

# CHAPTER: 1 INTRODUCTION

## 1.1 Introduction

Women's political under-representation is a malfunction of today's democracies (Dahlerup, 2007). Representation in politics where men and women are equally represented is called a gender-balanced representation. When examining the political representation, it is of higher interest to look at representation in legislative bodies than in other political bodies since it is elected by the people and considered the most influential. Nevertheless, it is hard to neglect that under-representation of some groups in society will lead to under-representation of certain opinions and insufficient attention to particular questions. Several arguments for a gender-balanced representation have been brought up including one of the ground pillars of democracy; everyone's equal right to participate in politics, to vote, candidate and participate in decision making processes (Held, 2010).

Debates on the forms of political participation and those who can exercise power within they have a long historical trajectory. They go back to the citizens' assemblies in ancient Greece, and all the way to the present time with the continuing search for alternative methods of individual or collective participation and new areas where it can be exercised. The contemporary democratic ideal is based on the concept that political power has its roots in a sovereign people. Therefore, there can be no democracy without involvement, without participation of the people in political life. But, how do we define this political participation? Participation can take place in numerous activities, such as being involved in different groups or associations but, what does political participation mean? What are we citizens of? What is political? And, how does someone become a political actor? Political participation can be any activity which aims at influencing the structure of a government, the appointment of leaders and the policies they execute. These activities can have the goal of supporting the existing structures and politics or changing them. They include active and passive actions, collective or individual, legal or illegal, support or pressure actions, by which one or several persons try to influence the type of government that may lead a society, the way the state of that particular country is led, or specific government decisions affecting a community or their individual members.

Legally, Nepalese women have equal political rights to vote and to get elected. Although, women have an equal right to government jobs, child-care and family obligations women make them less desirable to recruit from the institutional point of view. Nepalese women

have been empowered in paper. However, they have not been wholly translated into a way of life. Only a few women are in the decision-making capacity, which shows that male domination is continued as usual. Nepal is a signatory to the international declarations and conventions on equal opportunity and non-discrimination between men and women. However, no substantial improvement is evident in the overall position of women in society. Women's presence in various spheres of public life, particularly in politics, remains very low.

Post conflict Nepal is struggling with many issues concerning transition from conflict to peace. The issue central to this study, namely women's political participation on post conflict Nepal, has not been highly prioritized but it is an issue which has grown in importance and more actors are now more seriously dealing with this transition. The legally from policy aspect the women's participation and women's right are ensured. The women's participation and women's right can't be established in isolation as it has to integrate in overall social fabric of society. When it comes to political participation its acceptance and practice is more important because overall society needs to recognize women as their leader and representative. The policies of Government of Nepal that contribute women's political participation are satisfying, the structural arrangement for the implementation of those policy are overburdened by work load of development, security and other social issues where women's issues are seems least important. More importantly the implementation strategy for those policy seems more confusing as it contradict in written and in practice.

Women's participation in the policy making level is also seen to be significant. There have been some improvements in the representation of women in politics. The positive signs seen in the sector of women's participation are: 197 women(32.78%) in the first Constituent Assembly (2008) and 172 women (30%) in the second Constituent Assembly (2013), increase in women's participation at the policy making level, the issue of women's participation raised with importance in the working committee of sister organizations of political parties, serious discussions on gender sensitivity and inclusiveness while formulating policies and laws or while making policy level decisions. In the past, there was minimum participation of women in the Legislative and Judiciary bodies. However, the policy of positive discrimination adopted by the Government to increase the participation of women has gradually started to show positive results. Under the Ministry of Home Affairs, The Nepal Police has adopted a Gender Policy as well as a Code of

Conduct against Gender Based Violence, 2012. The Ministry of Defense has initiated the policy of establishing a gender unit. The Ministry of Local Development and Federal Affairs (MOFALD) has made the provision of allocating 10% of grant without any conditions for promotion of women's participation and for women empowerment after developing the Local Body Resource Mobilization on and Management Procedure, 2012.

Initiatives have started to ensure 33% women's participation in local level development mechanisms such as user's committee, community organizations, etc. Local Peace committees (LPCs) have been formed to take the peace process to a meaningful conclusion and create an environment of reconciliation in the society. LPCs have been formed in all 75 districts and as seen necessary in 55 municipalities and 2900 VDCs. These peace committees have a total of 23 members from among the political parties, civil society and conflict affected women. The provision to include one third women members in the committees shows the importance provided to women's participation in the peace process.

This study finds that the choices and voices of women are considered as noticeable in government action. The deep rooted gender inequalities takes time to transform, for this transformation gender responsive policies are stepping stones.

## **1.2 Research Objective**

The overarching objective of this study is to understand the status of women participation in post conflict political structure of Nepal. Which is further specified in this study as

- a) To understand the legal provision of Nepal those ensure women's political participation.
- b) To examine correlation between women's political participation and citizenship provision for enhancing women's political participation and ensuring women's human right.

## **1.3 Statement of the Problem**

For a decade 1996 to 2006 Nepal has experienced armed conflict in different forms in all over country. Peace processes are considered, excellent scenarios for the transformation of the structural causes that have given rise to a war and for designing policies intended to tackle issues such as exclusion, poverty or democratization (Upreti, 2013). Despite the fact that these processes have a very far-reaching gender dimension, they tend to be represented as neutral, concealing the gender dynamics that take place during the course

of peace building. In the context on political transformation and reconstruction major political and social reform has taken place in current Nepal. The political participation of excluded and marginalized group including women considered key issues of such transformation. Here the political participation includes process in which people take part in political activity with clear choices, attending public forum, taking part in agitation activity, attending study circle of political parties, right to vote, right to participate in elections, participate in decision making, representative in political parties (Sethi, 1988). The political participation for women is challenging in Nepal because of gender inequalities are deep root in social structures. The quality and quantity of women's participation in politics is determined by political rights given to women by law, and the stage of a society and women's access and entry to different sections of social life. There exist various factors that affect the women's political participation social construction of society, cultural behavior, religious attributes, resources and general legal practices of that nation ((SARSWP), 2013). Beside all this factors the legal identity of state is also one of the major and basic requirements that is essential to participate in politics. After the Peace Process in Nepal two elections were held. If we review the overall situation of women's participation in elections of Nepal women's participation in different level highly varies. Though the both elections were result of political change and were for constitution making. Basic requirement for political participation providing legal identity as citizen in Nepal is gender biased. In a way state is reluctant to provide smooth access to women in decision making and political activity.

Based on this statement of Problem this study will seek to give answers to the following research questions.

1. What are the policies that explicitly ensure women's political participation in post conflict period of Nepal?
2. How the legal factors particularly citizenship right associated with women's political participation and context of Nepal?
3. How the legal hurdle for women's political participation has been addressed and its implication on women's right?

The study will cover factors divided in the three categories: policy, structure and implementation. However countries have different contexts and therefore there is no single explanation that can explain variation in all countries or periods of time. This study will mainly focus on the liberal feminist perspective how right, resource and

responsibilities are provisioned in law of state and how other policies are connected, complimented or contradict the women's right in compare to new constitution of Nepal 2072. The rephrased and slightly narrowed question is of a more empirical nature which is needed to operationalized, making it possible to examine the phenomena in question. The research questions need to be further reduced in order to answer them on a less abstract level. The first question: What are the policies that explicitly ensure women's political participation in post conflict period of Nepal? The study intended to examine the policies that ensured the women's participation particularly after the peace process (after 2006) has been stated and country entered in post conflict peace building stage. Here the question is raised to review the policy that has precisely endorsed the women's participation and political participation. Here the policies are Constitution of Nepal, Policies formed in line with complimenting constitutional provisions and Policies/plan endorsed in line with international commitments on women rights.

In the second question; how the legal factors particularly citizenship right associated with women's political participation and context of Nepal? Here there could be many factors like social, economic, cultural, personal and legal. Among all other factor this research will focus on legal factors only, more on will particularly focusing on the very initial step of politics is to be citizen of country and getting legal identity. Thus second question is intended to analyze the situation of citizenship right to women and its relation to women's political participation.

And for third research question research will only intended to figure out the strategy of state to address the basic hindrance of women's political participation and its impact on overall situation of promoting women's right. I regard policy as a key factor and significant in their ability to influence women's access to politics. Thus, I will narrow my third research question into how specific policies and implementation strategy can aid to increase political participation and find out loopholes of policies that might hinders women's political participation. Thus though considering it is important to know how the women's participation can contribute and what the impacts are and result so far. Here in this research I will be focusing only on policies, discriminatory provisions and government and stakeholder strategy to deal with. A further limitation will be made since it is not about political parties, women's organizations or other possible policy entrepreneurs.

## **1.4 Operational Definitions**

**Post Conflict:** Post Conflict is the phase after the end of armed conflict/war or violent struggle. For this research the Nepal after the signing of Comprehensive peace Agreement between government of Nepal and then rebellion party Communist Party of Nepal Maoist in 2006.

**Political Participation:** For this research political participation refers to engagement in political activities and action. It is the involvement of women in political affairs of the country ranging from taking active part in all political activities such as civic education, demonstrations, attending rallies and political conferences, voter registration, party campaigns, party elections, national campaigns, national elections, to their active involvement in the legislative debates. Political participation will be said to have succeeded if the women attain freedom of speech, if they are listened to and are kept informed and if the women are given power to make (real) decisions about themselves and the society at large.

**Policy:** Policy for this study is Nepal government action is generally the principled guide to action taken by the administrative or executive branches of the state with regard to a set of issues in manner consistent with law and institutional customs for women's right and gender equality.

**Citizenship:** Citizenship, encompasses 'a right to being political , a right to constitute oneself as an agent to govern and be governed, deliberate with others and enjoying determining the fate of policy to which one belongs.

## **1.5 Conceptual Framework**

The theory of why women participation is low is, as stressed in chapter 1, best understood as interplay between policy, institutions and implementation strategy. Policy, structure and implementation strategy function in a reciprocal interaction where policies' output are limited by the current structures. This study will pay more attention to the policies influence in increasing women's political participation. This is why I have chosen to put focus on all three explanatory factors in the first research question, while giving the actors more room and focus in the second research question.

**Figure 1:**

Relationship between Policy, Structure and Strategy

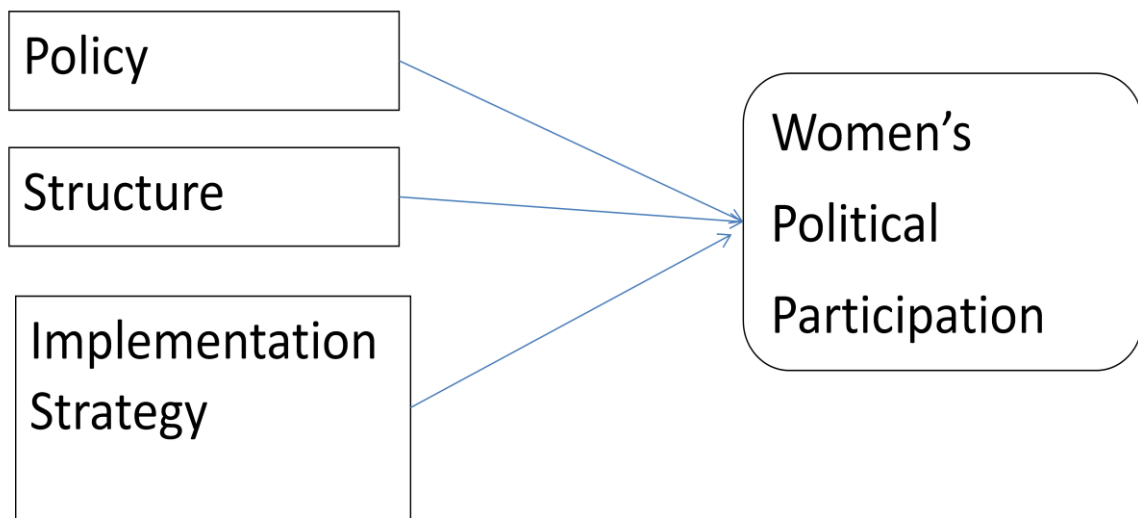


Figure 1 shows the relation between, what is considered, research variable in this study. The women's political participation is dependent variable in this study whereas Policy, Structure, Implementation Strategy are considered independent variables. Here policy is that laws and action plans adopted by government of Nepal after Comprehensive Peace Agreement concerning gender equality and more precisely, in this study, women's participation in politics. Based on the literature, study finds that *policies* are key factor for ensuring women's participation in politics. And study also assumes that policies are prerequisites for having women participation. If there are some policies that explicitly talks about the women's political participation then there most some kind of structural arrangement to implement that. Coming to the second variable *structure* for this study it represents the constitutional arrangement of citizenship right and its relation with political participation. As the literature argues that policies get endorsed through some structural arrangement, being specific the citizenship right which is considered basic requirement to be in political activity will be studied.

Here in this study *Strategies of implementation* is consider other variable. The policies for ensuring women's political participation are reflected with some structural arrangement of citizenship right as key requirement. Now the structural arrangement can work and get implemented through some of the guiding strategy. Here in this study the relationship between policies, structure and its implementation strategy will be analyzed for women's political participation issues.

The analysis will be based on the feminist theory basic principles: Working to increase equality: Feminist thought links ideas to action, insisting we should push for change toward gender equality and not just talk about it. Expanding human choice: Feminists believe that both men and women should have the freedom to develop their human interests and talents, even if those interests and talents conflict with the status quo. For example, if a woman wants to be a mechanic, she should have the right and opportunity to do so. Eliminating gender stratification: Feminists oppose laws and cultural norms that limit income, educational and job opportunities for women. Ending sexual violence and promoting sexual freedom: Feminists feel that women should have control over their sexuality and reproduction.



## CHAPTER: 2 LIERATURE REVIEW

### 2.1 Introduction

The explanations for why female representation is extremely low in many countries vary greatly. One of the most discussed explanation that has been lifted in research and literature of female representation is the electoral system. Some researchers claim this is the strongest reason for women's under-representation in parliaments. Previous research shows that countries with a majority system have less women represented in Parliament than countries that practice proportional system. This is due to the small chances of women to get elected, why men are in enormous majority as candidates in majority systems.

There exist general claims that woman usually don't have much interest in politics. Instead it is considered to be men's job. But some interesting finding are there in the research conducted by Nancy Burns, Kay Lehman Schlozman and Sidney Verba (2001) the explanation of the gender difference in political participation some basic explanation are listed in American context. Though context is different but to understand factor affecting women participation in politics I studied this book where some explanation are such as are the notion that women, especially women with children at home and full time jobs, do not have the time to take part in politics received no confirmation. Though this was tested but the research simply could not find a relationship between the resource of leisure time and political activity. Similarly no substantive hypothesis that raising children so absorbs available mental energy that mothers, especially those with toddlers underfoot, do not have the psychic space to pay attention to politics. And patriarchal family as a school for democratic citizenship was also investigated by researchers. Some suggestions are found that domestic inequality has implications for the gender gap in activity, the relationship does not function in quite the hypothesized manner, and the consequences for husbands' political participation are at least as great as for wives'. Instead some socioeconomic resources, discrimination by law and socialization process are some factors that are affecting women to participate in politics (Burns, Schlozman, & Verba, 2001)

The Beijing Platform talks about 'discriminatory attitudes and practices' and 'unequal power relations' that lead to the under representation of women in arenas of political decision making. This may be labeled as a *discourse of exclusion* . Whereas previously

the focus was on women's lack of resources or lack of will to participate in politics, attention is now directed towards those institutional and cultural mechanisms of exclusion that prevent women from obtaining an equal share of political positions in most political institutions in the world. Importantly, in this new discourse, the responsibility for promoting change is shifted from the individual woman to those institutions that are, consequently, expected to take action to identify and correct the causes of women's under representation (Dahlerup, Women quotas and Politics, 2006).

The book by Meena Vaidhya Malla (2011), state that the political socialization of women in Nepal which is prerequisite for understanding actual role, status and participation of women in politics. The different elements of society and process of socialization play a crucial role in the women's political participation. In a patriarchal and male dominated society, the inadequate and unfair representation in politics is a historical hard reality because the principle of inequality exerts its influence in the society and socialization process. Consequently, women are found in an absolutely marginal position in the political and public spheres. Their access to knowledge, skills and independent political activity is limited.

The political participation has been termed as "any voluntary actions successful or unsuccessful, organized or unorganized, episodic or continuous employing legitimate or illegitimate methods intended to influence public policies, administration, at any levels of government, local or national"<sup>1</sup>. On the basis of participation in book of Vaidhya model has presented that is Apathetic, Peripherals, Spectators, Auxiliaries, and Politists (Malla, 2011).

Women in parliament: Beyond numbers is a Handbook by the International Institute for Democracy and Electoral Assistance, IDEA, written by a number of contributors. The Handbook includes a chapter of Nadezhda Shvedova (2007), called "Obstacles to women's participation in Parliament". She investigates the hindrances for women to participate in parliaments and she divides the explanatory factors into three main categories: political such as: the masculine model of politics, lack of party support, cooperation with women's organizations and electoral system; ideological and psychological like: traditional roles, lack of confidence, the perception of politics as

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<sup>1</sup> Wiener Myron (1979), "Political Participation: Crisis of Political Process", quoted in Norman D. Palmar, "Elections and Political Development" The South Asian Experience, (New Delhi: Vikas Publishing House),pp. 57-58.

