Act, 2075 (2018), Right to Employment Act, 2075 (2018), Crime Victim Protection Act, 2075 (2018), Domestic Violence (Offense and Punishment) Act, 2066 (2009), Human Trafficking and Transportation Control Act, 2064 (2007), Labor Right Act, Migration Act, Disability Rights Act and Local Governance Operation Act, 2074.

human rights is violated during the pandemic. During the lock down various incidents of murder, killing, rape, beating, denied to perform rituals or religious performances to the Dalit people on the basis of caste based discrimination, have been reported. DNF documented 117 Dalit Human Right Violation Cases in lockdown period (15 March-end of June, 2020). The organization provided its direct and referral services through DNF structure and paralegals groups to the justice Mechanism(local mediation groups and judicial committees, Human Rights Commission, Dalit Commission, women commission Court as well); 60 cases of them murder/killing-9, Rape/ sexual assault to Dalit women-4, Caste Based Discrimination-18, Hunger/ food insecurity/scarcity-12, Beating(Kutpit) and scolding(galibijeti)-7, discrimination in quarantine-7, cybercrime related-2, were facilitated and referred by DNF. DNF and FEDO's field monitoring on the most infamously highlighted two cases of the heinous crime / case based discrimination: the rape and murder of Samjhana B.K from Aacham and Macacre of 11 youth including Nawaraj B.K in Rukum is noticeable.

Both the organizations are in front line advocacy for the justice of the Dalit victims on the above issues of discrimination and injustices. DNF and FEDO conducted a quick online survey about the impact of COVID-19 on Dalit people, and to women respectively. They used the report of the survey as a good evidence to bring into the advocacy fight against social injustice, caste based discrimination, for the justice and legal empowerment of Dalit during the crisis. The organizations also fearlessly raised their voices against the torture and custodial death of Dalit Youth in Rautahat where a 19 years old Dalit man named Bijaya Mahara was arbitrarily arrested, was kept in illegal detention, tortured severely that caused his death in the custody. Discussion with the provincial and local government in province no.2, 5,6,7 about the policy issues; public financing for the legal empowerment of Dalit people was another key advocacy initiative that was taken by DNF and FEDO even during the pandemic period.

1.4.4.1 RELIEF SERVICES AND EMPOWERMENT APPROACH FOR DALIT

During the pandemic, FEO has been raising the social and economic issues of Dalit women who are adversely impacted by the COVID-19. During the pandemic period followed by the lock down, the lives of Dalit women who are historically excluded and discriminated on the status of caste, have become more vulnerable during the pandemic. Most of Dalit women people from Dalit women who were economically dependent on daily wage labor, lost their job and suffered from livelihood and mental trauma during the lock down. Due to discriminatory practices, lack of awareness and their lack of access to resources and services, they were/are not able to maintain the health hygiene and health guidelines of the effects of coronavirus.

FEDO provided legal education to altogether 342 Dalit women about the issues of Dalit women and the process of approaching to the local government mechanism to access public services during the pandemic period. Participants were educated on the effect of COVID-19 on the lives of Dalit women. In addition, it raised the burning issues of Dalit women from local level during the COVID-19 pandemic. It provided emergency relief materials to 3000 Dalit women and girls. The organization conducted the physical and virtual public discourse program during the pandemic to cover the issues of Dalit and marginalized women. During the pandemic, the organization reached out to 110000 people through its community awareness campaign on Gender Based Violence, Caste Based discrimination, Health education and legal awareness activities at local Dalit and Marginalized community which was organized through radio programs. DNF and FEDO's both mobilized 100 community paralegals in total for the identification of COVID affected Dalit people, for the legal counseling, advocacy, case referral, case documentation and legal awareness, information dissemination. The organizations convened more than 20 convening's and coordinated with the more than 300 CSOs on the issues of discrimination, justice and empowerment of Dalit people including to minimize the risk of COVID-19 to this population.

