

Prevalence of an
INTIMATE PARTNER VIOLENCE (IPV)
within Lesbian, Trans man and
Third Gender Man Couple in Nepal



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2021



Abbreviations

CEDAW	Convention on Elimination of all forms of Discrimination against Women
FGD	Focus Group Discussion
GR	General Recommendation
IPV	Intimate Partner Violence
KII	Key Informant Interview
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex and Queer
SOGI	Sexual Orientation and Gender Identity
UDHR	Universal Declaration of Human Rights
UN	United Nations
WHO	World Health Organization

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Introduction

1.1 Background

Intimate Partner Violence (IPV) is a significant public health issue that has many individual and societal costs. It describes physical violence, sexual violence, stalking, or psychological harm by a current or former partner or spouse.

Although IPV is an important health and social issue, less is known about IPV among sexual orientation and gender identity (SOGI) populations such as Lesbian, Gay, Bisexual and Transgender (LGBT) couples. IPV among sexual orientation (e.g. lesbian, gay, bisexual) and gender identity (e.g. transgender) couples requires a reframing of this issue from a heteronormative and cisnormative lens in order to better understand and effectively address approaches to prevent this kind of abuse and to improve treatment programs. Rates of IPV among same-sex couples are similar to different-sex IPV rates and heteronormative approaches are not conducive to addressing same-sex IPV. Same-sex approaches to IPV remain underrepresented in the literature and related interventions, suggesting the need for new policies and programs that can better serve the community and to achieve health equity for all.¹

The term **“intimate partner violence”** describes physical violence, sexual violence, stalking, or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples and does not require sexual intimacy.² According to World Health Organization (WHO), IPV refers to any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship. Examples of types of behaviour are listed below. Acts of physical violence, such as slapping, hitting, kicking and beating. Sexual violence, including forced sexual intercourse and other forms of sexual coercion. Emotional (psychological) abuse, such as insults, belittling, constant humiliation, intimidation (e.g. destroying things), threats of harm, threats to take away children. Controlling behaviours, including isolating a person from family and friends; monitoring their movements; and restricting access to financial resources, employment, education or medical care.³ Huss defined the nature of domestic violence as any action of violence perpetrated within the context of significant interpersonal relationship. Domestic violence could include violence between a husband and a wife, a girlfriend and boyfriend, or gay or lesbian partners.⁴ Despite the myth that IPV is exclusively an issue in Cis-heterosexual relationships, many studies have revealed the existence of IPV among lesbian and gay couples, and its incidence is comparable



1. <https://www.tandfonline.com/doi/full/10.1080/23311886.2019.1644982> accessed on 20 September 2021

2. <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html> accessed on 19 September 2021

3. Understanding and addressing violence against women, World Health Organization and Pan Health Organization, p. 1 https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf accessed on 19 September 2021

4. Huss MT. Forensic psychology. Research, clinical practice, and applications. Singapore: Wiley-Blackwell; 2009

to or higher than that among heterosexual couples.⁵ A research shows that LGBT people face barriers to seeking help that are unique to their sexual orientation and gender identity. These include:⁶



Legal definitions of domestic violence that exclude same-sex couples



Potential homophobia, biphobia and transphobia from staff of service providers or from non-LGBT survivors of IPV and IPSA with whom they may interact



Dangers of “outing” oneself when seeking help and the risk of rejection and isolation from family, friends, and society



Low levels of confidence in the sensitivity and effectiveness of law enforcement officials and courts for LGBT people



The lack of, or survivors not knowing about, LGBT-specific or LGBT-friendly assistance resources