“dirty” and the role of mass-media; socio- economic obstacles including: feminization of poverty and unemployment, the dual burden and lastly, education and training.

Gender equality and women’s political participation is not just a question of academic interest. It holds many aspects equally important in the political and social sphere for all people. The basic argument is from one point of view a question of fundamental democratic rights, everyone’s equal right and possibility to candidate and to exercise political power. There is also the fact that big amounts of aid go to democracy promotion which to some degree seek to increase women’s political influence and participation in politics.

## **2.2 Women in Politics**

Status of women can be defined in the context of their access to knowledge, economic resources, and political power, as well as their personal autonomy in the process of decision making (UNDP 2004). Across the cultural diversity, the majority of communities in Nepal are patriarchal. Woman’s life is strongly influenced by her father and husband as reflected in the practice of patrilocal residence, patriarchal descent, inheritance systems and family relations. There has been little change in the status of women even after the restoration of democracy in 1990. On paper, the Constitution of Nepal guarantees various rights to women and so do the International Human Rights Instruments to which Nepal is a member. In practice, however, women do not enjoy equal benefits as men in their civil, political, social and economic advancement. The discrimination is institutionalized by family, society, market and the State. Legally, Nepalese women have equal political rights to vote and to get elected. Although, women have an equal right to government jobs, child-care and family obligations women make them less desirable to recruit from the institutional point of view. Nepalese women have been empowered in paper. However, they have not been wholly translated into a way of life. Only a few women are in the decision-making capacity, which shows that male domination is continued as usual. Nepal is a signatory to the international declarations and conventions on equal opportunity and non-discrimination between men and women. However, no substantial improvement is evident in the overall position of women in society. Women’s presence in various spheres of public life, particularly in politics, remains very low. This study attempts to review present literature on women under the economic, social and political aspect of life and suggest measures in improving access for women’s political participation.

The basic feature of the dominant Indo-Aryan culture is the patrilineal inheritance system and extreme concern over the purity of the female body. It discourages women and hinders those (women) for political participation. Democratic system of governance, the political changes of 1990 brought difference to women's political participation and access to positions of power, over the long haul. In short term perspective, however, no change has been visible in that regard (Acharya, 1994).

In the article by Renu Sethi (1988), political processes are concerned with the authoritative allocation of resources and values in a society. Participation in these processes includes all activities related to the making and execution of policy for society, a process by which people take part in political activity with more or less clear choice or preference. Attendance at public meetings taking part in the agitational activities, attendance at study circles of political parties, voting in elections, participation in elections campaign, membership in representative bodies (party activism) are some of the important indicators of political participation. In the article various explanation have been offered to account for the pausing of women in high politics. All the explanations has to deal with two fundamental questions raised in this article a) whether male dominance of power processes derives from female preference or male imposition or both; and b) whether male dominance is natural or conventional. It may be that women's low participation in politics is merely an aspect of their exclusion from other social processes.

Here, it has been generally believed for long that the quality and quantity of women's participation in politics is determined by a) political rights given to women by law, and b) the stage of a society and women's access to education, poverty and entry to different sections of social life i.e. the economy, information, decision making in the community, social freedoms, in relationship communication, association etc. the basic assumption on which this theory rest is that exclusion from any major sector of national life is an obstacle to political participation since politics is all pervasive.

In the report published by South Asian Regional Women Secretariat for Women Parliamentarians (SRSWP) (2013), it has stated the common problems that women face in participating in national politics are :Patriarchal structures and conservative attitudes that Permeate political life; Lack of party support; Limited social and financial support for women candidates; Limited access to political networks; Lack of contact and cooperation with other public organizations such as business groups, civil society organizations, women's organizations and parliamentarians; The absence of a well-

developed education and training system to promote women's leadership and orient women in politics; The nature of the electoral system which may or may not be favorable to women candidates.

More on the socio cultural thinking of leadership as still predominantly considered a male attribute. In South Asia, because of gender discrimination, women have lesser access to education, health care, wealth, mobility and other forms of social capital. Traditionally the concept of family headship is male and women are subordinate. This influences their community and public roles and position as well. Women's position at home and in society is the main hurdle to their political participation. Despite remarkable progress in bringing more women into politics in Pakistan by adapting legislation and policies, it has not brought about any change of male attitude towards women politicians because of deep rooted gender prejudices that a woman's place is at home and political life is for men.

In the context of Nepal the research conducted by Dr. Meena Acharya (2003) finds out that women's access to the positions of power, political or otherwise, has not improved much except at the grassroots level, although the constitution have some reservation for women participation. At the grassroots level only, the 20 percent reservation by Local Self-Governance Act 1999 has made a difference. If the history of women in politics is seen than from 1997 only reservation has been able to bring out women into politics in significant proportions, 20 percents at the grassroots level. Still in the district level women constitute only 1.5 percent even with the mandatory nominations. The study figures that the usual defect of reservation that it becomes only a token gesture and women actually do not participate effectively has not been supported by the five years experience of reservation for women in Nepal. And study concludes by showing problems with women's advancement are related to patriarchal ideology, behavior and structures. All the sectors/sub-sectors discussed above are hampered in achievement of their objectives by a patriarchal ideology and structures (Acharya, 2003).

More recent evidence on women's participation in political activity of Nepal and its related challenges are precisely described in the publication of UNDP (2013), in this publication different 26 questions are raised and also answers to those questions are given, which in a way gives background for my research. The 2007 Interim Constitution guaranteed equality before the law, prohibiting discrimination on any ground, including gender. It specifically prohibited discrimination between men and women for the same work with regard to remuneration and social security (article 13). In article 20, it

prohibited discrimination on the basis of gender and guaranteed women's reproductive rights, the rights to be free from violence (making violence against women punishable by law) and equal rights to ancestral property. It also gave oppressed groups, including women, the right to participate in state structures on the basis of principles of proportional inclusion (article 21).

The reports also talk about the 'affirmative action', 'reservations' and 'quotas'. And for strengthening women's political participation it describes about the Proportional representation system. Under the First past the post (FPTP) electoral system, as there is only a single winner and usually only a single candidate per party, there is no possibility of balancing the seat (also making it very difficult to introduce quotas under this system). In practice this means that few parties are willing to place their bets on a female candidate, because this would exclude the most powerful male politician in the same district from the race and/or because they fear that voters will be less likely to vote for their candidate when presented with a female candidate. To balance out the shortcomings of the FPTP system for ensuring gender and social inclusion, Nepal implemented a mixed/parallel voting system in which there are two races—one FPTP and one proportional representation (PR). The idea is that the PR race will compensate for the failure of the FPTP race, and will ensure the proportional representation of all groups in Nepal.

Even without quotas, under the PR system parties have better incentives to balance their ticket. Apart from adhering to standards of justice and gender equity, it is also a strategy to attract more voters, as different candidates can appeal to specific sub-groups of voters. Women candidates can attract certain groups of voters without the need to eject popular male candidates and losing the votes they attract. In some PR systems a threshold is adopted in order to discourage the creation of mini-parties. While a threshold proposal was fought in Nepal on the basis of potentially lowering women's representation, experts in fact believe that thresholds are important for increasing women's chances (UNDP, 2013).

The Fourth World Conference on Women, Beijing in 1995, and very much focus was given on women's participation in all the decision-making levels around the world. However, in Nepal, women's representation in all three organs of the state i.e. legislative, judiciary and executive is negligible. Due to the women's low representation in all the decision-making bodies of the government, women's social, political, economic and legal rights are more likely to be overlooked in policy, planning and implementation. It has

thus become difficult for women to break from the vicious circle of poverty and disempowerment. Nepalese women have participated in many political processes, but they have remained only as vote bank. The introduction of the multiparty democracy in 1990 created great expectations. The new constitution and popularly elected representative meant the potential to reform women's social and legal status, and to forge for a new role for women in policy-making arena. The democratic system of governance has made a difference to women's political participation and access to positions of power in a long-term perspective. In the short term, however, no change on the score is visible. Even today, women's are excluded from major decision-making, at all levels of governmental activities.

### **2.3 Women's political participation international context**

The literature on politics and women have presented different perspective. The book edited by Iwanaga (2008) stated two major perspectives on political representation, namely, the descriptive and substantive perspectives. According to the descriptive perspective, electing more women serves a symbolic purpose of gender equality and, moreover, a greater legitimacy is rendered to the political system. By far, most parliaments in the world draw disproportionately from the male population of societies, which reflects nowhere near all the electorate. The descriptive approach argues for increasing women's representation in legislative bodies so that it better reflects their proportion in society.

An overwhelming body of existing studies on women and politics primarily deals with the descriptive and numerical representation of women in politics in established democracies of the West. Research done over the last three decades has given us a wealth of information about women's representation, offering various models of women's representation in legislative bodies. Does this mean that theories developed in the West can assist us in understanding the various obstacles facing women in the developing world? Both the causes of under-representation and the variations in representation of women are numerous and complex. Hence, the complexity of this phenomenon makes it particularly difficult, if not impossible, to provide a comprehensive account of all the factors underlying women's under representation. A country's level of development appears to be one of the most important features of society bearing upon levels of women's representation in national legislative assemblies. Development leads to a weakening of traditional values, increased urbanization, greater education and labour

force participation for women and attitudinal changes in perceptions regarding the appropriate role for women, all factors that increase women's political resources and decrease existing barriers to political activity. In recent years, a number of studies on women and politics have begun to prioritize the substantive representation of women, adding to the scholarly literature of the field (Norris & Lovenduski, 1995). The substantive perspective argues that a growth of women's representation in parliament would make a substantive difference due to the fact that women and men carry different experiences and priorities when considering political issues. It is considered important to incorporate women's interests and perspectives since they may espouse political issues that are either marginalized or excluded in legislative bodies that are dominated by men. As the numbers of women in elective office increase, so does the anticipation that these increases will imply important policy ramifications. One key question is whether women's increased presence in national legislatures would result in improved representation of women's interests and policy areas which are of direct concern to women. It is often assumed that having more women in elected office produces more women-friendly policies. When the number of women elected to legislature rises beyond token levels, it is expected that women politicians will generally place more emphasis on 'women's issues' (Iwanaga, 2008).

In the article of Hadely (1988), the political life of black women requires greater theoretical and empirical attention. Over the 1970s and 1980s, while black women were still underrepresented in elected public office relative to their proportion of the population, they made greater gains than white women in election to mayoral, state legislative, and congressional office. This finding is reflected among the southern women Democrats who were 1984 state convention delegates. Black women were found more ambitious than white women. From a series of national surveys conducted over the 1972-86 period, blacks and whites generally were found equally accepting of women in the political arena. The black community was no more favorable toward women than was the white. When discriminated analysis was used to examine the sources of political ambition among state Democratic party activists in the South, little difference was found in the effect of background factors between whites and blacks. In fact, in each group the variables worked in the same way. Greater black ambition was produced by proportionately greater numbers of black than white women activists with relevant socioeconomic backgrounds such as college education. The prediction that a double



disadvantage would cause background variables to have different effects among black and white women was not borne out. The most apparent reason for the electoral success of black women appears to be their greater political ambition derived from their having more politically relevant backgrounds such as participation in the long civil rights struggle. It also relates to the political opportunities resulting from the Voting Rights Act of 1965 and subsequent judicial challenges which led to the creation of black majority political districts (R.Darcy & Hadley, 1988).

In the pacific context New Zealand was the first country in the world to give women equal voting rights with men. As stated in the article of Norris (1968) as befit its early record New Zealand is remarkably free from discrimination against women in public services and functions. Women serve on juries on the same terms as men. Equal pay for equal work and the absence of discrimination on marital grounds may account for the fair proportions of women in the overseas services. Similarly in pacific region Australian women acquired political rights without a struggle from 1899 to 1909 in states and in 1902 in the national sphere. It is not easy to understand why Australian women have not been elected to parliament in greater numbers. The non self governing territory of Papua and Trust territory of New Guinea, administered by Australia, where the comparatively sudden transition from barbarism to modern life that is taking place gives the advantages in the political field to men rather than to women in spite of special measures for the advancement of women. Other remaining islands of pacific once thought of as romantic islands paradises although they were never a paradise for women (Norris, 1968).

In Conway (2001) research paper political participation defined as those activities of citizens that attempts to influence the structure of government, the selection of government authorities, or the policies of government. In a Liberal Culture like American culture that values, freedom, equality and democracy, citizens are expected to engage in political activities at least to the extent of voting in elections, citizens have options to participate even further, such as being active in political party organization or running for public offices. In this article it also talks about theoretical approaches legal institutional sociological psychological rational choices and political process seek to explain patterns of participation in various types of political activities.

One aspect of sociological theory emphasizes cultural explanations for the low positions of public offices held by women article further has explained about women's low rates of elected offices holding emphasizes in addition to family care responsibilities and time

demands associated with employment outside the home the differential acquisition of skills relevant to a political activities. Although in America both men and women have the opportunity to acquire such skills through volunteer organizations religions institutions in which lay persons play on active role, and work related activities and organizations men more frequently than women engage in those organizational activities that foster skill acquisition (Conway, 2001).

Asia is a vast and diverse region covering dozens of countries and a multitude of societies, political systems and varying stages of democracy and socioeconomic development. For the purposes of this volume, the term 'Asia' stands for what is commonly known as East Asia, Southeast Asia and South Asia. Women in Asia received the right to vote and stand for election much later than women of industrial democracies. Only three Asian countries had enacted female suffrage before the start of World War II, when most European countries and the United States had enfranchised women in the years soon after the First World War.

The context of South Asia is unique in that the region consists of three Islamic republics (Afghanistan, Pakistan, and Maldives), two democracies with Buddhist majority (Sri Lanka and Bhutan), two secular democracies with a Hindu majority (India and Nepal) and one secular democracy with Muslim majority (Bangladesh). The region has faced political volatility for the last 60 years. For many, democracy is relatively new. In the report published by South Asian Regional Secretariat for Women Parliamentarians (SARSWP) (2013) the review of women's political participation in the south Asian region has presented where women's participation in politics is emphasized for sustainable development. The country specific example like Nepal has made a democratic transition from a monarchical system that was overthrown by a Maoist revolution but faces problems of consolidating its democratic base. Given the complex politics, significant progress has been made in some countries, where women's representation in parliament is 33% in Nepal, reaching the Beijing World Conference (1995) target of at least 30 percent women in parliament. Afghanistan is a new democracy and has reached 27.7%. Secondly, the region has an impressive record of women as heads of State and Government. At present, there are 17 countries with women heads of government and heads of state, among which South Asian countries figure.

As mentioned in the report there are some common problems that women face in participating in national politics of south Asia are: Patriarchal structures and

conservative attitudes that permeate political life; Lack of party support; Limited social and financial support for women candidates; Limited access to political networks; Lack of contact and cooperation with other public organisations such as business groups, civil society organisations, women's organisations and parliamentarians; The absence of a well-developed education and training system to promote women's leadership and orient women in politics; The nature of the electoral system which may or may not be favourable to women candidates ((SARSWP), 2013) . Beside this in South Asian region the socio cultural practices and gender stereotype has also played a crucial role for women in politics.

## **2.4 Women and Citizenship**

The different explanation about citizen, citizenship and women citizenship can be found. Here I am going to deal with the citizenship and women different theoretical perspective. Where I start with defining the citizenship, in the book edited by Xavier Guillaune and Jef Huysmans (2013) has stated what is citizenship ? What makes it a tool for introducing a fuller spectrum of politics does it engages? Citizenship is a concept that intersects with many understandings from citizenship as a formal status of belonging to a political community through a set of rights and duties structuring the relation between individuals and the state to a set of practices delimiting this political community, who should or should not be, how one has to behave as a good citizen, and how one should behave in order to become a citizen. Citizenship, however also encompasses 'a right to being political , a right to constitute oneself as an agent to govern and be governed, deliberate with others and enjoying determining the fate of policy to which one belongs. Citizenship then is a process in which agents enact themselves as political subjects, asserting a right to be political. Citizenship is an ambivalent practice that equally easily mobilizes discrimination and exclusions, as well as challenges them. This ambivalence has been immanent to the modern conception of citizenship as it developed out of the French & American revolutions.

Here, how the citizenship is provided and concept behind this also needs to be discussed. Thus the book edited by Nivedita Menon (2001) is refered, where it deals with the Indian context and some concepts of constitutional approach. In the chapter six of book written by Ratna Kapur and Brenda Cossman, it elaborates the differences of formal and substantive equality. This are the basic concept behind the state and citizen, how and what does state provide rights to its citizens more on this chapter tries to look on gender

equality. The understanding of equality that has dominated western thoughts since the time of Aristotle has been one of the formal equality. Equality has been interpreted as 'treating likes alike' its constitutional expression are equal protection doctrine, as the requirement that 'those who are similarly situated be treated similarly'. Within this prevailing conception, equality is equated with sameness. Only if you are the same are you entitled to be treated equally. Further, within this equal treatment approach any difference in treatment between similarly situated individuals, constitutes discrimination. In other words, if you are the same then you should not be treated differently. The focus of a substantive equality approach is not simply on equal treatment under the law, but rather on the actual impact of the law.