1.4.5 LEGAL ACTION, LEGAL AID AND LITIGATION

The civil society organization and lawyers have been playing vital role in taking legal action to make the government accountable and responsible. The civil society organizations filed litigation at the apex court in demanding the people's right to return to their home while the government barred its citizen in coming back home from neighboring countries as well as from abroad. The Public Defender Society (PDSN) filed number of litigation in demanding government's accountability to protect the health rights of prisoners and prevent their risk to COVID infection. The litigation resulted the positive decisions from the court and endorsement of guidelines in this regard. The Supreme Court has directed the government to release vulnerable inmates. It has also asked the government to ensure full safety measures in jails so that the inmates can be protected from the spread of coronavirus. Nepal's overcrowded prisons have already seen quite a few positive cases, and a few of them have died of the virus in recent days¹². Apart from the litigation, PDSN provided its free legal aid services to many prisoners by representing their cases in the court and writing the application for their release. In addition, the People's Forum filed the litigation on behalf of the migrant workers and the Supreme Court today issued an interim order to the government asking it to take care of the health needs of Nepali migrant workers living in foreign countries and to repatriate vulnerable Nepali workers from foreign countries to Nepal¹³. The Supreme Court has ordered the government to conduct PCR test of all people who want to undergo the test free of cost. The verdict was delivered by a division bench of justices Ananda Mohan Bhattarai and Tanka Bahadur Moktan on October 1, 2020 in response to a writ petition filed by advocates Lokendra Oli and Keshar Jung KC. The apex court observed that COVID-19 was an infectious disease and as per the legal provisions, everybody had the right to get free diagnosis and treatment for the disease¹⁴. Forum for Women Law and Development filed the litigation jointly with WHR CWAD for the ensure of social security allowances for single women and disabled urging that it should not be cut off in the name of crisis prevention because these populations are more affected during the crisis. The litigation made positive impact on the result. Similarly, FWLD's litigation on ensuring citizenship rights of women on specific cases, and ensuring women/daughters

inheritance right to their parental property has established a landmark decision on women's rights arena, and it shows CSOs effort to protect fundamental rights of women even during the crisis. Legal Aid and Consultancy Services (LACC) provided free legal aid to 500 people mostly to women during the lock down period. The civil society organization like the PDSN, FWLD, LACC and individual lawyers played proactive role to make the government accountable and responsible. However, the government have implemented some of the decision of the government, however, most of the decisions were not implemented in proactive basis by the government.

1.5 INNOVATIVE MODELS/ APPROACH

Developing sign language video and sharing through the NDFN Facebook page, messenger was very successful model to increase awareness, empowerment of deaf people and access to services. Video call to the deaf people was equally effective to share the information with deaf people. Lobby with the Ministry of Health and Population resulted the inclusion of sign language interpreter in the daily briefing of COVID-19 updates by the Ministry. Ministry of Communication and Information Technology and Nepal Television started the broadcasting of daily News in sign language from Nepal Television Channel. Kohalpur and Itahari channel of Nepal television has started daily broadcasting of News in sign language at 7 am. Sign language video messages on emergencies loaded in NDFN facebook page were so much helpful to aware deaf people and respond to COVID-19. NDFN estimates the video message on COVID-19 has reached to over 30,000 deaf people in 7 provinces and 77 districts including the students of deaf schools. Providing free legal aid was not innovative but a successful approach that helped ensure justice of many people for example the work of LACC, CWAD, LACC, PDSN and JURI Nepal.

1.6 CONCLUSION

The CSOs in Nepal are working on diverse range of issues, reaching out to the different communities for their rights, justice and empowerment in the different geographies, all over the countries. The COVID-19 pandemic has explored the new scenario/ dimensions to CSOs work, it even tested their resilience and integrity. In the pasts, Nepal did not experience such

¹²<https://www.recordnepal.com/wire/features/to-protect-inmates-from-COVID-19-court-orders-early-release-of-those-vulnerable-to-the-disease/>

¹³<https://www.business-humanrights.org/pt/%C3%BAtimas-not%C3%ADcias/nepal-supreme-court-orders-govt-to-protect-the-health-needs-of-migrant-workers-living-abroad/>

¹⁴<https://thehimalayantimes.com/nepal/supreme-court-orders-govt-to-ensure-free-tests-treatment-of-coronavirus/>