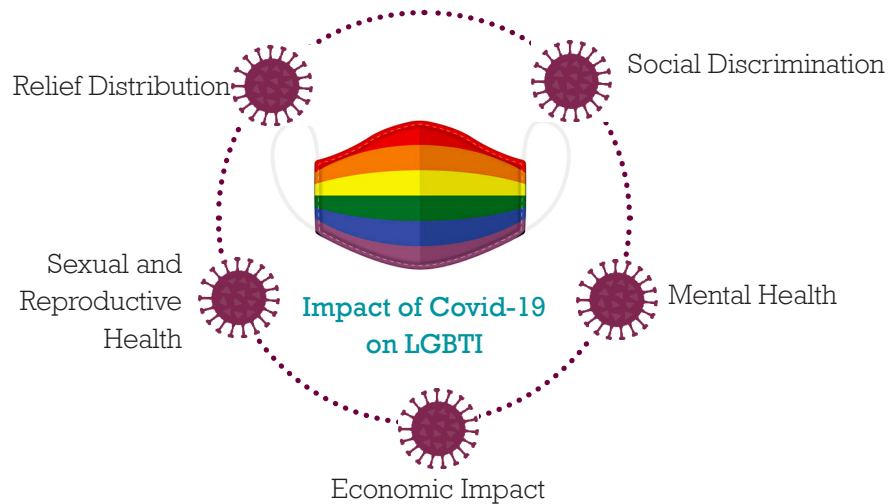
Moreover, different reports show that the Covid-19 has driven a spike in domestic violence worldwide and is being compounded by money, health and security stresses, movement restrictions, crowded homes and reduced peer support. In a number of countries, domestic violence reports and emergency calls have surged upwards of 25 per cent since social distancing measures were enacted. Such numbers are also likely to reflect only the worst cases.⁷

The COVID-19 has amplified existing societal fissures, including growing threats and stigma and discrimination that is pushing minorities and other vulnerable groups such as lesbian, gay, bisexual, transgender and intersex (LGBTI) people to the margins of society. Concerns are mounting for their ability to access food, shelter, health care and other basic necessities. The LGBTI people who are already facing discrimination and the Covid-19 has worsen the existing barriers. Most of the LGBTI people, throughout the world, earn their income through the informal sector or irregular work and the sector has been affected hugely due to the pandemic. Most of the workers of the informal sector have already lost their jobs and facing tremendous problem to afford for their basic needs and other essentials which further contributes to IPV within the LGBTI couples.

5. Rollè L, Giardina G, Caldarera AM, Gerino E and Brustia P (2018) When Intimate Partner Violence Meets Same Sex Couples: A Review of Same Sex Intimate Partner Violence. *Front. Psychol.* 9:1506. doi: 10.3389/fpsyg.2018.01506, p. 1

6. Brown, Taylor N.T., Herman, Jody L., *Intimate Partner Violence and Sexual Abuse among LGBT people*, The Williams Institute, November 2015, p. 3

7. The impact of COVID-19 on women, UN Secretary-General, UN, April 2020



The government of Nepal has not given any guidance or taken any special measures to address the needs of this group. The state has made little attempt to learn about the plight of LGBTI and other underprivileged communities, causing their situation to deteriorate as a result of the government's lack of support. Till date, no research studies or reports have been conducted to examine the overall effect of the COVID-19 pandemic on the LGBTI population and other vulnerable and minority groups.⁸

1.2 Justification of the Research

Stigma, discrimination, mistreatment, bullying and abuses are found common against the LGBTI people, the LGBT are the most marginalized amongst them. The violence against lesbian women starts from family. In many cases, they suppress their sexual and gender identities or express not in a clear cut way due to the fears of non un-acceptance in the family and other brutal consequences. They are controlled harshly, if their families learn about their gender identity and sexual orientation. The control ranged from emotional violence to physical harms which leads them to different psychological problems including fears, guilt, anxiety, depression and an elevated risk for suicidal ideation.