The prevailing conception of equality as sameness has led to a focus on the relevance of gender difference. Three approaches are apparent; protectionist, sameness and corrective. In most common approach Protectionist women are constructed as weak and subordinated and are thus in need of protection. In this approach, the understanding of women's differences is asserted as justification for differential treatment. While in some circumstances this differential treatment is preferential treatment more often than not the differences are seen as sufficient justification in and of themselves for differential treatment. Rather, women's differences are seen to justify differential treatment is virtually deemed to be preferential treatment. In the name of protecting women, this approach often serves to reinforce their subordinate status.

The second approach is an equal treatment or sameness approach, in which women are constructed as the same as men, and thus, ought to be treated exactly the same as men in law. This sameness approach is invoked in number of different contexts. It has been used to strike down provisions that treat women and men differently. According to the sameness approach, it is sufficient that woman & man be treated formally equally.

The third, and most promising approach is a corrective approach in which women are seen to require special treatment as a result of past discrimination. Within this approach, gender difference is often seen as relevant, and as requiring recognition in law. Under this approach, it is argued that a failure to take difference and the underlying inequalities. Proponents of this approach attempts to illustrate how the ostensibly gender neutral rules of formal equality are not gender neutral at all, rather, based on male standards and values (Kapur & Cossman, 2001).

There are some important similarities between the protectionist approach and the corrective approach. Significantly, both of the approach conclude that gender difference can be relevant and therefore must be recognized in law. There are distinction also, the protectionist approach is more likely to accept both gender differences and special protection as natural or essential. The corrective approach on the other hand, is more likely to consider the basis of the difference, and the impact of recognition versus non recognition of the difference on the lives of women. Both the protectionist and the sameness approach to gender can be seen to be based on a formal model of equality. A substantive approach to equality, while opening the space for gender difference to be recognized, does not eradicate the need to make choices regarding when and how difference ought to be.

In the book by Birte Siim (2000), stated that citizenship is contested and the dominant frameworks of citizenship in social and political theory have been inspired by liberal, socialist or republican traditions. Classical liberalism has emphasized the rights of individuals and the freedom of the individual citizen from the constraints of the state; the ideal citizen is the 'autonomous' individual. Social liberalism (and social democracy) has emphasized the need for social rights as precondition for political equality and democracy. Socialism has emphasized the need for social equality and ideal citizen in social democracy is the citizen worker. Civic republicanism has focused on the need to create a political community, a common bond between citizens, which bridges differences of class, religion and culture. The ideal citizen is the political animal who participates on the public arena with the purpose of serving the common good, and who is abstracted from the individual business of the private world. The book also deals with the social rights framework of citizenship where it talks about T.H. Marshall's work on social citizenship, his understanding of citizenship is both a normative and a critical concept;

*Citizenship is the status bestowed on those who are full members of a community. All who possess the standards are equal with respect to the rights and duties with which the status is endowed. There is no universal principle that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspiration can be directed.*

Marshall's classical model has been one inspiration for the recent rethinking of citizenship. His conception of citizenship has been criticized as a citizenship as rights

expressing a 'private' or 'passive' understanding of citizenship.

Here book deals with how does feminism fit into this picture? On the most general theoretical level, the two central feminist criticisms are the first critique of the belief in abstract universalism of civic republicanism and second the liberal belief in the separation between the public and the private sphere. Both traditions have been the basis for the exclusion of women from the public, political sphere and their inclusion as mothers. The critique has opened up a fruitful dialogue between political theories and feminism about how to integrate principles of diversity and difference based on gender, race and ethnicity, and about the need to rethink the public/private divide in a way that reintegrate the family within public life.

On the comparative political institutional and political cultural level, the critique of the ethnocentrism and androcentrism of Marshall's theories has been followed by analyses of different models of citizenship, welfare and gender system in different national contexts. Results from comparative researcher have highlighted the variations in national political cultures, institutions and discourses that have shaped the different relations between the civil political and social aspect of citizenship. Here I agree with the Siim' s point on that the notion of agency can link theory and research and contribute to creating a new synthesis between the historical tradition of participatory republicanism and the liberal social rights tradition. To this I would add the notions of social equality, justice and solidarity from the socialist traditions.

The feminist critique of liberalism, civic republicanism and communitarianism has opened up a discussion about women's active citizenship as well as about the role of women's agency in the formation and evolution of welfare states. Comparative political history indicates that women's organizations has that there have been active in fight for civil political and social rights.

In the book by Naila Kabir (2005), it has stated the meanings and expression of inclusive citizenship in an interconnected world through different concept. Like classical liberal theory claims that all human beings have rights by virtue of their humanity; such rights are consequently universal. And in the book writer also touched the debate of relationship between rights and duties. While liberal theory has always recognized that rights carry correlatives duties, classical liberal theory treated rights as unconditional and hence prior to duties. Individual enjoyed rights by virtue of their citizenship, regardless of whether

they owned property, participated in public life, paid taxes or any of the other qualifications associate, for instance, with republican notions of citizenship. In the book further different values and meanings in the expression of citizenship has been debated that are Justice, Recognition, Self determination, Solidarity, universalism vs particularism, individual vs collective rights (Kabeer, 2005).

The notion of citizenship as well as the meaning of citizenship for women is contested. The feminist debate about 'equality and difference' is connected with the question of citizenship because they both refer to ideas of justice, political participation, power and equality of rights. Here in the book Siim summed up some important differences between the feminist approaches to citizenship in three models; Pateman's patriarchal hypothesis; the maternal communitarian model; and the pluralist participatory model. Among which the research topic of mine is somehow connects with pluralist participatory model thus I have reviewed that particular model. This approach is inspired by civic republicanism as well as by participatory democracy. It values political participation and presence in the public political arena which I found a new kind of feminist pluralism. The argument is that women's political mobilization and participation represent a challenges to the theory and practice of universal citizenship and also has the ability to improve the quality of citizenship not only for women but also for other oppressed groups. The ideal is to create a pluralist and differentiated citizenship that uncouples political roles from the division in men and women and to endorse women's multiple political roles as 'parents, workers and citizen'. According to the British political scientist Anne Phillips the new feminist pluralism has three elements; a moral elements that recognizes differences in women's political values and identities; a political elements that recognizes the plurality of political arenas; and a social elements that recognizes the political meanings of subgroups defines on the basis of race, ethnicity and gender (Siim, 2000).

I find that the pluralist vision has many advantages, and it has also raised new questions. One is how to link the empowerment of women with the aim of degendering politics? How to connect the long term ideal of non gendered citizenship and the immediate concerns about existing asymmetries of power between women and men. Can women's political participation be relied on to secure full citizenship for women? And if not, what other measure need to be adopted if women are to obtain full citizenship?

## **2.5 Gender, Citizenship and governance in Post conflict Period.**

Bringing about change in relation to governance and citizenship in particular women citizens is critical for fragile states. According Brody (2009) governance institutions shape perceptions of the roles that women and men play in society, as well as determining their access to rights and resources. The literature examines the GAD policy approaches which have aimed to include more women in decision-making, from the household up to the highest levels of government. The assumption is that if more women shaping the governance institutions then these institutions will be more responsive to the different needs and situations of both women and men.

The literature varies on how governance institutions should include women but the agreement is that effective or 'good' governance is the route to reduced poverty and more equal, democratic, corruption-free societies and that governance should promote social justice and gender equality, and further the realization of the rights of all citizens. (Rai and Waylen 2008)

What is also agreed is that government decisions can create and perpetuate gender inequalities – but governments remain a crucial part of the solution as do global governance institutions like the United Nations. Civil society organizations and citizens also play a key role in holding governments accountable for the commitments made. (Basu 2003, Social Watch 2005)

A set of requirements for gender sensitive governance structures has been developed by UNDP. The first strategy in gender and governance policy has been to bring more women into parliaments through electoral quota systems and the establishment of women's ministries. For example, at 56.3 per cent, the Republic of Rwanda has one of the highest figures in the world for women's representation in national assemblies – in large part due to a quota system. The number of women in parliament has to be 30% in order for some difference to be felt. But the literature points out that bringing women into parliament is not enough. Effective governance requires according to studies (UNDP) and to the latest report by UNIFEM on accountability to women (2008) changing the governance institutions themselves to uncover attitudes, behavior, thinking and policies that are discriminatory or gender blind with stronger systems of accountability for honoring international commitments such as CEDAW. Establishing clear, gendered understandings of the principles associated with effective governance is important for development. (Brody 2009). With such principles, putting in place policies that are responsive to all



citizens, identify the different needs of women and men and with mechanisms that ensure governance processes are transparent and accountable, with governance institutions publicly assessed on their efforts to address gender inequality and ensure women's equal participation in governance.

In relation to fragility the literature on governance and gender is important. The intensive state-building processes that are undertaken in fragile and post-conflict states have the potential to transform the structures of the state and its relationship to its women and thereby to improve greatly the nature of women's citizenship. Though as the Rwanda example has shown, if women are to make the most of the opportunities which governance reforms present, investing time and resources to build their capacity is also vital.

However, according to the studies now being undertaken (FRIDE 2009) in practice, issues related to women's rights, participation and relationship to the state are often overlooked or inadequately addressed within state-building processes and opportunities to strengthen women's citizenship are lost. This is due both to lack of political will and lack of knowledge among policy makers on how to integrate gender issues into state-building strategies.

Although the research is not yet complete FRIDE together with ODI are now gathering country level evidence and cross country analysis on women's citizenship and relationship to the state in various fragile state contexts in order to analyze the impact of different state-building processes on women. The project aims to recommend policy options on how to promote women's citizenship within state-building processes for international actors and national policy makers so that they can strengthen women's citizenship through their state-building strategies.

Key to the research is to set out how to support state-building processes in fragile state settings that result in capable, accountable and responsive states. The intensive state-building activities that take place in post-conflict and fragile state settings allow for changes in power relations, state structures and institutions, and the relationship between state and citizens. In the process of moving out of fragility there are important opportunities for the international community to support national actors to build a more accountable state. Often include constitution drafting, democratization, establishing or reforming executive institutions, establishing oversight mechanisms, legal and justice

reform, security sector reform, decentralization of governance, and support for civil society to exercise voice and hold the state to account. These processes all have the potential to significantly strengthen women's rights, participation in governance and relationship of accountability with the state.

According to Castillejo (2008), in many fragile state contexts women's relationship to the state is fundamentally different to that of men. Their relationship to the state is often mediated through family, community, religious or customary institutions. Women face a larger gap between their formal and substantive citizenship, as well as greater economic, social and cultural barriers in accessing their rights and participating in decision making. Moreover, in many fragile state contexts, the domestic and personal issues of most concern to women (such as family law, inheritance, land access or security) are delegated to customary institutions or non-state actors, making women unable to hold the state accountable for rights in these areas. All these factors mean that women face specific barriers in claiming their rights, participating in governance and holding the state to account – in effect acting as full citizens – and that measures to re-build or reform the state will impact them differently. Castillejo suggests that despite the potential of state-building processes to provide women with new rights and opportunities, the international community's approach to state-building has been largely gender blind. Until recently, international support for state-building has focused almost entirely on building the administrative capacity of the state, and any attempts to strengthen rights and accountability has generally not been gender sensitive. However, she does suggest that some donors are increasingly recognising the value of adopting a more comprehensive approach to the role of politics and power in development processes, including in fragile states such as the DFID project Drivers of Change.

FRIDE and ODI suggest that donors have largely ignored gender issues in their work on state-building because the state-building theories which inform much governance programming in fragile states are mostly gender-blind. These theories tend to model an abstract relationship between the state, elite groups and an un disaggregated 'population' without questioning how this relationship is different for men and women, who is represented within each set of actors, or how these relationships operate at different levels. The strong body of knowledge on women's citizenship, rights and relationship to the state that comes from the field of gender research on state-building has not yet been examined.

Reliability says: to what extent you can rely on data to conduct research? If you specify on it, it would be better. In case of validity, it is two types; internal validity and external validity. Internal validity means the data you have collected are valid or not. External validity means whether your inferences are similar to other research or dissimilar.

## **CHAPTER: 3 RESEARCH METHODOLOGIES**

### **3.1 Introduction**

The philosophical aspect for this research perceives ontology as what is the natural social world? For the women's political participation issues gender inequality can be regarded as social construct for this research. The existence of gender inequality is the natural social world. Now to understand this social world or for research perspective gender inequality particularly women's political participation what and how can we know about the social world is epistemology for this research topic. For understanding what and how here for this research constructivist approach has adopted. Constructivism facilitates to 'engage in research that probes for deeper understanding of issues' (Johnson, 1995). The constructivist notion focus that 'the reality is changing whether the observer wishes it or not' (Hipps, 1993) is an indication of multiple or possibly diverse constructions of reality. Thus to acquire the knowledge as per the epistemology background Qualitative research methodology has been selected.

Hermeneutic phenomenology is focused on subjective experience of individuals and groups. It is an attempt to unveil the world as experienced by the subject through their life world stories. This school believes that interpretations are all we have and description itself is an interpretive process. To generate the best ever interpretation of a phenomenon it proposes to use the hermeneutic cycle Martin Heidegger, Hans-Georg Gadamer and Paul Ricoeur (Thompson, 1981, p. 36) in (Narayan Kafle, 2011). Thus the uses of naturalistic approach that seeks to understand phenomena in context specific settings, such as "real world settings (where) the researcher does not attempt to manipulate the phenomenon of interest" (Patton, 2002). Unlike quantitative researcher seek causal determination, prediction and generalization of findings; qualitative researchers seek instead illumination, understanding and extrapolation to similar situation.

### **3.2 Research Design**

This research has adopted explanatory and qualitative research design. For this research issue, feminist theory laid the foundation for explanatory attempts. The feminist theory is well known to be closely connected with the qualitative method. This has its first obvious reason since the ground pillar of feminism has recognized the differences between men and women, which cannot fully be done by using quantitative methods such as statistical research. Therefore the study had not contribute to Situation understanding of the social

or political phenomena of interest according to feminist theory.

### **3.3 Universe and Sampling method**

This study was conducted in Nepal. Women in political activities in Nepal are the universe of this study. The purposive sampling method has been adopted as sampling method for this study. The respondent for this research has been selected from the expert working on the issues of women's participation and women right, some legal expert were interviewed as this research focus on policy. The respondent were selected on researchers observation and organizational mapping conducted by researcher on web and newspaper on this particular topic.

### **3.4 Tools of Data Collection**

The primary data has been collected by interviewing the key respondents by the means of interview schedule. The in-depth interviews has been carried out with the concerned people and member of organizations. Also views of different respondents have been collected through the questionnaire. For the secondary data Content Analysis: Related secondary information will be gathered from different reports, agency reports, journals and articles in newspapers and magazines.

### **3.5 Methods of Data Analysis**

The data analysis has done in qualitatively with holistic approach. Holistic analysis does not attempt to break evidences into parts, but rather to draw conclusions based on the whole texts. Each and every testimony has been written under suitable sub-headings. Data from the case studies and Key Informant Interviews were analyzed thematically.

### **3.6 Limitation of the study**

This study which intended to identify the situation of women's political participation in post conflict Nepal where focus was given to the constitutional arrangement of citizenship and its relation with women's political participation is challenging as it tries to cover crosscutting issues. The women's political participation, women's right and citizenship issues are interrelated at the same time are dynamic. Thus the finding of my study cannot be generalize as a whole about the situation of women's political participation. Second limitation of this study is it does not cover the whole Nepal instead some national level context is reflected in study but local problem and issues are not covered by this study. Third in this study though researcher will be discussing on government implementation strategy but the actual impact of such strategy is not being

studies here so result can be different.

### **3.7 Ethical Consideration**

This research proposed in any way is not intended to hinder ongoing peace process in Nepal. As the research is an effort to have academic review of peace process from gender perspective, the analysis and findings of research has supported to understand gender dimensions of peace building with draw lessons for sustainable peace. Research has not adopt any methods that would hinder social harmony research ethics.

The consideration of ethical these ethical issues were necessary for the purpose of ensuring the privacy as well as the safety of the respondents. In order to secure the consent of the selected participants, researcher relayed all important details of the study including its aim and purpose.

By explaining these important details the respondents has been able to understand the importance of their role in the completion of the study. The respondents also advised that they could withdraw from the study even during the process. With this, the participants has also ensured by not disclosing their names or personal information in the study. Only relevant details that helped in answering the research questions has been included.