experience of disaster even during the earthquake and flooding that had never required physical distancing with each other. COVID's biggest threat was the nature of its quick and multiple spread so that it required physical distancing, close down of all activities related to public and individual contacts to minimize the threat to life. However, this made many people's life difficult for the long period (almost one year is already completed). In this difficult situation, the CSOs in Nepal showed their biggest strength to support the community affected by COVID-19 and government's COVID control response such as lock down and other emergency measures. Despite the threat to their individual health and life, CSO's immediate intervention, relentless work for the relief and justice to the affected community is praiseworthy and valuable. They even seek the collaboration with all three tiers of government for the relief distribution. Despite the limitation of resources that most of CSOs are dependent on foreign donors, they quickly approached with the donors to amend their working areas and shifted their priority to COVID-19 response by providing emergency support, relief support to the needy, affected communities i.e. marginalized communities. They contributed in protecting their rights through direct legal services, psychosocial counselling, and advocacy. As government focused its strategy, work and services more to the COVID prevention, testing the COVID cases, quarantine/ isolation management, and providing health services to the COVID infected people at the beginning of the lock down, CSO's stood as watch dog in the forefront to monitor government's such work and raise the questions over the mismanagement of resources, services, unaccountable decisions, and to ensure communities are getting essential services or not. Since, the pandemic has exposed systemic flaws and highlighted the drastic inequality, it has created the essential and critical role of CSOs to recover the pandemic. During the crisis, the risk of rising the autocratic and authoritarian regime always exists, that was often reflected in many actions of state agencies in Nepal too for example; introducing the ordinances, torture and illegal detention of civilians by police, denial and delay to protect the human rights, hurdles in delivering justice in some cases of domestic violence, rape and murder were visibility occurred during the lock down period in Nepal. At this point, CSOs in Nepal played a crucial role of tracking all those human rights violations and consistently demanded government's obligation to

comply the human rights principles, justice principles and implement the constitution. In addition, the study proves that CSOs were the most responsible, proactive and voluntarily mobilized actors who reached to the population living under the margin of the margin, who are vulnerable because of COVID effect, and they supported those population for their rights, justice, relief, medical support, empowerment and even for their livelihood support. For example; the CSOs contribution to the lives of women, people with disabilities, Dalit and other marginalized community is immense, countless and incredible. The tools and approaches adopted by CSOs during the pandemic are common in some areas, and are different with each other on some issues. The most common approach they adopted is reach, mapping, documentation, monitoring, relief services, justice services and advocacy. In overall of their approach, the Legal empowerment was a common approach for many of CSOs working on rights and justice. The Crisis was merely not considered as a service driven response by CSOs, it more taken as a right based approach. Similarly, the use of technology was common during the pandemic which was different tool than their past work. However, the use of technology for the community based CSOs was a learning aspect, but it was not regularly accessible to all the community based CSOs, justice actors like paralegals. The pandemic has also given the opportunity to CSOs to learn the technology, it has pointed out the need of technology enhancement, its accessibility but at the same time it has equally contributed to widen the inequality in the country like Nepal.

Since the space of CSO in Nepal was felt shrinking through the various policies and actions of government, COVID-19 pandemic has created the learning and strong evidence for the need, value and role of CSOs to be more expanded at present and in future so that they can operate independently as per the need of community with right based approach. The government needs to adopt more collaborative approach with the CSOs in its effort to COVID-19 respond. At the same time, CSOs independent and evidence based voices for the rights and justice of people need to be taken seriously by the government for the justice and equality for all during the crisis and in the normal time by leaving no one behind.

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ANNEX 1: QUESTIONNAIRE CHECKLIST:

CHECKLIST FOR GOVERNMENT STAKEHOLDERS

1. What is the role of your department in preventing and responding COVID-19?
2. What are the major policy/guidelines/ plan of action have you brought to prevent and respond COVID-19?
3. Are you aware about the policies /directive and plan of action that brought by other government agencies? If so please tell us briefly
4. What are the key focused of the policy/guidelines/ plan of action?
5. What is the key strength of those policies?
6. What are the key gaps you see in the policies?
7. How do you see the implementation of those policies?
8. Are you satisfied on the implementation status of those policies?
9. What could be the next step to improve policies?
10. What could be next steps to strengthen the implementation status of the policies/ directives?

CHECKLIST FOR HUMAN RIGHTS /LAWYERS/JUDGES

1. What is the major role you have playing to make government accountable?
2. What are the major policy/guidelines/ plan of action that brought to prevent and respond COVID-19?
3. What are the key focused of the policy/guidelines/ plan of action?
4. What is the key strength of those policies?
5. What are the key gaps you see in the policies?
6. How do you see the implementation of those policies?
7. Are you satisfied on the implementation status of those policies?
8. What could be the next step to improve policies?
9. What could be next steps to strengthen the implementation status of the policies/ directives?

ANNEX 2: KII LIST

S. No.	Name	Institution
1.	Roshani Karki	Ministry of Women, Children and Senior Citizens
2.	Manju Khatiwada	National Human Rights Commission
3.	Gunaraj Luitel	Journalist
4.	Dinesh Tripathi	Lawyer
5.	SP Durga Singh	Nepal Police