Nepal is the first to recognize transgender identity in South Asia countries. The Constitution of Nepal enshrines the principle of gender equality. It ensures non-discrimination on the grounds of sex, origin, religion, race, caste, tribe, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language or region, ideological conviction or on similar other grounds. The Constitution further guarantees that nobody shall be subjected to physical, mental, sexual, psychological or other forms of violence on ground sex. However, the constitutional provisions have not been reflected in the laws and policies. This resulted, women particularly those who face multiple inequalities such as Lesbian, Bisexual, and Transgender are experiencing violence in public as well as in private spheres. Many instances of violence within LGBTI couples are being noticed and heard. However, the gravity and extension of the violence within intimate partner of the LGBTI couples are not known as most of them remain unreported.

The Supreme Court of Nepal, in December, 2007, gave a verdict in the favor of LGBTI people and called on the Government to conduct a study and put into practice of a marriage equality. Based on the verdict, the Government has made significant step towards ensuring equality of LGBTI people however same-sex marriage is yet to be legalized. Because of this, the LGBTI people are compelled to establish and

8. Research on Impact of COVID-19 Pandemic on Socio-Economic and Health Aspects of LGBTI people of Nepal, Mitini Nepal, p. 29

maintain their intimate relationship in a quiet way and hide from others. It makes their relations feeble in the foundation. Consequently, this pushes them into unstable and abuses relationships where the risk of occurring violence within intimate partner increases. This also prevent them to enjoy the right to marriage, right choose life partner and right to family guaranteed by different human rights instruments that have been ratified by Nepal.

Despite of many of instances of violence within inmate partner of the LBT couples are being noticed the issue has not been able to grab proper attention from the government and other concerned stakeholders. Even, those who are responsible and authorized to address violence against the sexual and gender minorities have conveniently ignored their issues. Moreover, very less attempts have been made previously to study about the situation of LGBTI people particularly to identify the prevalence of IPV within the LGBTI couples.

This report is focused on LGBTI people especially lesbian, transman and third gender man couples with special consideration to their intimate partner relationship. This study helps to understand the extended situation of the IPV within lesbian, transman and third gender man couples, it causes and consequences and their coping mechanism. This study will also review the existing laws and policies to address the IPV with lesbian, transman and third gender man couples.

1.3 Research Objectives

The key objectives of this study is to understand the prevalence of an intimate partner violence within Lesbian, Transman and Third Gender Man couples, and thereby to identify the context, types, causes and consequences of such violence in them, and also to recommend for necessary policy and programmatic reformations to address the IPV particularly within Lesbian, Transman and Third Gender Man couples. More specifically the study is aimed to:

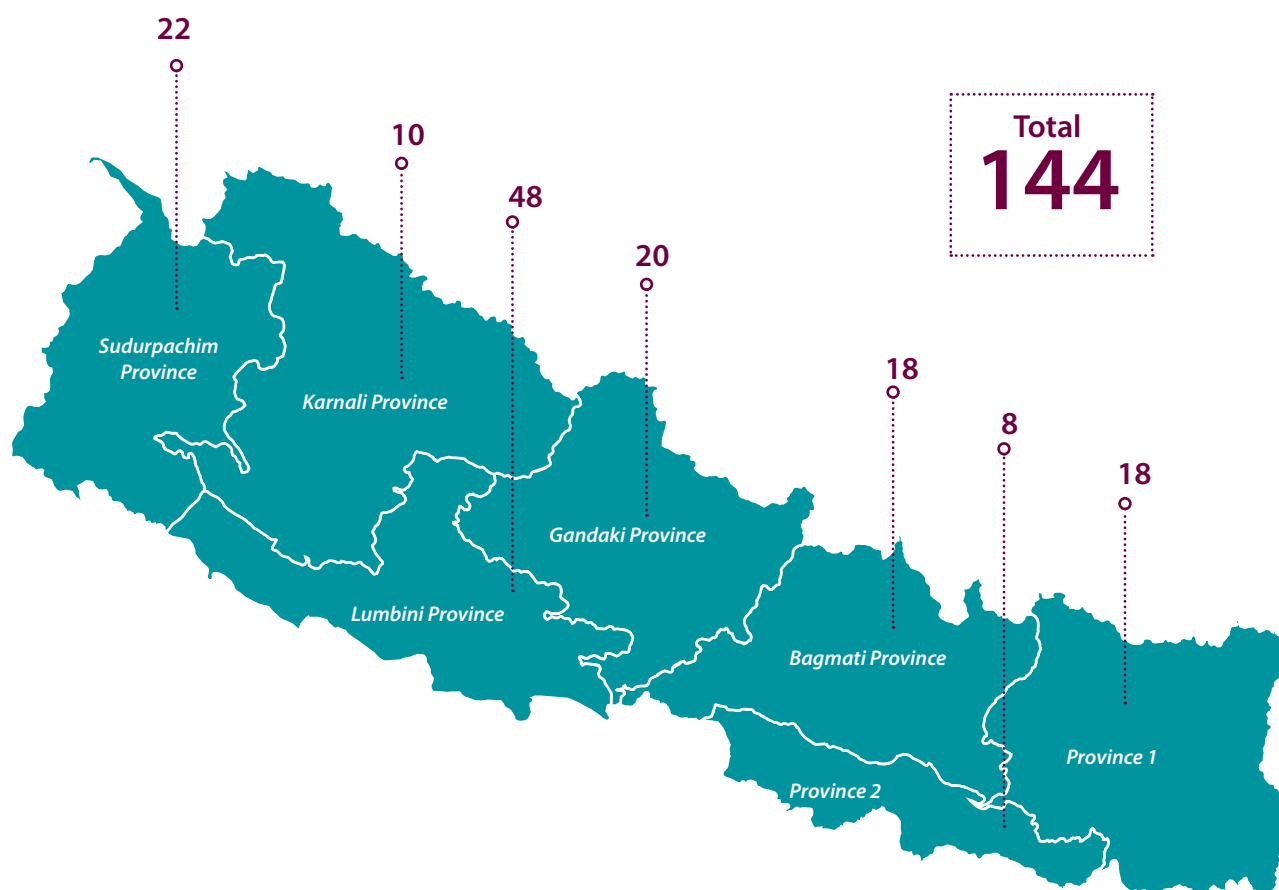
- OBJECTIVE 1:** Understand the extended situation of the IPV within Lesbian, Transman and Third Gender Man couples and how they are dealing with it,
- OBJECTIVE 2:** Review the existing laws and policies in regard to addressing the IPV within Lesbian, Transman and Third Gender Man couples,
- OBJECTIVE 3:** Examine governmental and non-governmental institutional frameworks specifically relating to responses to IPV within Lesbian, Transman and Third Gender Man couples,
- OBJECTIVE 4:** Produce a comprehensive evidence based report which will be useful in advocacy for necessary policies and programmatic reformations to address the IPV within Lesbian, Transman and Third Gender Man couples.

1.4 Research Methodology

A number of qualitative and quantitative research methods were used in this study.

1.4.1 Population, Sample Size and Sampling Procedure

The Lesbian, Transman and Third Gender people who are currently living with their intimate partners in all the seven provinces of the Country is focused population for the Study and the sample size was determined by using purposive sampling methods. Total 144 primary respondents were interviewed including 18 respondents from Province 1, 8 respondents from Province 2, 18 respondents from Bagmati Province, 20 respondents from Gandaki Province, 48 respondents from Lumbini Province, 10 respondents from Karnali Province and 22 respondents from Sudurpaschhim Province. The respondents were selected in consultations with the concerned organizations, focal persons and right activities working for the rights of the LGBTI people.



No. of respondents interviewed from 7 different provinces

1.4.2 Data Collection and Data Analysis Method

Both quantitative and qualitative study methods were used to collect data in this study. The quantitative data were collected through series of structured questionnaire. In order to incorporate the exclusive ideas and information, some of the questionnaires were developed as open-ended format. The qualitative data were collected through in-depth interview methods, Focus Group Discussions, Key Informant Interviews and Case Studies.