## **CHAPTER: 4 WOMEN'S POLITICAL PARTICIPATION**

### **4.1 Introduction**

In Nepal, people were greatly influenced by different freedom struggles that occurred in different time periods. Political activity and women's participation has its root from Yogmaya Neupane<sup>2</sup> women who had raise the political and social consciousness among women in Nepal. The sudden end to all political associations and their activities in 1960 politically pushed every sector to politically revolt against regime. In protest against the undemocratic royal proclamation of 1960, a group of women organizations openly waved black flags in a public procession, and were imprisoned. Later, in the people's movement of 1990, women actively participated to get rid of the autocratic Panchayat system and to usher in multiparty democratic system. Women of various regions and ideologies contributed greatly to the success of this movement.

The participation and contribution of women in the people's movement of 2006 and movements for the freedom from long run was very high. However, there is very low participation of women at decision making of all sectors.<sup>3</sup>

While we talk about the women's participation in politics, the common and general answer constitutes as the root cause in poverty and lack of education indeed. The state policy is the most important factor that contributes and ensures to the increased-participation of women at the state mechanism. The important issue is to increase the participation of women and pro-women-male at policy making bodies and lawmakers. The sources of women representation at lawmaking and state bodies are political parties.

### **4.2 Socio Economic status of women in Nepal**

Nepal is a least developed country<sup>4</sup> (LDC) characterized by slow economic growth, socioeconomic underdevelopment and a low level of human development, It is emerging from a politically and socially fragile post-conflict situation, structurally generated poverty and inequality, and deeply entrenched forms of social exclusion.

The status of women in Nepal is determined by the patriarchal social system, values, and

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<sup>2</sup> Yogmaya Neupane is considered Nepal's First Female Revolutionary from eastern part of Nepal , Bhojpur District, For more See <http://peacewomen.org/content/nepal-yogmaya-neupane-nepals-first-female-revolutionary>

<sup>3</sup> National Women Commission, Shantimalika, (2013), Mapping of National Women Machineries, Kathmandu, National Women Commission.

<sup>4</sup> UNDP(2015), Human Development Report Nepal.

women's right preserved and protected by the state, and state policy for the development of women. Women's relative status, however, varied from one ethnic group to another (Mahat, 2003). The economic contribution of women is substantial, but largely unnoticed because their traditional role was taken as for granted.

Empirical data have proved that situation of Nepalese women is too severe to compare with men. Woman's situation is very poor in health, education, participation, income generation, self-confidence, decision-making, access to policymaking, and human rights. The health status of Nepal's people is one of the lowest in the South Asian region and this is particularly true for females. Nepal is one of the countries of the world where life expectancy for women is lower than that of men. One fifth of women get married in the early age of 15-19. As a result of their premature pregnancy the deaths of women have been occurring in a very high. High birth rates, low life expectancy, high infant and maternal mortality rates and high death rate indicate the poor health status of women.<sup>5</sup>

National statistics shows that women's literacy rate is 30 percent while 66 percent to male and the national literacy rate is projected as 40 percent. The enrollment of women in higher education is only 24.95 percent. Women's involvement in technical and vocational education is also lower than men. A large part of women's work is not considered as economic activity. As a result only 45.2 per cent of women as compared to 68.2 per cent of men are classified as economically active. Women's average work burden has increased slightly over the past 12 years from 10.8 hours per day in 1981 to 10.9 hours per day in 1995.<sup>6</sup> Men's average work burden presently is 7.8 hours a day, 3.1 hours less than that of women. Women's participation in the informal sector has increased significantly in both urban and rural areas for example vending, petty trade liquor making and vegetable selling are some of the more common employment ventures of women. In rural areas, the employment outside the household generally was limited to planting, weeding, and harvesting. In urban areas, they were employed in domestic and traditional jobs, as well as in the government sector and mostly in low-level positions. There are very few women working in professional work in Nepal. They may study the law, but few are able to enter the profession. Women's representation in the bureaucracy is also very low. Limited participation in politics, bureaucracy and judiciary does not stop women from making a remarkable contribution in the decision-making process at the household

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<sup>5</sup> National Women Commission ,(2013), Socio economic status of Women in Nepal ,Kathmandu Nepal, National Women Commission.

<sup>6</sup> UNDP, (2015), Human Development Index Report, Kathmandu, Nepal.



level. Women serve as decision-makers in farm management, domestic expenditure (food items, clothes and other expenses), the children's education, religious and social travel, household maintenance and also capital transactions. However, women's decision-making roles seem to have declined in recent years.

Although some 42 percent of the Nepalese women are literate, and 60 percent of them are said to be economically active (CBS, 2013), participation of women in politics is negligible. Women excluded economically, socially and politically in Nepal. Those women who are in the frontline and may be working in high profile may be benefited, but they are very few and their voice is rarely heard.

Research projects conducted by United Nation agencies in Nepal have indicated that 66 percent of women have endured verbal abuse, 33 percent emotional abuse, while 77 percent of the perpetrators were family members (UNICEF 2001). Violence against women is happening day by day but the government and the other civil society members are doing their best but still there is plenty of room to work and control the forms of violence against women. The violence against women in politics is also rampant but we are unaware or the cases have not been come out in the realm of violence against women due to its ignorance. And, even the political leaders are unaware whether the violence happening in political parties to women leaders is duly the violence against women in politics.

### **4.3 Women's participation in political parties**

Voices of women get least heard at the policy and decision making level because of their low representation in the politics. Lack of strong representation of women at policy making level, adequate law was not framed for safeguarding rights of women nor did they get any opportunities. Now with restoration of democracy in recent decades, women are getting active in politics. They are getting associated and participating in political activities. Representation of women has increased from local committees of political parties to national levels. As a result of continued efforts and advocacy, agendas of ensuring proportional representation of women, ensuring participation of women in major positions of national life and proportional representation of women in posts to be filled through nomination/appointment are on the priority list. Marginalized and backward women in politics are trying to move ahead. This has helped expose the growing access of women to politics.

Low participation of women in Nepali politics is a broad daylight fact. In central

committee structures of Madhesi Janadhikar Forum Nepal, Madhesi Janadhikar Forum Loktantrik, Tarai-Madhes Loktantrik Party and Sadbhawana Party, women representation is not more than 4 percent. Among central committee members of UCPN-Maoist, 29 (12.1%) out of 240 members are women. Similarly, there are 17 (20.9%) women in 81 central committee members of Nepali Congress Party. Likewise, CPN-UML has 21 women (18.3%) in its 115-member central working committee.<sup>7</sup>

**Table No-1 Women's Participation in Central Committees of Political Parties**

Name of Parties	Working Committee Members			
	Women	Men	Total	Women in percent
<b>United Communist Party of Nepal (Maoist)</b>	16	132	148	11
<b>Nepali Congress</b>	14	51	65	23
<b>Communist Party of Nepal-United Marxist Leninist</b>	16	60	76	21
<b>MadhesiJanadhikar Forum Nepal</b>	4	40	44	9
<b>TaraiMadhesLoktantrik Party</b>	6	45	51	12
<b>Sadbhawana Party (RajendraMahato)</b>	1	20	21	5
<b>RastriyaPrajantra Party</b>	8	60	68	12
<b>Nepal Communist Party (ML)</b>	4	35	39	10
<b>Nepal Communist Party (United)</b>	9	32	41	22

*Source: Sancharika Samuha, Women Participation in Politics-2011*

Low participation of women in Nepali politics is a broad daylight fact. In central committee structures of Madhesi Janadhikar Forum Nepal, Madhesi Janadhikar Forum Loktantrik, Tarai Madhes Loktantrik Party and Sadbhawana Party, women representation is not more than 4 percent. Among central committee members of UCPN-Maoist, 29 (12.1%) out of 240 members are women. Similarly, there are 17 (20.9%) women in 81 central committee members of Nepali Congress Party. Likewise, CPN-UML has 21 women (18.3%) in its 115-member central working committee.<sup>8</sup>

### **4.3.1 Gender prejudices and cultural factors**

The research revealed that the most seemingly intractable obstacle to women's political participation is the deeply embedded patriarchal social and cultural value system. The view that a woman's place is at home and political career and life is reserved only for men is still held by many in Nepal, including women. Every research on the subject as well as interviewed respondents pointed out those women in Nepal has a subordinate role

<sup>7</sup> Inter-party Women Network-2069

<sup>8</sup> Inter-party Women Network-2069

both in the society and in family, and that this trend in fact has become more prominent. Men are very skeptical on whether a woman may run for office or a woman's ability to effectively make decisions and govern predominantly male staff. Moreover, the traditionally revered woman's role as 'goddess of the home'<sup>9</sup> demands from a given woman to dedicate almost all of her time to household chores and family responsibilities. Women who choose other path are often perceived as not successful in their personal life or simply losers. It is common for politically or economically active Nepali women to be single/divorced, or without small children.

There is another aspect of the same problem identified by the interviewed women leaders. Many important decisions in political life of the country are made not at the government headquarters, but in informal settings like parties and gathering or in closed room meetings<sup>10</sup>. This practice "helps" to strengthen male solidarity, communication and leadership skills and is usually seen as the best way to advance in a political career. At the same time, smoking and drinking alcohol are considered to be un-lady-like behavior, inappropriate for a decent woman. As a result women are caught in a trap: they are not able to participate in smoking and drinking and at the same time to be accepted as an equal trusty partner and a problem-solver. However, if they do not participate they lose an important opportunity to establish necessary working contacts and gain real influence and power through the "back door channels", available for men.

"Women in politics are usually seen as a haphazard phenomenon; therefore their eventual failure is an expected and self-evident outcome. The failure of women to perform well is automatically associated with their gender and not with the lack of professional skills or abilities, or lack of resources as it would be in case of men. Women in politics feel more pressure to prove that they are capable of doing it. *"When I was elected for the first time, I started working on myself because it is very important when you represent women; you have to be well prepared and knowledgeable in order to break stereotypes."*<sup>11</sup>

The following was identified as potential solution: continuous active work aimed at changing the existing stereotypes, ranging from awareness raising and advocacy campaigns, to lobbying, public debates, media activities, which are all to be directed towards forming a positive narrative and image of a politically active and informed

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<sup>9</sup> In Nepali language "Griha Laxshmi"

<sup>10</sup> Personal Interview 1, conducted on Jan 15 2017, Kathmandu Nepal

<sup>11</sup> Personal Interview 2, Conducted on Jan 16 2017, Kathmandu, Nepal

women, leading to acceptance and recognition of active woman's role in political life. Besides, the political culture should come out of the smoking rooms and men's clubs, further steps should be taken to improve transparency, accessibility and procedural formality in governmental decision-making.<sup>12</sup> In order to reach this goal it is in the women's best interest to demand the media, nonprofit groups and the public full access to decision-making.

#### **4.3.2 Lack of economic and political resources**

Another important factor which limits women's political participation is the lack of financial independence. It is almost impossible for a woman to contest any election without adequate material resources, especially nationwide ones. The success of the projects directed to elections in all level from Village development Committee to elections for Parliamentary seats financial support is needed for a female candidate to be elected.<sup>13</sup>

Besides that, because women have less access to existing major political and economic networks, it is even more challenging for them to be involved in significant numbers or to have an opportunity for a meaningful participation in political decision-making. Nepali women hardly possess any economic powers, which is very important in Nepali's politics and existing gender prejudices discourage them from starting an early political career, establishing early political contacts. It is a rare phenomenon an active woman who is from an early age determined to play a political role in the future and pursue a corresponding career.

#### **4.3.3 Lack of rule of law, democracy, political transparency and deficiencies of the political culture.**

Overwhelming majority of the respondents stated that political participation in Nepal is not accessible to everyone, even men, who are genuinely interested and have the required competence, desire, professionalism and knowledge to manage democratic changes in Nepal. Political system is perceived as a particularly 'dirty' and corrupt area of activity in Nepal; it is not 'a right place for a decent person'.<sup>14</sup> Therefore there is a perceived belief, that membership in such a system requires everyone and particularly women to accept practices and policies they do not want to be a part of. This is one of the primary reasons why women prefer civil activism to politics.

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<sup>12</sup> Personal Interview 3, Conducted on Jan 16 2017, Kathmandu, Nepal

<sup>13</sup> Personal Interview 2, Conducted on 16 Jan 2017, Kathmandu, Nepal

<sup>14</sup> Personal Interview 5, Conducted on 18 Jan 2017, Kathmandu, Nepal

The non-transparent and closed character of politics, predominantly occupied by men, does not create the necessary conditions for women to enter political arena and represent an independent power within it.

However, there was hope among the respondents that young wings of the political parties would change the situation since the sexist mentality is weaker there than among the older generation. It remains to be seen whether the approach and power balance changes when young political activists advance in their career and get closer to the highest echelons.

#### **4.3.4 Ineffectiveness of gender quota and other governmental measures on gender equality**

The Electoral Code, which do not stipulate that the elected candidates along with the required one-fifth candidates on the electoral lists of parties must be of different gender, are aggravated by the reality that only some affluent women with powerful connections will benefit from them. Respondents point out that male politicians and businessmen help their own female kin to get a sit in the parliament or a ‘prestigious’ position in the government.<sup>15</sup> In practice, many female candidates running for posts on different levels withdrew for different reasons, but most of them in favor of male candidates.

Women who have reached positions of authority in government or the political parties do not show their eagerness to push women’s rights agenda and essentially only contribute to women’s increased political visibility. As a result they are not considered as role models for the society, and their examples were not mentioned as success stories by the respondents.

This research has identified two primary reasons as to why other governmental measures aimed at increasing women’s political participation actually fail.

First, there is absence of the sense of ownership of those entities which are compelled to implement gender agenda on governmental level. Most of the undertakings are made because of the requirements of external actors. Nepal government often does not act on its own initiative or free will, but rather under the urgency and financial support Development partners and International agencies, other intergovernmental undertakings, and international human rights organizations.

Respondents mentioned the lack of accountability and transparency in the spending of the

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<sup>15</sup> Personal Interview 7, Conducted on Jan 20 2017, Kathmandu Nepal.

funds allocated by international actors to women's rights programs, which must be implemented by the government. Very often certain measures remain solely on paper as meaningful and effective review mechanisms simply do not exist.

Second, due to the mentioned lack of genuine interest and eagerness to promote women's political participation in the country, the level of awareness about the undertakings is extremely low even among the interviewees, who are those directly engaged in promoting women's rights and strengthening women's political participation in the country.

#### **4.3.5 Sexual context of the discourse on 'political' women**

Women in politics face sexism and prejudice from both men and other women. It comes from different Sources, starting from every day talks, media and even men, holding highest positions in Nepal.

Unlike men, women face and are afraid of the risk of intervention into their private life in case they choose to become a public figure and also social risks connected to it. The instances of discrimination include critiques of personal appearance, insinuations of stupidity of women politicians, ambiguity of female "methods" to reach their career goals etc. Often their husbands are also discussed in a negative and ironic way to undermine the masculinity of men whose wives are politically active. Young female activists often receive a piece of advice from male politicians or law-enforcement agents to "get marry and settle down".<sup>16</sup>

It is worthy to mention, that when speaking about mass media, some of the respondents pointed out, that their overall human rights awareness and the ethics of reporting are still on a very low level, especially when it comes to gender issues. It was pointed out that awareness campaign should start among journalists and public figures themselves.

#### **4.3.6 Legal identity (citizenship) for women**

In Nepal, provisions relating to transfer of citizenship continue to discriminate against women. Women are yet to enjoy the right to confer, acquire, change and retain citizenship fully and independently.

Article 8(2)(b) of the Interim Constitution of 2007 states that anyone "whose father or mother is a citizen of Nepal at the birth of such person" is eligible for Nepali citizenship. This provision on its own implies that there is no gender discrimination in Nepal's citizenship law. Furthermore, Article 8(3) of the Interim Constitution guarantees Nepali

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<sup>16</sup> Personal Interview 8, Conducted on Jan 20 2017, Kathmandu Nepal

citizenship to foundlings. Similarly, a number of positive precedents have been laid down by the Supreme Court of Nepal (SC) in recognizing equal rights of women in acquiring and transferring citizenship to children in line with the provisions of the Interim Constitution.<sup>17</sup>

Recently in a case where the father of a child was unidentified, the SC quoting the Interim Constitution and the Citizenship Act issued an order of Mandamus to the District Administration Office requiring them to grant Nepali citizenship by descent to the plaintiff as her mother holds a Nepali citizenship.

Moreover, the condition requiring a woman below the age of 35 to obtain the consent of her father, husband or guardian in order to obtain a passport was repealed by the Court.

However, other constitutional provisions, the Citizenship Act and Rules of Nepal, and the discriminatory manner in which the law is implemented by authorities, all contribute to a reality which is discriminatory of women, with significant negative impacts on their offspring. Following is an exposition of the key issues in this regard:

Women restricted in their right to convey citizenship to their children:

Despite Article 8(2) of the Interim Constitution and Section 3 of the Citizenship Act stating that a person can acquire citizenship by descent if their mother or father is a Nepali citizen, other discriminatory legal provisions and practices curtail the right of women to pass on their citizenship to their children. For example, according to Article 8(7) of the Interim Constitution, the children of Nepali women and foreign men can only access citizenship through naturalization, and not by right, through descent. There is no similar restriction on men. One of the consequences of Article 8(7), is that state authorities in practice refuse to accept citizenship applications submitted only by mothers, as they require proof of the father's identity to establish that he is not a foreigner. Though the Supreme Court has set precedents recognizing equal rights of women, including through establishing the rights of married women and single women to transfer citizenship to children, 13 women continue to face discrimination.

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<sup>17</sup> In *Forum for Protection of Public Interests v. HMG Nepal* (2005), the discriminatory birth registration and denial of citizenship for the children of Badi Women in the Birth, Death and Other Personal Events (Registration) Act, 1977, was challenged. The Supreme Court of Nepal declared the words "male member" of the family appearing in section 4(1) of the Act ultra virus. In this case the order of mandamus was issued in the name of the government not to deny registration of the birth of the Badi children and to make necessary arrangements for conferring them with the citizenship certificate pursuant to Article 9(2) of the 1990 Constitution and Section 3(4) of the Citizenship Act, 1963. In *Ranjeet Thapa v. Government of Nepal*, unpublished, Writ no. 0035, decided on June 26, 2009, the Supreme Court issued a mandamus for issuing citizenship from the mother's name.

The combined impact of Article 8(2) and 8(7) (and similar provisions in the Citizenship Act) is that while only the father or the father and mother together face no barriers securing citizenship for their children, it is extremely difficult for only the mother to do so. This has led to cases in which children of single mothers are left stateless. Discriminatory impact on children of Nepalese mothers and foreign fathers: As stated above, Article 8(7) of the Interim Constitution, complemented by Section 5(2) of the Citizenship Act and Section 7 of the Citizenship Rules, deny Nepali women the right to confer their citizenship to their children by descent. Instead, such children have only the option to seek naturalization. However, the discretion wielded by state authorities in relation to naturalization is extremely wide, and the overwhelming majority of naturalization applications do not result in the conferral of nationality. Research conducted by FWLD reveals that in the first six years of the implementation of these provisions, not a single naturalization application was successful.

Discrimination against women who have not obtained citizenship certificates prior to marriage: While there is no legal barrier to women obtaining citizenship certificates through their parents after marriage, in practice, married women are required to submit citizenship documents of their spouse and his family in order to obtain citizenship. This places women in a vulnerable position. Additionally, Nepali women who marry foreigners before having obtained their own citizenship certificate are barred from subsequently doing so.<sup>18</sup> This is a direct violation of Article 8(2) of the Nepal Constitution and amounts to an arbitrary deprivation of nationality.

Gender discrimination in conveying citizenship to foreign husbands: While Nepalese men can convey their nationality to foreign spouses and their children, Nepalese women are barred from doing so. The only path to Nepalese citizenship for foreign male spouses is through the residence based naturalization process.

Discriminatory attitudes of public servants: In addition to the above examples of discriminatory law and policy, the attitudes of public servants and first instance decision makers in Nepal remain largely discriminatory towards women and patriarchal. As a result, despite the ongoing advocacy of civil society organizations and the positive jurisprudence of the Nepal Supreme Court, unfair and impractical administrative burdens and barriers continue to be imposed against women attempting to confer their citizenship to their children.

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<sup>18</sup> Section 8(1)(a) of the Citizenship Act 2006.



# **CHAPTER: 5 POLICIES AND WOMEN'S POLITICAL PARTICIPATION**

## **5.1 Introduction**

An overview of gender reforms in Nepal and women's status History of women's movement in Nepal dates back to 1814 at the Nalapani war when women struggled against British imperialism. Women marched shoulder to shoulder with men in the civil right movement of 1948. Women took active part in the democratic revolution of 1951 which overthrew the 104 year autocracy of the Rana family. The first women organization the "Nepal Women Association" was established in 1948, it worked to inculcate political awareness among women. During the thirty year rule (1960-1990) of the party-less Panchayat system, all political parties and independent women organizations were banned. 1990's political system reform with democracy in Nepal gave larger roles to multi stakeholder forums and grass-root mobilizations and movements. Several NGOs sprung up and started seeking a role in the social change process. Through grass-roots mobilization, women's nongovernmental organizations (NGOs) have emerged as dynamic institutions working against deeply ingrained gender inequities to address violence over the last two decades. The 1990 also witnessed intensified campaigns in the international arena for women's rights, the 1995 Beijing conferences that led forth the formulation of CEDAW. In this new environment, many women's rights groups emerged and could network with national and international organizations with similar goals. Over time, the women's groups grew stronger and more effective in putting pressure on the government to protect and promote many rights for women.

In this chapter the policies that explicitly address the women's right and issues are categorized into two sections before the peace process and after peace process. The Conflict erupted as the policies and laws of country are discriminatory and the marginalization of different community and group continued.

## **5.2 Policies before the Peace Process**

The efforts to address women's issues and concern started to change since 1975 internationally, when women were declared as an issue in development, the Women in Development (WID) approach. Their direct role in the production and hence in development started to be recognized. Women started to be seen as producers. But still they were viewed as a group left behind by the capitalistic production system, somehow

outside the system (Acharya M. , 2003). It seemed to assume that pulling them along while keeping the patriarchal structures and ideology intact, will change their status.

The development approach, WID evolved into the concept of Women in Development (WAD), which emphasized the fact that it was not that women were outside the development process but that they were integrated in development in an exploitative relation. They were supporting the capitalistic development by freeing it from the need of paying adequate subsistence wages to its workers to support their families. However, the WAD approach paid little attention to the patriarchal relations within the domestic and public arena, which were often reinforced by the developing capitalist structures.

All these concepts emphasized the women's position in relation to development and not her overall position in the society. In spite of much rhetoric during the two decades following 1975, the changes realized in women's status and rights, particularly in developing countries, was marginal. After a review of the progress made in advancing women's cause, the Beijing Platform for Action (1995) proposed a 12 point program. The distinguishing feature of this Platform as compared to earlier programs was its emphasis on the multi-dimensional nature of women's subordination and the need to attack it in all spheres by mainstreaming and empowerment of women. It adopted a gender framework for an analysis and solution to women's problems.

The context of Nepal was difficult before 1990 it gradually started to be progressive through the various women's movements internationally and nationally.

Table 1, Policies before promulgation of Democracy

Polices	Key Provisions for Women's political participation
The Government of Nepal Act, 1948	Does not explicitly address women's issues
The Interim Government of Nepal Act, 1951	Explicitly had mentioned about equal pay between male and female, non-discrimination and special provision for the benefit of women and children.
The Constitution of the kingdom of Nepal, 1959	Right to equality, nondiscrimination in civil servant and there shall be equal opportunity to male and female.
The Constitution of Nepal 2062	Right to equality, citizenship based on matriarchy, Article 67 had defined Women's Association as sister wings of Panchayat.
The Constitution of the kingdom of Nepal 1990	Right to equality, Nondiscrimination, mandate to produce special laws for benefit of women, CEDAW Ratified and provision to internalize and provision for development.
Local self-Governance Act, 1998	Mandatory provision for women participation and in Village development Committee, Municipal Council, 40% women in District Level Committee

With the restoration of democracy in 1990, the political reform provided a space whereby any Nepali citizen may file a petition in the Supreme Court to have any law void on the ground of inconsistency with respect to the provisions mandated in the Constitution. It also made it possible for members of Parliament to tabulate private bills to amend the Constitution. With the people's movement (also known as Maoist war), the issue of women's inclusion in politics have been strongly raised by women's right activists, civil society members and women wings of the political parties.

### **5.3 Interim Constitution of Nepal, 2007**

The Interim Constitution of Nepal has accepted the values and principles of inclusive democracy. This constitution along with the guarantee of various fundamental rights has provisioned for women participation in the state mechanisms. The preamble of the constitution specifies objective of progressive restructuring of the country is to address regional, ethnic, gender problems. Articles 12-32 have contained various fundamental rights. The right to equality states that there shall be no discrimination against any citizen on the basis of religion, race, gender, caste, trips, origin, language or ideological convictions or any of these. Provided, that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of women. Similarly, the right regarding women contains that there shall be no discrimination against women, the right to reproductive health, the right against violence, the right to equality in property and etc. Article 29 has underlined no exploitation in the name of custom, tradition and culture. Under the right to social justice, article 21 has indicated that economically, socially or educationally backward women shall have the right to participation in the state mechanisms on the basis of the principle of proportional representation. This provision has defined the right to participate of women in the state mechanism on the basis of proportional representation as fundamental right.

Article 63 has provisioned for the formation constituent assembly through mixed election system. Similarly, it also has provisioned for at least 33 percent women candidates out of total candidate. The sub-article 4 of this article has underlined that the political parties should pay attention to inclusiveness while selecting candidates and while listing the candidates, proportional representation of women should be ensured subject to the prevailing laws.

Pursuant to article 63 (5), the total women candidates shall be at least one third of the total candidates of both elections systems: out of the 240 seats of the first-past-the post as

determined dividing the country into 240 election constituencies and out of 335 members for proportional representation.

#### **5.4 Three Year Human Rights National Plan of Action (2010/11- 2012/13)**

The Three year Human Rights National Plan of Action Prepared by the Government of Nepal has made provisions for the rights of women and children. It has introduced special motivational programs for children from the poor, deprived marginalized and the sexual and gender minority communities who have not enrolled in schools or have dropped out from schools. Such programs range from promoting school enrollment as well as retention; programs for ensuring reproductive health; conducting safe motherhood and infant child care programs and programs like gender mainstreaming and social inclusion. Similarly, emphasis has been given to programs like providing scholarships to conflict affected children, guaranteeing the inclusive, equal and meaningful participation as well as security of women at all stages of the peace process and conflict affected children, guaranteeing the inclusive, equal and meaningful participation as well as security of women at all stages of the peace process and conflict transformation; equipping women with income generating skills; making the school environment child friendly and gender friendly by emphasizing on good governance in schools; making all training programs gender friendly; promoting the human rights, civil rights and constitutional and legal rights, civil rights and constitutional and legal rights for ensuring the social justice of rural, marginalized and destitute women who are economically disadvantaged; and strengthening the National Women's Commission for the protection and promotion of women's rights.

#### **5.5 National Plan of Action against Gender-Based Violence**

The National Plan of Action against Gender based Violence prepared by the Government of Nepal, Office of the Prime Minister and Council of Ministers, states that gender based violence will be controlled and security and protection will be provided to women and children victims of violence. The plan of Action has set the objectives to undertake legal and institutional reforms for ending gender based violence, ensuring the access of persons affected by gender based violence to justice, establishing and strengthening community based village level mobile services for providing protection to victims of gender violence, strengthening the health sector for effectively addressing gender based violence, facilitating the economic and social empowerment of women and children for combating gender violence and ensuring coordination, communication and monitoring works among the stakeholders involved in the implementation of the plan.

## **5.6 National Plan of Action for the Implementation of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW)**

The Nepal Government's Ministry of Women, Children and Social Welfare have issued the National Plan of Action for the Implementation of the Convention on the Elimination of All forms of Discrimination against women, 2004. This Plan of Action specially calls for the amendment of discriminatory laws and formulation of appropriate laws, increasing women's participation at all public, political and policy making levels, elimination of causes related to trafficking in women and girls, enhancing legal capacity for the protection of women's rights, strengthening the responsibility of the Parliament and the Parliamentary Committees for gender equality and identifying different activities for raising public awareness and information dissemination on all forms of violence against women.

## **5.7 National Plan of Action on Gender Equality and Empowerment of Women**

The Nepal Government's Ministry of Women, Children and Social Welfare has adopted the National Plan of Action on Gender Equality and Empowerment of Women, 2005 for implementing the Beijing Declaration and Plan of Action passed by the fourth World Conference on Women held in Beijing from 4-15 September, 1995. This Plan of Action has proposed different activities under the 12 critical areas of concern identified in the Beijing Declaration. Activities like protecting women from the impact of Conflict, establishing access for conflict affected women to justice and making arrangements for proper relief and rehabilitation which are included under the Article "Women and Armed Conflict", in the Beijing Declaration, have been included in this national Plan of action.

## **5.8 National Action Plan on Implementation of United Nation Security Council Resolutions (UNSCR) 1325 & 1820**

The United Nation Security Council Resolutions 1325 and 1820 on women, Peace and Security has a Special importance in the context of Nepal as it is geating towards establishing peace following a decade long armed conflict. The armed conflict in Nepal that lasted from february 13, 1996 to november 21, 2006 has left serious impact in the country. Many women and girls suffered from all kinds of sexual and gender based violence. Which affected their mental and physical stability as well as left a deep impact on their families and community.

The overall objective of the National Action Plan is to contribute to achieving the supreme goal of the Nepali people for establishing durable peace and just society. It covers mainly five pillars. The first Pillar is participation which has objective of ensuring the equal, proportional and meaningful participation of women in every decision making level of conflict transformation and peace building process.

### **5.9 Constituent Assembly's Member Election Ordinance , 2013**

Section 5 of the Constituent Assembly's member election Ordinance , 2070 BS ( 2013 AD) has provide provision of First-Past-The-Post(FPTP) election system. This system has focused on principle of inclusion by political parties while selecting candidate for the election. Section 6 adopted provision of proportional election system. Section 7 (3) directs parties to adopt principle of inclusion among women, dalit, unpreviledge caste/indigenous, backwarded community, madhesi, khas aryan and other group as specified in Schedule (1) while preparing closed list as per Schedule (2) for proportional election system as per Section 6 and selection should be made on the basis of their population. List of women candidate should also selected on the prinicple of proportional reperesentation of dalit, unpreviledged caste/indigenous, backwarded community, madhesi, khas aryan and other groups. Political party shall have to submit such closed list of candidates before the Election Commission within the due date as prescribed format on Sechedule 2. Section 7 (5) clearly spellout that number of women candidate should be at least 33 percent in the closed list should be at least 33 percent while combining number of candidate of FPTP election.

The court of Nepal has made tremendous contribution in developing jurisprudence to establish gender equality and for protection of women's rights. Obtaining citizenship by married women on the basis of patriarchy<sup>19</sup>, a child may obtain citizenship either on patriarchy or matriarchy as per her/his will<sup>20</sup>, obtaining citizenship on matriarchy base<sup>21</sup>, order made to provide easy, accessible and effective distribution of citizenship<sup>22</sup> and right to acquire with free choice of surname to dalit as like other caste<sup>23</sup> etc are some of the

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<sup>19</sup> Nakkali MaharjanVs Office of Prime Minister and Council of Ministers et. all, NKP 2065 (2008) Vol. 11 P 1340.

<sup>20</sup> RanjitThapaVs Office of Prime Minister and Council of Ministers et. all, Writ. No. 2065-WI-0035 D Date: 2066/3/12 BS (2009/06/26 AD).

<sup>21</sup> Sabina DamaiVs DAO et. all Wri no. 2067-WI-0703 D Date: 2067/11/15 BS (2010/02/27 AD).

<sup>22</sup> Advocate SarojNathPyakurelVsGoNet et. all, Dec. No. 8536, Writ no. 2067-WI-0017 D Date: 2067/10/24 BS (20010/02/04).

<sup>23</sup> DNF Vs Office of Prime Minister and Council of Ministers et. all,Writ no. 3021 of 2061 (2004) D Date: 2063/2/1 BS (2006/5/15).

landmark decisions of the court regarding citizenship issues. Similarly, orders of mandamus to provide lesbian, gay, bisexual, transgender and intersex (LGBTI) people to exercise rights as per law without discrimination<sup>24</sup> and birth registration and citizenship on the basis of patriarchy of the children of Badi Community<sup>25</sup> etc are also some of the landmark decisions. These jurisprudential developments have ensured the right regarding identity of a person.

Similarly, the Supreme Court has also made landmark decisions on other crucial issues such as equal property rights of women, right to privacy, equal rights on employment and occupation and profession, end of social discrimination and etc. Regarding the provision of No. 16 of the Chapter "Partition" of Muluki Ain (General Code 1963 AD) which had provisioned that an unmarried daughter can only obtain property as her brother if she attains the age of 35 without marriage, the court had rendered a directive order to amend the law within one year.<sup>26</sup> Similarly, in No 2 of the Women's Property, a separated unmarried woman or married or widow can use the entire moveable property and at least half in the case of unmovable property.<sup>27</sup> An unmarried daughter can use all the unmovable property taking consent from father and mother, if she has father and mother, and separated woman or widow can also use the whole property taking consent from her children, if they are minors.

Various malpractices such as child marriage, dowry, domestic violence, and socially accepted women trade viz. badi<sup>28</sup>, deuki<sup>29</sup> and jhuma<sup>30</sup> contributed to the vulnerable status of women. Women lag behind men in terms of education. Women's literacy is 42.5% compared to 65.1% for men (FWLD 2009). Likewise, women's access to and control of land is limited. Land embodies important source of power and status in Nepal and is transcended from fathers to sons but not to daughters. With policy amendments, daughters can now claim to parental property under certain circumstances. Land is more

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<sup>24</sup> Sunil Pant and others Vs Office of Prime Minister and Council of Ministers, Dec. Date 2064/9/6 BS (2007/12/21 AD)

<sup>25</sup> Advocate Tek Tamrakar Vs Office of Prime Minister and Council of Ministers NKP 2062 (2002 AD) Vol. 6, P 680 Dec No. 7550.