1.4.3 In-depth Interviews with the Respondents

Mainly, the semi-structured questionnaire was used to collect data from 144 respondents of all the seven provinces of the Country through one to one interview to obtain necessary information on situation, causes, types and consequences of the IPV within the lesbian, transman and third gender man couples.

1.4.4 Focus Group Discussions

Total 2 Focus Group Discussion were conducted virtually for the purpose of the Study. One FGD was conducted with 17 transman of Sudurpaschhim Province, Lumbini Province and Province 1 and another FGD was conducted with 18 activists and representatives from LGBTI organizations of Sudurpaschhim Province, Lumbini Province, Bagmati Province and Province 1.

1.4.5 Stakeholders Mapping for Key Informant Interviews

A mapping was conducted in order to identify and to map critical stakeholders through a meeting of the research team which involved the right based activists, who have been working in the field for years and have gathered unmatched experiences. The stakeholders were identified and listed out based on the institutional interests, primary functions, nature and authorities. The stakeholders were mapped and selected separately at federal, provincial, district levels as well as local levels. Subsequently, the key informants were selected from the list for in-depth interviews.

Key informant interviews (KIIs) were conducted with total 12 key informants who were identified through the initial stakeholder mapping as playing a vital role in the provisions of services. The KIIs included representatives from the parliamentary committee (1), the National Human Rights Commission (1), the Ministry of Women, Children and Senior Citizens (1), the Social Development Ministries in provinces (1), District Police- Women Cell (2), District Court (1), Federation of Sexual and Gender Minorities Nepal (1), and Non-Government Organizations (3). 6 key informant interviews were conducted in the federal level, 3 in provincial level (Bagmati, Lumbini and Gandaki), and 3 key informant interviews were done in district level focused on institutional roles and responsibilities for addressing the IPV particularly within the LGBT couples. While the interviews were mainly focused on the services including protections, legal, social services and justice providing by their organizations to the victims of violence, they were also interviewed about their perspectives on the LGBTI people and an intimate partner violence within the LGBT couples.

1.4.6 Case Studies

The enumerators conducted in-depth case studies to emphasize detailed contextual analysis of the issue on an intimate partner violence within the lesbian, transman and third gender man couples.

1.4.7 Legal and Policy Review

A desk based review of the legal and policy frameworks surrounding gender equality and an intimate partner violence in Nepal was conducted focusing on the outline of laws ensuring gender equality and addressing intimate partner violence. The following documents were included in the review:

- Constitution of Nepal
- The National Civil (Code) Act, 2017
- The National Penal (Code) Act, 2017
- Domestic Violence (Offence and Punishment) Act, 2009
- Nepal Treaty Act, 1990

Besides, different international human rights documents which have ensured protection from violence in private sphere have also been studied in order to understand Nepal's international obligations in regard to ensuring gender equality as well as protection from an intimate partner violence.

The personal interviews based on semi-structured and open ended questionnaire and case studies were analyzed along with quantitative data and such information was also analyzed with making different relevant themes and generating meanings of the context. Besides these key approaches of primary data collection, secondary data or information relevant to research purpose also gathered from relevant literatures to understand the intimate partner violence. The information collected through secondary literature has helped to triangulate the information during the analysis of findings.

1.5 Research Instruments

The following research instruments were used to collect data:

- Semi-structured Questionnaire for in-depth interview with the respondents.
- In-depth interview guidelines for Key Informant Interviews.
- Guidelines for Focus Group Discussions

1.6 Recruitment and Training of the Data Enumerators

A total of 7 data enumerators who were working as focal persons at province level (all seven provinces) for Mitini Nepal were hired and trained to collect data. The enumerators were given one day of intensive orientation on different aspects of the study, including conceptual frameworks, objectives, timeline. They were adequately trained on interview instrument and techniques, issues of confidentiality and ethical procedures during data collection. The enumerators were given orientation by the Core Study Team virtually (via Jitsi Meet). Legal analysts were hired to conduct legal and policy review and we hired an experienced journalist to conduct the key informant interviews.