<sup>26</sup> Meera Dhungana Vs Ministry of law, justice and Parliamentary Affairs, NKP 2050 (1993 AD) Vol 6.

<sup>27</sup> Lily Thapa Vs Office of Prime Minister and Council of Ministers et. al. 2061 BS (2004 AD)

<sup>28</sup> Badi is a Dalit, Khas community in Nepal. 'Badi' means *Vadyabadak*, one who plays musical instruments. It is estimated that there are 40,000 to 70,000 living in Nepal. Sometimes called untouchables among the untouchables, they have for decades been doomed to supporting their impoverished families through prostitution.

<sup>29</sup> Deuki is an ancient custom practiced in the far western regions of Nepal in which a young girl is offered to the local Hindu temple to gain religious merit.

<sup>30</sup> Jhuma is tradition practiced in eastern part of Nepal mostly on Sherpa community, It is the system in which second girl child is offered to the monastery.

than a physical entity; it has been, and continues to be, the economic backbone of the agrarian system and the rural power structure. Despite their active role in agriculture, however, women have limited land rights. While it is not the norm for Nepali women to own land, there are some women that do. In 2001, 11% of all households and 14% of land owning households in Nepal comprised women landowners<sup>31</sup>.

### **5.10 Constituent Assembly, a Historic Achievement**

Nepal has entered a new political milieu with the successful completion of the Constitution Assembly (CA) election. CA election is itself a triumph in Nepali history; its significant achievement lays in electing 197 women members, which is almost 33 percent of the total seats. These women members have come from the diverse ethnic cultures, tradition, group and geographical areas. They represent the grassroots level, district and national level. We all are honored with the victory of women candidates. Their participation in Constituent Assembly will definitely bring meaningful and remarkable contribution for establishing equal and just society. We are hopeful that the victorious women will take part meaningfully in making our People's Constitution through gender perspective considerations.

In first ever republic government set after CA elections, the political parties have disappointed in representing women ministers as they declined to bring the proportionate representation of women. The male ministers' domination is 83.33% on 16.67% female representation. Out of 6 parties of the government, none of the political parties could come in equal basis in representing women ministers.

At present in the Nepalese society, to address all these issues, women organizations and women themselves have been strongly advocating and lobby for maximum women participation at all levels of state mechanisms. As a result recent Constitutional Assembly election has ensured almost 33% women representation. This is a major achievement in the history of Nepal as well as entire South Asian region. However, Nepalese women holding more than 50 percent population in the total census should not be satisfied with this result. They must strive and fight for ensuring 50% proportional and meaningful representation of women at all level. Also, these women CA members have different challenges ahead, for which they need support and collaboration from all the members of civil society as well as political parties.

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<sup>31</sup> Central Bureau of Statistics (CBS). 2001. National population census 2001. Kathmandu: Central Bureau of Statistics



There has been change in cultural assumptions about women and leadership in Nepal. But, still women political figures had difficulty gaining a hearing or respect for their ideas, were tied to 'female issues' and were perceived as not capable of winning elections. The issues raised by women are treated as 'Women's issue' and not as issues of state. Women serving as ministers, professors, civil society leaders and all have demonstrated their competencies as leaders to the public. All those constitute opportunities for the public to see female leadership. But as a result of patriarchal thought, still the political positions are not given to the women in political parties and state mechanisms.

A decade long insurgency and the king's autocratic regime made Nepalese people vulnerable to gross human rights violations. The gross and rampant violation of human rights seemed to be fate of the Nepalese people during that period. Women are also expecting the change in the situation, and now they believe to be behaved like equal citizen as of males. The discrimination and injustice will end in the days to come. The 197 women are given opportunity and this opportunity may result the system development in Nepal regarding women's representation and participation. But, we need to work a lot to back up and feed them with the women's issue.

There are some major achievements that can be listed as

- In a strongly patriarchal society, women leaders have served and are serving the nation being at the decision level successfully on their visions and that has already established the capabilities of women leaders. Similarly, women's political, social, cultural and economic awareness level have been gradually developing which is truly a good sign for overall development of women.
- Some prominent women leaders became successful to hold the power and their tenure seems relatively successful.
- For the first time in the history of Nepal, women's (191 + 6), 32.77 % representation has been ensured in constituent assembly. However, there is still room to work for ensuring women's equal participation rights at all state mechanisms. There 197 women CA members are the representatives of all Nepalese, people especially the diverse group of women.

The understanding that democratic institutions evolve with vision, hard work and foresight of wise leaders and leadership is not created overnight. People brought in for

emotional reasons interrupt and halt the democratic process, and at times have easily undermined democratic institutions. The quest, and consequent, lust for power is not leadership indeed. Corruption and insatiable ambition are the hallmark of many a leader in region and even women leaders could not free from it. Thus, women leaders need to change this record of political playing and they have to be more visionary by being involved in political participation and lobbying for maximum participation of women in politics. A lot of women leaders have such capabilities and they are waiting for the opportunity indeed. There are many women leaders who are talented and politically gifted to enter into the political arena but an encouraging environment should be created. Lack of proper life skill training for women's empowerment and awareness is required unless the women are educated they cannot come forward so informal education needs to be focused. The women need to know about their rights and more work needs to be made on it.

The major issue of women, we have to consider is women are affected differently in war, violent conflict and any human rights violation cases. There is always the cost the women pay is very high in comparison to men in any situation. However, the contribution of women always neglected. The issue of women not addressed in the conflict transformation process. There is a need of women's struggle to break the patriarchal thought, and increase the women's share in governance and political leadership. The concept on women as weaker-sex and subordinate to the man can be changed through the involvement of women in decision making level at politics, and working in the area where there is more man involvement such as army. So, to generate the strength of women movement for making just society, women organizations and activities have to unite and build solidarity to fight against all kinds of discrimination and promoting women in politics, and state governance.

Socially and economically men are always considered as superior to women, breadwinner, head of the family and the care taker and this is major cause for the low participation of women in civil services in Nepal is in the transitional phase even though women are participating in the political field but it is not up to the level. In order to change the status of women in Nepal socio-cultural change is required which takes a lot of time.

### **Key Features of the Fundamental Rights under Constitution of 2072**

No Nepali citizen shall be denied the right to acquire citizenship. There shall be a

provision of single federal citizenship with provincial identity in Nepal. [Article 10: Part 2 of the Constitution] "... nothing shall be deemed to bar the making of special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally, Dalits, Adibasi Janajati, Madhesi, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups, peasants, workers, youths, children, elderly citizens, gender and sexual minorities, persons with disabilities, persons in a state of pregnancy, incapacitated and the helpless persons, and of the citizens who belong to backward regions and financially deprived citizens including the Khas Arya." [Provision to Article 18(3)]

"Right against untouchability and discrimination: (1) No person shall be treated with any kind of untouchability or discrimination in any private or public place on grounds of caste, ethnicity, origin, community, occupation, or physical condition. (2) No person belonging to a particular caste or ethnicity shall be prevented from buying an object or getting services or facilities in the process of production of such objects or in the distribution or delivery of services, or no such objects shall be sold to, or facilities or services distributed or delivered to persons belonging to a particular caste or ethnicity only. (3) Racial discriminations shall not be encouraged in any way, or there shall not be any behavioral attitude to exhibit high or low status on grounds of a particular caste, ethnicity or community, or physical condition of a person, or there shall not be any behavioral attitude that justifies social discrimination based on caste, ethnicity, or untouchability, or encouragement for the propagation of attitudes based on caste superiority and untouchability, or hatred. (4) There shall not be any racial discrimination in the workplace by indulging or not indulging in untouchability. (5) All forms of untouchability or discrimination contrary to this provision shall be punishable by law as a serious social crime, and the victim of such an act shall have the right to compensation as provided for by law." [Article 24] "Right to language and culture: (1) Each person and community shall have the right to use their language. (2) Every person and community shall have the right to participate in the cultural life of its community. (3) Each community living in Nepal shall have the right to preserve and promote its language, script, culture, cultural civilization and heritage." [Article 32] "Right of women: (1) Every woman shall have equal right to lineage without any gender discriminations. (2) Every woman shall have the right relating to safe motherhood and reproductive health. (3) There shall not be any physical, mental, sexual or psychological or any other kind of violence

against women, or any kind of oppression based on religious, social and cultural tradition, and other practices. Such an act shall be punishable by law and the victim shall have the right to be compensation as provided for in law. (4) Women shall have the right to access participate in all state structures and bodies on the basis of the principle of proportional inclusion. (5) Women shall have the right to special opportunity in the spheres of education, health, employment and social security on the basis of positive discrimination. (6) Both the spouses shall have equal rights in property and family affairs."

# **CHAPTER: 6 STRUCTURES AND WOMEN'S POLITICAL PARTICIPATION**

## **6.1 Introduction**

The structures that contribute or obstruct the women's political participation here has been categorized in two aspects: one societal structure and legal structure. The societal structure comprises of values, ideology, religion, culture and practice of particular society. Which plays a crucial role for overall power distribution and access to power. But here in this study the legal structure is being studied which somehow reflects the societal structure also. The historical evidence of Government efforts to promote women's right and participation through trainings on home science and kitchen garden, A Women Training Centre established in 2012 BS with support from the US government in Jawalakhel to be operated under Nepal Mahila Sangathan. Later in 2015 BS, it was transformed as Panchayat-styled Rural Women Contact Centre. Under the executive mechanism of state with the special interest to reform the income of women by increasing their participation, it was in 2039 BS under the Panchayat and Local Development Ministry, Mahila Bikash Saakha, the very first mechanism centered on women issues, was established as a thematic mechanism. By extending its branches for the first time in five districts: Nawalparasi, Syangja, Dhading, Tanahu and Surkhet, with the intention to increase the living standard of women, it had increased access of women to withdraw loan and initiate their programs. The objectives of the program were<sup>32</sup> :

- To increase the income of low earning family
- To develop and promote small scale industry for women
- To create self-reliant women group
- To extend the market for the produced goods to generate income

This program was extended to 27 districts by 2044. The program mostly targeted landless, family with women as household head, and socio-economically backward women.

## **6.2 Present Status of Gender/Women Related Government structure**

Though the human resource involved in government mechanisms that have responsibility to run the state are responsible toward other members of the committee, their final

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<sup>32</sup> Role of PCRW in economic development of Nepal: Mangala Shrestha, TU Journal vol, XVI, June 1993.

responsibility should be towards the citizen of the country. Thus, it is to be accepted that, the whole state system should be responsible towards the citizen (women and men) having equal status in the state. Though women and men are equal in status in the eyes of law and policy, we have a long way to move ahead to have a day when a woman achieves equal benefit by equality provision constructed through the patriarchal experience. It was the Sixth Periodic Plan that accepted the need of women participation in balanced development of a nation. Accordingly, from 2039 BS the government mechanism started to establish institutional mechanism focusing on issues of woman. International Women Movement and Nepal's access to the outside world has been creating pressure to focus on the issues of women in the existing mechanism with different institutional system. For the study of this fact the following four aspects of women related mechanisms have been identified: institutional arrangement, work division, assigned responsibility in national work plan to the thematic agencies, and gender responsive budget allocation.

As stated above, though all the state mechanisms should be equally responsible towards women and men, because of male oriented governing system there is no practical condition for women to be equally benefitted. For the basic rights too, there should be the special provision in special condition. The modern state believes that all of the services issued by state are to be equally exercised by citizens. For this, equality to be translated into action, there should be special condition. This fact should be kept in the centre state.

Nepali governing system, which has included various concepts of development of women in policy level, has started to incorporate 'gender and concept of development' since Ninth Plan. However, the working pattern has been influenced by the concept of 'Women In Development' (WID). Though all of the government mechanisms are equally responsible in work division to ensure women rights, following are the mechanisms that have addressed it in its internal working pattern.

### **6.2.1 Office of the Prime Minister and Council of Ministers**

According to secretariat of prime minister and council of ministers, working as a chief central mechanism, the secretariat has six division offices under the authority of four secretaries and six joint secretaries. Some major work details of the secretariat has been listed in point no. 2.2.3 (a)

**Central Mechanism:** In the organizational structure, there is no provision of separate division office, section to coordinate about gender issues. Under social development,

planning and monitoring division office, social development section has been managed to include also the responsibility to look after the ministry of woman, children and social welfare.

Similarly, committee of council of ministers and a section of constitutional body has been established within division office for meeting of council of ministers and constitutional bodies. According to Nepal Government (Work Accomplishment) Manual, 2064, among the various committees within the committee of ministers' council, the working area of social committee mentions the subject related to claims and welfare of woman, children, disabled, helpless and old people and subject related to government as well as non government social institutions.

Human Rights section, internal to Law and Human Rights Promotion Division Office, accounts for woman concerns as it fulfills the coordinating role concerning to international responsibilities of human rights committed by Nepal Government and involves in preparation and implementation of periodic report of subject like general treaty of eradicating all sorts of discriminations against woman and children rights general treaty, Beijing Declaration.

On 26th Bhadra, 2066 Nepal Government (Council of Ministers) declared 2010 AD as year against the gender violence. Accordingly, on 10th Mangsir, 2066 B.S. it made National Action Plan against gender violence public, and in addition, since that day gender violence complaint management and monitoring unit was established to instruct the respective bodies if they deny to accept the complaints or do not investigate and hear the public complaints and to aid victims immediately. It was established so that it could perform responsibilities of inter ministerial committee. The unit was restructured and renamed as Gender Empowerment Coordination Unit according to the decision of Nepal Government (Council of Ministers) made on 22<sup>nd</sup> Chaitra 2068.

End of Gender Violence and Gender Empowerment Strategy Action Plan entails following mechanisms.

**Advisory Board:** The board comprises of women representatives from political parties and woman rights activists. Gender Empowerment Coordination Unit: As mentioned above, Gender Empowerment Coordination Unit situates within Human Rights Promotion Section of the Office of Prime Minister and Council of Ministers.

**Joint Monitoring Committee:** It comprises the representatives from Central Coordination

Committee and non government organizations.

**Local Mechanism:** End of Gender Violence and Gender Empowerment District Coordination Committee contains Chief District Officer as the convener, the representatives from five government offices, local body, Nepal Bar Association and civil society. District and Community Service Centre for those victimized by domestic violence, rehabilitation for those affected by human trafficking, local supervision centre, crisis management center etc. are working in this area.

### **6.2.2 National Woman Commission**

National Woman Commission (NWC) was established on 23 Falgun, 2065, as a result of commitment expressed by the Government of Nepal at various national and international forums and attempts and campaigns launched by woman right activists. Since its establishment, NWC has been performing its role and responsibilities actively to promote rights of women and their welfare in line with National Woman Commission Act, 2063 and Regulations, 2065. Similarly, NWC has been active in monitoring of woman rights, identifying and analyzing the cases of violence against women and providing appropriate recommendations to the government for retribution. Besides advising and recommending the government in the activities concerned with protection of claim, welfare and rights of women, NWC has also been carrying out gender analysis and monitoring of the works of government bodies and recommend accordingly. The commission has been discharging its responsibility that extends to monitoring of state role in fulfilling international obligation regarding rights of woman as a part of the commitment expressed by various International Human Rights Documents and initiatives to be taken to end discrimination and violence against women.

**Central Mechanism:** The commission entails one President along with five members. With Women Rights Promotion and Plan, and Administration and Program as two division sections, the commission has been fulfilling its responsibility with the assistance of the members of the commission, bureaucrats, and civil society organizations through its two division offices:

With expectation to mainstream women in development by establishing principle of gendered justice, and protecting and promoting rights and welfare of women, NWC has formulated its strategic action plan to create a society based on gendered equality in which a woman can completely utilize human rights, social justice, free identity, self-



respect, prestige, integrity and dignity.

**Local Mechanism:** To monitor abuses of rights of woman, ensure woman's access to special facilities committed by the government agencies in the district, help remove the obstacles in the service delivery and help dispatch segregated details to the NWC, it has been working with its head office in Kathmandu and a network of non-government organizations in 50 districts.

### **6.2.3 Ministry of Women, Children and Social Welfare**

On the basis of the achievements and experiences from Woman Development Program which began as a program of Production Credit Management in fiscal year 2039/40 for women of rural areas, different national and international commitment; the attempts of women rights campaigners and contemporary necessity, Ministry of Woman and Social Welfare was established on 6 Ashoj 2052 B.S. Involvement in task of strengthening the role of women and different social classes in sustainable peace and development by empowering them socially, economically and politically, the ministry in 2057 B.S. was converted into Ministry of Woman, Children and Social Welfare.

Its working area and work responsibility are given in point no. 2.2.3 (b) in detail.

**Central Mechanism:** Out of three divisions within the internal organization of the ministry, Woman and Children Division is related to women concerns, and under it, Human Trafficking Control Section, Gender Violence Prevention Section, Mainstreaming Section, and Child Protection Section have remained as the foundational structure of gender policy conjunction at central level.