1.6.1 Ethical Approval

Ethical approval was obtained from the Board of Directors of Mitini Nepal to conduct the study. Participants including respondents and key informants involved in the study were well explained on the nature and objectives of the study, potential benefit and risk in participating in the study prior to interview. They were also fully informed on the confidentiality of the data. They were allowed to skip any question or to stop the interview at any point of time if they did not feel to continue the interview and they were always given an opportunity to provide their feedback to the data enumerators. The participants were requested to provide written consent to participate in the study. The informed consent form was developed in Nepali language to take consent from the participants and this was read out to the participants before requesting them to provide their consent. The personal identifications are kept private and secured and no personal identification are used in this report.

1.7 Challenges

The major challenge while conducting the study was to identify the respondents for the study. Since there is no accurate count of the population of gender and sexual minorities in Nepal it was difficult to identify the respondents within the lesbian, transgender and third gender man couple. The spread of COVID-19 and the lockdown induced by the pandemic made it challenging to conduct the interview of the respondents. However, since the enumerators were given proper orientation we were able to receive reliable data on the questionnaire regarding the study.

Scheduling appointments with key stakeholders at district and national level was a major challenge. Some of the stakeholders were reluctant to participate in the study

1.8 Research Limitation

The study is limited by virtue of its small sample size and the relatively short time-frame. As the respondents were selected purposively this limits the possibility of generalizing the findings to a wider population.

2.1 Legislative and Policy Framework

2.1.1 International Laws and Obligations on Intimate Partner Violence within LGBTIQ Community (Lesbian, Third Gender Men and Trans Men Couples)

LGBTIQ community being a vulnerable minority, domestic and international law has proven to be an indispensable tool, sometimes the only tool, for LGBT people to claim a space in the world.⁹ But, the problem is that neither there are domestic law of states nor international laws that are explicitly introduced for the protection of LGBTIQ community against violence and discrimination. For example, we can take CEDAW which has been adopted specifically to protect, recognize and promote women rights and obliges state party to take measures for the advance of women. However, there are international human rights framework that is equally applicable for all including LGBTIQ community.



Universal Declaration of Human Rights (UDHR) states that all human beings are born free and equal in dignity and rights.¹⁰ The equality and non-discrimination guarantee provided by international human rights law applies to all people, regardless of sex, sexual orientation and gender identity or "other status." There is no fine print, no hidden exemption clause, in any of our human rights treaties that might allow a State to guarantee full rights to some but withhold them from others purely on the basis of sexual orientation and gender identity.¹¹

In November 2006, a group of 29 international human rights experts, including a former United Nations High Commissioner for Human Rights, UN independent experts, current and former members of human rights treaty bodies, judges, academics and human rights defenders, met in Yogyakarta, Indonesia, and affirmed a set of principles drawing on legally binding international human rights law to address the application of a broad range of international human rights standards to issues of sexual orientation and gender identity. The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity provide a universal guide to applying international human rights law to abuses experienced by lesbians, gay men, bisexual and transgender people to ensure the universal reach of human rights protections.¹²

Similarly, UN resolution on Protection against violence and discrimination based on sexual orientation and gender identity strongly deplores acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation or gender identity.

9. <https://www.hrw.org/news/2014/09/06/international-law-and-uncertainty-rights-lgbt-people> accessed on 12 September 2021

10. Article 1, Universal Declaration of Human Rights (UDHR)

11. Factsheet on International Human Rights Law and Sexual Orientation and Gender Identity, Office of the High Commissioner for Human Rights (OHCHR). <https://www.unfe.org/wp-content/uploads/2017/05/International-Human-Rights-Law.pdf> accessed on 13 September 2021