Women Development Section of 2039, the first government mechanism concerned with women, was transformed as Women Development Division in 2046, Women Development Department in 2056 and Women and Children Department in 2056, has involved in the programs from central level to district level programs concerned with women and children.

A national committee has been in accordance with Human Trafficking and Transportation (Control) Act, 2064, Clause 23, to coordinate among the government bodies and non government organizations concerning prevention of human trafficking and transportation and rehabilitation of the victims.

**Local Mechanism:** In all the districts of country, Woman and Children Offices are playing crucial role regarding gender concerns.

Similarly, in the programs of thematic bodies, to facilitate the assimilation of woman and women concerns, Gender and Children Rights Coordination Committee has been formed. Chaired by the president of District Development Committee, in this committee the chiefs of the concerned offices of the district and members from non-government organization, women academics or subject expert, disabled women, women of disadvantaged community are also nominated. Similarly, centered on the concerns of children, District Children Welfare Committees have been formed in all districts of country. At local level, district committees have been formed to establish coordination between government bodies and non government bodies concerning the control of human trafficking and transportation and rehabilitation of the victims.

# CHAPTER: 7 IMPLEMENTATION STRATEGY AND WOMEN'S POLITICAL PARTICIPATION

## 7.1 Introduction

In 1990, a democratic movement led to the downfall of the Panchayat government, and Nepal became a constitutional monarchy with a multi-party government. The 1990 movement initially opened up political space for women and other excluded groups, especially during the constitution drafting process. It was claimed that the 1990 constitution to be 'the best constitution in the world', the constitution and the constitution-writing process were severely criticized for their elitist nature. Centered on making the king concede power, the constitution failed to incorporate many of the demands raised by activists on gender, ethnic, linguistic and religious issues. The 1990 constitution stated that 'Nepal is a multi-ethnic, multi-lingual, democratic, independent, sovereign, Hindu, constitutional, monarchical kingdom' and guaranteed fundamental rights to all citizens without discrimination on the basis of ethnicity, caste, religion or sex. Furthermore, the constitution and other laws put in place by the post-1990 Nepali state continued to discriminate against women. This included unequal property and citizenship rights, including a clause stating that only men can pass citizenship onto their children. A report on discriminatory laws against women by the Forum for Women and Legal Development (FWLD, 2000) revealed over 100 such clauses and rules in fifty-four different pieces of legislation, including the constitution. On paper, however, the state did initiate institutional and programmatic changes for the rights of women during this period. In 1991, it became a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women. Since 1992/1993, the government has adopted 'gender mainstreaming' as the primary strategy for directing resources to women. Institutional initiatives included the establishment of the Ministry of Women and Social Welfare, the 2002 establishment of Women's Commission and the Local Self Governance Act of 1999, which included a 20 per cent reservation for women in local bodies.<sup>33</sup>

Some of these changes are linked to general development themes and fashions of development strategies and foreign donors. However, others like the creation of the

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<sup>33</sup> This resulted in 40,533 women being elected, although few were in positions of decision-making power. The tenure of bodies ended in 16 July, 2002 and to date, local bodies remain without elected officials.

Ministry for Women, Children and Social Welfare and the National Women's Commission were a result of pressure by various groups of women, albeit with some donor assistance in the form of aid to women's groups engaged in lobbying.

The most celebrated victory in the post-1990 period, the September 2002 eleventh amendment to the National Civil Code which gave women, among other things, inheritance rights from birth, was a result of such cooperation. It was also important for the unprecedented manner in which women from political parties and NGOs worked together at both the national and grassroots level in advocacy, social mobilizations, hearings and meetings. However, this coordination has been an exception to the rule during this period. The women's movement in Nepal in the period 1990 to early 2006 was led by women from political parties, NGOs, and the CPN-M with little coordination or goodwill Governments and '[t]he image of parties as tools of a high caste, corrupt and nepotistic Kathmandu elite became endemic' (ICG, 2003: 4).<sup>34</sup>

In a testimony to their marginalization, women from political parties remained relatively unscathed by the negative labeling. The 1990 constitution had a provision for ensuring that political parties reserve at least 5 per cent of the contested seats in the Lower House for women and that at least three of the nominated members of the 60-member Upper House must be women. However, overall, in 1991/1992 and 2000, women constituted just 3.8 and 6.4 per cent of parliament, respectively, with two women in cabinet in both periods (UNFPA, 2007: 61). Before the resignation of CPN-M ministers in June 2008 from the interim coalition government, there were four women in the cabinet. Women from political parties have been vocal about their marginalization within the party and the unwillingness of political party men to take women seriously as political players, as demonstrated by the practice of putting female candidates in areas that the party knows it will lose. The refusal to appoint the deputy Speaker of the House Chitra Lekha Yadav to the vacant speaker's post following the April 2006 movement, despite her stellar performance during the first session of the reinstated House and immense public pressure, is illustrative of this continuing practice. However, the activities of political party women have long been criticized by feminists and activists for being led by political party priorities. Noted feminist academic Dr Meena Acharya had said as early as 1993 that 'The women in various political parties are still guided first and foremost by the party

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<sup>34</sup> The inability of political parties to mobilize the general public against the autocratic rule of the king until the signing of the 12 point agreement with the CPN-M in November 2005, is widely seen as outcome of 12 years of misrule.

interest, rather than women's interest'.

## **7.2 Electoral system and its impact on women's political participation**

The Constitution of Nepal 2072 in Article 84, as stated above, provides that the House of Representatives, the upper house of the federal parliament, consists of 275 members. 165 members are to be elected through the first-past-the-post (FPTP) electoral system consisting of one member from each of the one hundred and sixty five electoral constituencies formed by dividing Nepal into 165 constituencies based on geography and population. Article 42 (i.e. the right to social justice) as a catch all provision requires that the 165 members are inclusive members, even though Article 84(1) does not explicit mention it.

Out of 275, the next 110 members will be elected from proportional representation (PR) electoral system where voters will vote for parties, while treating the whole country as a single electoral constituency. Article 84(2) states that the Federal Law will require the contesting political parties to file candidacy for the election of the House of Representatives for proportional representation system through closed list of women, Dalit, Adibasi Janajati, Khas Arya, Madhesi, Tharu, Muslim, and backward regions. Balance in geography and province shall be considered for such candidacy. In the group of Khas Arya are included Chhetri, Brahmin, Thakuri and Sannyasi (Dasnami) community.

Article 84(8) mentions it categorically that women should account for at least one third of total members elected from each party in Federal Parliament. In case, one-third percentage of women are not elected while being elected under FTTP, the party that fails to ensure one-third representation shall have to elect at least one-third of total numbers as woman in the Federal Parliament while electing members under PR system.

Similarly, Article 176, which provides for formation of the Provincial Assembly, builds on the same provisions. Every Provincial Assembly will consist of the following number of members: (a) members equal to double the number of members to be elected through the FTTP election system to the House of Representatives from the concerned province, (b) the number of members to be elected through the PR election system equal to the number equivalent to the remaining forty per cent when the number of members maintained pursuant to above is regarded as sixty per cent. Electoral constituencies is to be maintained pursuant to Federal law on the basis of geography and population for the election of the FTTP members. Sixty per cent of the members of the Provincial Assembly

will be elected through FPTP election system and forty per cent shall be elected through proportional representation election system. Here too the representation of women, Dalit, indigenous, indigenous nationalities, Khas Arya, Madhesi, Muslim, backward region and minorities community on the basis of geography and population in the nominations filed by the political parties for the election to be held for the Provincial Assembly through the proportional representation (PR) election system will be made on the basis of closed list in accordance with Federal law. While filing of candidacy by political party, representation of the persons with disability will also be made.

At least one third of the total number of members to be elected from each political party to the Provincial Assembly shall have to be women. In case at least one third of the candidates elected from a political party pursuant to FPTP election are not women, the political party shall have to make provision of electing at least one third women while electing members pursuant to PR system.

### **7.3 The post conflict legal reform and women's access to citizenship**

The above text provided an overview of the discriminatory nature of the Interim Constitution and 2006 Citizenship Act and Rules of Nepal. In this context, the ongoing constitution drafting process is a perfect opportunity for positive legal reform. However, the Constituent Assembly (CA) has to-date failed to deliver satisfactory reform on this extremely important issue.

The present Constituent Assembly of Nepal (it's second) first met in January 2014, and one of the many issues it has been required to deliberate and draft constitutional language on, is the citizenship issue. As previous Constituent Assembly could not reach consensus on the issue of citizenship, this should have been one of the 'contentious issues' of discussion for the second CA. However, the Constitutional Record Study and Determination Committee (CRSD Committee) of the second CA categorized the proposed citizenship provision as a 'settled issue', thereby minimizing opportunities for discussion in the CA. However, the current state of the text on citizenship is not an improvement in fact, in many ways, it makes the situation even worse. Following are key areas of concern in this regard:

The father AND mother provision:

The CA's response to the discriminatory manner in which the "father OR mother" provision of the Interim Constitution has been implemented, is to amend it as follows:

“for the child to be a citizen of descent both the father and mother need to be citizens of Nepal during the time of birth”. This proposed ‘leveling down’ instead of ‘leveling up’ approach, will not eradicate discrimination and its negative consequences on children. Instead, it threatens to impose the same unrealistic barriers that single female parents face in conferring nationality to their children on single male parents as well. Furthermore, this provision will undermine the positives of Article 8(2) of the Interim Constitution and of the progressive jurisprudence of the Supreme Court that has upheld the right of single women to confer their nationality to their children. As it requires both parents to be citizens of Nepal (and implicitly both to play a role in the application process), the likelihood of more children being rendered stateless as a result is extremely high. The general patriarchal and discriminatory attitudes towards women are likely to mean that single women and their children will be particularly disadvantaged.<sup>35</sup>

Children of a Nepali mother and unidentified father, who is subsequently identified as a foreigner: In relation to cases where the a child is born to a Nepali mother whose father is not identified, the proposed provision of the CA states that such children may be given citizenship by descent in cases where the child is born and residing in Nepal. However, the citizenship would be changed automatically to naturalized citizenship in cases where the father of such child is identified as a foreigner. This discriminatory provision not only fails to recognize the independent identity of the mother but also may result in stigmatizing both mother and child in genuine cases of unknown paternity involving incidents of rape, sex-work, trafficking, migrant women workers, extra-marital relationship and similar cases.

Women unable to transfer citizenship to spouse of foreign nationality: The proposed provisions with regard to transferring citizenship to foreign spouses, allows Nepali men to confer citizenship to their foreign wives after they initiate proceedings to renounce their previous nationality. However, in cases of Nepali women married to foreigner, the husband can only apply for naturalized citizenship after 15 years of residence in Nepal, and the state retains significant discretion to accept or deny such applications. Moreover, no special privileges in relation to visa, employment or business opportunities are available to a foreigner husbands.<sup>36</sup>

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<sup>35</sup> UNHCR, On Citizenship ,unpublished manuscript on file with FWLD, at page 6.

<sup>36</sup> Except in cases of Indian nationals, for whom Section 7 of the Peace and Friendship Treaty of 1950 between Nepal and India is applicable, and flows to grant, on reciprocal basis, to the nationals of one country in the territory of the other, the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and privileges of a similar nature.

Nepali women unable to transfer citizenship to children if the father is a foreign national:

In relation to children born to one Nepali and one foreign parent, the provisions proposed by the CA requires both parents to have obtained Nepali citizenship for the children to obtain Nepali citizenship (or apply for citizenship).<sup>37</sup>

However, reading this provision with the proposed provision relating to acquiring citizenship by marriage,<sup>38</sup> children born to Nepali mothers are not guaranteed right to citizenship even through naturalization. A foreigner father not only requires 15 years of residential requirement but the conferral of such citizenship is a matter of discretion of the government. In contrast, where the foreigner mother starts the process of renunciation of her previous nationality, the child can obtain citizenship without any residential requirement/pre-requisite.<sup>39</sup> This draft provision also fails to take into consideration the issues of children of Nepali women who separate from their foreigner husbands including in cases of domestic violence.

Discrimination in relation to naturalized citizens holding public posts: As decided by the CA, naturalized citizens except for foreigners married to Nepali women who subsequently naturalized, are eligible to hold most public posts either by election or nomination.

While the Human Rights Council has stated that “[t]he second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review”,<sup>40</sup> in light of the fact that Nepal did not accept the only recommendation in relation to statelessness and accepted but failed to satisfactorily act on various recommendations related to gender equality; these recommendations build on the previous recommendations but also introduce new recommendations in response to the deteriorating situation:

- I. Fully promote, respect, protect and fulfill its obligations under international human rights law. In particular, ensure that its national laws, policies and

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<sup>37</sup> Article 3(1b) of the proposed provision

<sup>38</sup> As approved by the CRSD Committee.

<sup>39</sup> The posts that naturalized citizens cannot hold are those of President, Vice-President, Prime Minister, Head of the Federal Legislature and Head of the Federal Judiciary, Head of Security Forces, Head or Deputy Head of Federal State.

<sup>40</sup> Human Right Council Resolution 16/21: Review of the work and functioning of the Human Rights Council, UN Doc.A/HRC/RES/16/21, April 2011, Annex 1, Para 6



practices fully comply with Article 9 CEDAW and Articles 7 and 8 CRC, and with general principles of equality and non-discrimination enshrined in international treaties.

- II. Constitutionally recognize the fundamental human right of all human beings to a nationality, without discrimination. Recognize also that right to a nationality is not subject to the unfettered discretion of administrative authorities, but instead should be protected by the state, which has an obligation to implement court decisions in this regard.
- III. Take immediate steps to amend/repeal all discriminatory provisions that prevent women from acquiring, retaining and transferring citizenship on an equal basis with men in the Constitution, Citizenship Act and Rules, and ensure the effective implementation of the law.
- IV. Recognize the independent right of each parent to provide citizenship based on lineal descent to their children, and the right of both women and men to confer citizenship to their foreign spouse on equal terms.
- V. Promote universal birth registration of each child, including children of refugees, foreigners, stateless persons and single mothers.
- VI. Address patriarchal and discriminatory societal attitudes that prejudice public decision making and undermine the equality and dignity of Nepali women.
- VII. End statelessness in Nepal by conferring citizenship to all persons who have been denied citizenship due to the prevalence of gender discriminatory nationality laws, and prevent statelessness from occurring in the future.
- VIII. Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

#### **7.4 Legal identity (citizenship) provisions and practices**

The right to citizenship serves as the foundation for several other fundamental human rights. Right to citizenship is basic human rights of a person, which cannot be denied and deprived to any one in any case. It is a right to identity and nationality of a person that establish a relationship with his/her nation. Moreover, it is the right that makes possible to create other rights and thus, it is the right to have other rights. The Constitution of Nepal, 2072 has guaranteed right to equality between men and women irrespective of sex.

However, the provisions relating to citizenship in the Constitution and Citizenship law are

somehow discriminatory against women, which is the major barrier to ensure equal citizenship rights of a person. Discriminatory citizenship laws affect the overall development of women and children. The Government of Nepal has committed itself to change the citizenship laws upon the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and granting women equal rights in their ability to acquire, change, or retain their nationality. However, 15 years after the ratification, there have been no changes in the discriminatory citizenship provisions.<sup>41</sup> Women can only acquire citizenship through their father or husband who must provide consent; absent consent, women will not be able to procure citizenship. As a result, the law fails to recognize women's individual identity and women are deprived of the right to provide citizenship to their spouse or children.

The Constitution of the Kingdom of Nepal, 1990, Nepal Citizenship Act, 1963 and Nepal Citizenship Regulation, 1992 are the major legal instruments to deal with the citizenship. Article 9(1) and (2) of the Constitution of the Kingdom of Nepal, 1990, Section 3(1) and (4) of the Nepal Citizenship Act 1963, provide that a Nepalese citizenship of descent may be conferred only subject to the condition that the father of a person in question is a Nepalese citizen at the time of acquiring Nepalese citizenship. Therefore, a woman cannot confer citizenship to her children. According to Article 9(5) of the Constitution of the Kingdom of Nepal, 1990 and Section 6(2) of the Nepal Citizenship Act, 1963, a woman of foreign nationality who has married a Nepali citizen, and who has initiated the proceedings for renunciation of her foreign citizenship, may acquire Nepali citizenship. However, this provision does not apply to a man of foreign nationality, as the law does not permit husbands of foreign origin to acquire Nepali citizenship. This also affects the children born out of such wedlock, as the woman cannot transfer her Citizenship to her children. Right to nationality of a citizen has also been ensured by various international human rights conventions to which Nepal is a state party. Art. 15 of the Universal Declaration of Human Rights, 1948 states that everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. Art. 24 of the International Covenant on Civil and Political Rights, 1966 ensures that every child has the right to a nationality. Art. 9 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 provides women equal rights with men to acquire, change or retain their nationality and also grants equal rights

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<sup>41</sup> Personal Interview 15, Conducted on Feb 2 2017, Kathmandu, Nepal

to the nationality of their children. Similarly, Art. 7 of the convention on the Rights of the Child, 1989 provides the right to acquire a nationality and further obligates the state parties to ensure the implementation of these rights, in particular where the child would otherwise be stateless. Besides, in the 30th CEDAW session, the CEDAW Committee provided strong concluding remarks to Nepal to repeal or amend Article 9 of the Constitution, which permits discrimination against women in the area of citizenship in January 2004 on the 2nd and 3rd periodic report. Thus, upon ratification of these International human rights instruments, Nepal has obligation to reflect those provisions into our domestic context under the Section 9 of the Treaty Act, 1991.

Sometimes, nationality and citizenship are treated as interchangeable terms; however, they are not synonymous. All citizens are nationals of a State, but not all nationals are citizens<sup>42</sup> Nationality determines the political status of the individual, especially with reference to allegiance.<sup>43</sup> Citizenship, on the other hand, creates members of a political community who have established or submitted themselves to the dominion of a government for the protection of their general welfare and the protection of their individual and collective rights.<sup>44</sup> The right to citizenship is a basic right of all people because it has a tremendous impact on the political, administrative, and socio-economic spheres of life. Citizenship rights have been directly linked to certain fundamental rights, many of which are only guaranteed to citizens of a country, including: freedom of movement and residence within the country; the right to leave and return to one's own country; the right to nationality; the right to own property; the right to participate in politics and government; the right to vote; the right to hold public office.<sup>45</sup> International law recognizes that each state can determine the identity of its citizens according to its own national law. Consequently, the human rights and responsibilities of an individual both within a State as well as within the regime of international law depend on the important status of nationality. Unfortunately, the concept of nationality and citizenship has traditionally been gender discriminatory. The citizenship rights of men were treated as primary and those of women were seen to flow from their relationships with men; father, and then husband. The inequality was based on two assumptions that subordinated

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<sup>42</sup> Committee on Feminism and international law(2000), International Law Association London Conference: final Report on Women's Equality and Nationality in International Law,12.

<sup>43</sup> Black's law Dictionary, 6<sup>th</sup> edition 1990.

<sup>44</sup> Black's law Dictionary, 6<sup>th</sup> edition 1990.

<sup>45</sup> Forum for Women, law and Development FWLD(2004), Discriminatory Laws in Nepal and Their impact, A review of the current situation and proposals for change,pg.14.

women through their role within the family: firstly, a rigid belief in oneness of family and unity of nationality, and secondly, the patriarchal notion that this unity should be determined only by the male head of the household.<sup>46</sup> These assumptions interconnect with the patriarchal public-private dichotomy: the restriction of women to the private, or domestic domain, and the belief that only men should determine the constitution of the public arena: that of the workforce, the market-that of the citizen.

This result in two broad forms of discrimination against women in the realm of citizenship rights. Firstly, the principle of dependent nationality assumed that upon marriage a wife joined her husband in his nation state. Therefore wives were automatically granted the nationality of their husband having renounced of their own nationalities. Further they were not granted the same right to transfer citizenship to a foreign spouse. Secondly, the citizenship of a child born to parents of differing nationalities was determined only by the father's nationality. This in turn resulted in the discrimination of women in society, and the perpetuation of gender inequality through women's second class citizenship. Women who were divorced, abandoned or widowed were rendered stateless in their own state, and women who continued to live in their nation after marriage were similarly left without any rights associated with citizenship. As children acquired citizenship from fathers and often only within wedlock, single mothers, and children of the badi community remains affected from the existing citizenship laws in Nepal. The denial of equal citizenship rights has had a devastating effect on many women and children, unnecessarily limiting their mobility, access to services and opportunities

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<sup>46</sup> Personal Interview 12, Conducted on Jan 24 2017, Kathmandu, Nepal.

## **CHAPTER: 8 CONCLUSION**

### **8.1 Women's political participation in practice and in paper**

Women's political participation cannot be understood in isolation. Cultural, historical and socioeconomic factors are some of the variables to take into account when defining the outlines of what is understood by political participation in each context. For example, in a pyramidal political system with a single party, political participation through the right to vote has clearly not got the same significance as a multi-party parliamentary system, with proportional representation. The contemporary democratic ideal is based on the concept that political power has its roots in a sovereign people. Therefore, there can be no democracy without involvement, without participation of the people in political life. But, how do we define this political participation? Participation can take place in numerous activities, such as being involved in different groups or associations but, what does political participation mean? What are we citizens of? What is political? And, how does someone become a political actor?

Political participation can be any activity which aims at influencing the structure of a government, the appointment of leaders and the policies they execute. These activities can have the goal of supporting the existing structures and politics or changing them. They include active and passive actions, collective or individual, legal or illegal, support or pressure actions, by which one or several persons try to influence the type of government that may lead a society, the way the state of that particular country is led, or specific government decisions affecting a community or their individual members.

Debates on the forms of political participation and those who can exercise power within them have a long historical trajectory. They go back to the citizens' assemblies in ancient Greece and all the way to the present time with the continuing search for alternative methods of individual or collective participation and new areas where it can be exercised. With relation to the form of participation we can distinguish; The Vote, The political Campaign, The Community activity, the individual activity and the protest activity.

These activities differ based on the level of influence that the person can exercise through it, in other words the pressure exerted on leaders so they act in a certain way, and the capacity of citizen's for demanding accountability for their leader's actions and decisions. The result obtained or to be obtained and whether there is a collective or individual benefit. The level of conflict experienced by those involved. The level of conflict

experienced by those involved. The level of personal initiative required to carry out the activity. And finally, the degree of cooperation with other people required carrying out the activity.

Secondly, based on the level of integration in the decision making state process, political participation can be classified in two ways.

Institutional political participation this refers to the activities involved in the government mechanisms for decision making such as referenda, elections, advisory bodies etc. Non institutional political participation this includes actions that are not part of the official channels for the establishment of policies and that are aimed at exerting pressure on them from without, such as demonstrations, electoral campaigns individual or collective requests to public organizations, promotion of certain groups or social classes interests, membership and activities within political parties.

The studies approach is based on a dynamic understanding of political systems. There are historical processes that experience constant changes through different methods of social and political participation, conflicts or political struggles. A political regime cannot be described as democratic or not based on a pre-established type, but it needs to be considered as a project consisting of different social groups trying to create methods of political participation in order to protect or defend their interests.<sup>47</sup>

The parliament elected its first female speaker on October 16 unopposed and first president on October 28 through majority votes. Prior to these, deputy speaker and deputy prime minister were the top most posts that women had lead in nation's history. With the election of Bhandari as head of state, Nepal is among the 28 countries having women either as head of state or head of government. Only seven other countries, including Poland, Brazil, South Korea, Croatia, Switzerland, Mauritius, have women president. According to UN Women, 13 women have served as head of the state and 12 as head of the government as of August 2015. Along with these, this year has paved way for the year 2016 to have Sushila Karki as head of the judiciary.

The incumbent president has served as minister for defense, minister for population and environment and was vice chair of CPN-UML party. She has also headed women wings of the party and is also regarded as women rights campaigner in Nepali Politics. Likewise speaker Gharti has served as deputy speaker and minister of youth and sports in her

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<sup>47</sup> Rodan Gary Y Jayasuria Kanishka, "Conflict and the New Political Participation in Southeast Asia", Working Paper 129, Feb 2006  
\_ <http://www.ware.murdocn.edu.au/wp/wp129.pdf>

political career. She had joined Maoist underground rebellion and became first female commissar of the Maoist army in 2002.

Many women right activists celebrated<sup>48</sup> the election of two women leaders in two top posts of the country as achievements. "Though the ground was laid by long running movements and struggles, the year 2015 materialized these movements and struggles by bringing women in two vital posts," speaker Gharti's sharing on the Daily Newspaper Republica. "These achievements will also establish the fact that though women need to labor more than a man, they can equally lead the country if they get a chance,".

The participation of women in parliament was all time high 32.8 percentage in Nepal during the first CA but it decreased to 29.8 in the second CA. However the average representation of women in parliament in the world is only 22 percent and in Asia it is 18.4 percent so far, according to the UN women.

Women succeed to reach the top posts of the country 68 years after getting the right to cast vote in the country. Nepali Congress lawmaker Kamala Panta takes the achievement of women in political leadership as an opportunity to prove that women also can equally take responsibilities to man.

"Women have created history in world politics. In our country we have elected two women in top posts, now the time has come to show that women can perform equally better like men, by making their tenures successful," said Panta. Further stressing that only access, representation

and competition will help women to move forward in the coming days.

The new constitution of Nepal, 2015 is gender friendly except some provisions on citizenship. Legislative frameworks, affirmative action laws and policies have played significant role in improving women's status and voice in politics and governance. Nepal has been making significant progress in areas of political empowerment, the annual report of World Economic Forum (WEF), 2015 claims.

Nepal ranked at 110th position, out of 145 countries, in the Global Gender Gap of WEF in 2015. Nepal has been showing improvements in narrowing the gender gap, which is measured on the basis of economic participation, educational attainment, health and survival, and political empowerment pillars, for the past five consecutive years. Nepal, which is behind Sri Lanka and India among South Asian countries, is in 112th position in

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<sup>48</sup> Personal Interview 10, Jan 15 2017, Kathmandu Nepal

the gender gap globally.

Though various international reports on Nepali women state that Nepal has made notable progress towards gender equality and the empowerment of women over the period, it is time to think if meaningful political participation of women can bring the required social changes in society or not?

If we are to achieve the gender goals in coming years, the time has arrived to change the deep-rooted patriarchal values and traditional social norms along with celebrating the election of first female president and speaker of the parliament. Traditions, cultural values and norms including patriarchal mindset have helped in legitimizing gender discrimination and violence against women in Nepal.

Nepal Police records show that the cases of domestic violence against women have been increasing every year. A total of 8,268 women faced various forms of domestic violence in the fiscal year 2014/15 while only 1,800 such cases were registered in 2012/13. Along with the existing national laws and policies and Nepal being signatory member of several international conventions, Nepal further needs to have laws that address the root causes of violence and discrimination in our society. Male participation to eliminate violence against women and gender based violence along with laws to address the root causes of violence are essential to address common forms of violence like forced marriage, trafficking, domestic violence, dowry-related violence, sexual harassment in public spaces, intimate partner violence, non marital partner sexual violence, maltreatment of widowed and divorced women and with-craft related violence.

## **8.2 Conclusion**

Arguments for a gender-balanced representation have been brought up including one of the ground pillars of democracy; everyone's equal right to participate in politics, to vote, candidate and participate in decision making processes (Held, 2010). Though the political representation, it is of higher interest to look at representation in legislative bodies than in other political bodies since it is elected by the people and considered the most influential. Nevertheless, it is hard to neglect that under-representation of some groups in society will lead to under-representation of certain opinions and insufficient attention to particular questions.

Legally, Nepalese women have equal political rights to vote and to get elected. Although, women have an equal right to government jobs, child-care and family obligations women make them less desirable to recruit from the institutional point of view. Nepalese women



have been empowered in paper. However, they have not been wholly translated into a way of life. Only a few women are in the decision-making capacity, which shows that male domination is continued as usual. Nepal is a signatory to the international declarations and conventions on equal opportunity and non-discrimination between men and women. However, no substantial improvement is evident in the overall position of women in society. Women's presence in various spheres of public life, particularly in politics, remains very low.

Post conflict Nepal is struggling with many issues concerning transition from conflict to peace. The issue central to this study, namely women's political participation on post conflict Nepal, has not been highly prioritized but it is an issue which has grown in importance and more actors are now more seriously dealing with this transition. There is no doubt that there are many capable women wanting to be represented; but how is it that the nominal representation of women is still a fact? This question has been thoroughly examined in this study.

Among many social, cultural, economic factors legal factors also play key role for promoting women's participation in Politics. Here the political participation includes process in which people take part in political activity with clear choices, attending public forum, taking part in agitation activity, attending study circle of political parties, right to vote, right to participate in elections, participate in decision making, representative in political parties (Sethi, 1988). The political participation for women is challenging in Nepal because of gender inequalities that hinders women's human choices, voices and discrimination. The quality and quantity of women's participation in politics is determined by political rights given to women by law, and the stage of a society and women's access and entry to different sections of social life. There exist various factors that affect the women's political participation social construction of society, cultural behavior, religious attributes, resources and general legal practices of that nation ((SARSWP), 2013). Beside all this factors the legal identity of state is also one of the major and basic requirement that is essential to participate in politics. After the Peace Process in Nepal two election were held. If we review the overall situation of women's participation in elections of Nepal women's participation in different level highly varies. Though the both elections were result of political change and was for constitution making. Basic requirement for political participation providing legal identity as citizen in Nepal is gender biased. In a way state is reluctant to provide smooth access to women in

decision making and political activity.

The contradictory provisions and government local body's attitude to implement such provisions are still patriarchal. Government has passed laws that support women's equal right to citizenship but it will take time to reflect in practice. Because it has deep association with economic power and authority.

The interim Constitution and the laws of the country has emptied to establish women's rights as special rights. In particular, all the policies and laws issued after 2007 have addressed the participation of women. Women's participation on has considerably increased in all the organs of the state. The Election Commission (EC) has adopted Gender and Inclusive Policy, 2013 for promoting women's participation and inclusive participation. The bill developed to amend some Acts to maintain gender equality and end gender based violence has been presented to the Legislative Parliament and is under discussion. And empts have been made to guarantee the participation of women by allocating 20 percent quota for women to join civil service; mandatory representation of women in the committee, council and task force, etc., formed by the government; minimum 33% women representation in the National Planning Commission (NPC); and, minimum 33% representation in council, committee, academy, board and commissions formed in public sectors. The Thirteenth Plan of Nepal has determined policies to include minimum 33% participation of women.

The Gender and Inclusive Policy 2013 issued by the Election Commission has provisions of gender mainstreaming and including inclusive policies in all election processes to strengthen the democratic practice initiated by the state for increasing the participation of women. In this context, the monitoring of the 2013 Constitution Assembly Elections was done with a gender perspective for the first time. Similarly, other provisions include 50% women while selecting volunteers for voter's education, election publicity materials must be gender sensitive and sensitivity must be adopted while dealing with people with disability, the observer mobilization policy and the action plan of the national election observation organizations must be gender based and inclusive.

Women's participation in the policy making level is also seen to be significant. There have been some improvements in the representation of women in politics. The positive signs seen in the sector of women's participation are: 197 women(32.78%) in the first Constituent Assembly (2008) and 172 women (30%) in the second Constituent Assembly

(2013), increase in women's participation at the policy making level, the issue of women's participation raised with importance in the working committee of sister organizations of political parties, serious discussions on gender sensitivity and inclusiveness while formulating policies and laws or while making policy level decisions. In the past, there was minimum participation of women in the Legislative and Judiciary bodies. However, the policy of positive discrimination adopted by the Government to increase the participation of women has gradually started to show positive results. Under the Ministry of Home Affairs, The Nepal Police has adopted a Gender Policy as well as a Code of Conduct against Gender Based Violence, 2012. The Ministry of Defense has initiated the policy of establishing a gender unit. The Ministry of Local Development and Federal Affairs (MOFALD) has made the provision of allocating 10% of grant without any conditions for promotion of women's participation and for women empowerment after developing the Local Body Resource Mobilization on and Management Procedure, 2012.

Initiatives have started to ensure 33% women's participation in local level development mechanisms such as user's committee, community organizations, etc. Local Peace committees (LPCs) have been formed to take the peace process to a meaningful conclusion and create an environment of reconciliation in the society. LPCs have been formed in all 75 districts and as seen necessary in 55 municipalities and 2900 VDCs. These peace committees have a total of 23 members from among the political parties, civil society and conflict affected women. The provision to include one third women members in the committees shows the importance provided to women's participation in the peace process.

This study finds that the choices and voices of women are considered as noticeable in government action. The deep rooted gender inequalities takes time to transform, for this transformation gender responsive policies are stepping stones.

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## **Annex 1**

### **Questionnaire**

1. In your opinion is Nepali politics gender balance?
2. Do Man and Woman have equal opportunities and access to choose profession or career?
3. What are your views of women and politics?
4. Have you find any difference in level of women's political participation before and after peace process?
5. In Nepal do you think policies and law support or ensure women's political participation?
6. What are the specific policies that support women participation in politics after 2006?
7. How does new constitution of 2072 has protected women's political right?
8. What are the basic legal arrangements that are essential for women's political participation?
9. In your opinion are there any relation between citizenship right and political participation?
10. What kinds of arrangement are there in Nepal for inheriting citizenship?
11. Who has right to issue the citizenship? and how you find the whole process of issuing citizenship ?
12. Are there any discrimination between man and women for citizenship?
13. Are there any changes on whole process of issuing citizenship after peace process?
14. What kind of orientation do you find in government bodies /authority on women's equal right in citizenship?

15. Does government commitment in policies are properly reflected in practice? What kind of gaps do you find?
16. Are there any international commitment or legal arrangement that support women's equal right and participation?
17. How other international human right instruments are implemented? Does these policies and constitution compliment or contradict each other on political participation issues?
18. How do you find Nepal's policies on women right issues is it progressive or contradictory in practice and paper?