12. Amnesty International USA LGBT Pride Toolkit 2014: Lesbian, Gay, Bisexual and Transgender Rights are Human Rights, https://www.amnestyusa.org/pdfs/YogyakartaPrinciples.pdf?_sm_au_=iVV5402rZ6PZQ066 accessed on 13 September 2021

• Domestic Violence and International Law

Convention on Elimination of All forms of Discrimination against Women (CEDAW) is regarded as the international bill of rights for women. Nepal has also ratified the convention and its Optional Protocol as well. The convention obliges state party to take measures to stop violence against women under Article 6. The General Recommendation no. 19 of CEDAW recommended that "gender-based violence" be added to the definition of discrimination against women, explaining that it consisted of "acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."¹³ The updated version of the GR i.e. General Recommendation no. 35 also included violence of women's sexual, and reproductive and health rights as well a form of gender based violence. The GR 35 also stated that In general recommendation No. 28 and general recommendation No. 33, the Committee confirmed that discrimination against women was inextricably linked to other factors that affected their lives such as women's ethnicity/race, indigenous or minority status, colour, socioeconomic status and/or caste, language, religion or belief, political opinion, national origin, marital status, maternity, parental status, age, urban or rural location, health status, disability, property ownership, being lesbian, bisexual, transgender or intersex, , human rights defenders.¹⁴

Since CEDAW identified violence against women as an issue of international importance and concern, organs of the United Nations such as the General Assembly, Security Council, and Human Rights Council have adopted and released numerous resolutions and reports regarding violence against women.¹⁵ The UN Resolution on Elimination of Domestic Violence against Women recognizes that¹⁶:

- (a) That domestic violence is violence that occurs within the private sphere, generally between individuals who are related through blood or intimacy;
- (b) That domestic violence is one of the most common and least visible forms of violence against women and that its consequences affect many areas of the lives of victims;
- (c) That domestic violence can take many different forms, including physical, psychological and sexual violence;
- (d) That domestic violence is of public concern and requires States to take serious action to protect victims and prevent domestic violence;
- (e) That domestic violence can include economic deprivation and isolation and that such conduct may cause imminent harm to the safety, health or well-being of women;

The resolution also called upon states:¹⁷

- To adopt, strengthen and implement legislation that prohibits domestic violence, prescribes punitive measures and establishes adequate legal protection against domestic violence and periodically to review, evaluate and revise these laws and regulations so as to ensure their effectiveness in eliminating domestic violence;
- To ensure greater protection for women, inter alia, by means of, where appropriate, orders restraining violent spouses from entering the family home, or by banning violent spouses from contacting the victim;

13. General Recommendation No. 19, CEDAW

14. Para 12, General Recommendation No. 35, CEDAW, p. 4-5

15. Natalie E. Serra, Queering International Human Rights: LGBT Access to Domestic Violence Remedies, *Journal of Gender, Social Policy and the Law*, Vol 21, 2013, p. 591

16. UN Resolution on Elimination of Domestic Violence against Women, p. 2

17. UN Resolution on Elimination of Domestic Violence against Women, p. 3

- To provide or facilitate the provision of adequate training, inter alia, gender-awareness training, to all professionals who deal with domestic violence, in particular with victims of domestic violence, police officers, judicial and legal personnel, health personnel, educators, youth workers and social workers;
- To provide or facilitate the provision of assistance to victims of domestic violence in lodging police reports and receiving treatment and support, which may include the setting up of one-stop centers, as well as the establishment of safe shelters and centers for victims of domestic violence;
- To protect women in the process of seeking redress from further victimization because of gender-insensitive laws or practices;
- To encourage the efforts of the media to engage in awareness-raising campaigns;

Domestic violence against women has been covered by CEDAW, its GR and UN resolutions which also applies in cases of Lesbian couples and LBTI women. However, it does not explicitly cover intimate partner violence that exists within the other couples from the gender and sexual minority community. Additionally, emerging international discourse on LGBT human rights is largely silent about the existence of same-sex domestic violence. Despite the failure of international organs to incorporate same-sex domestic violence into their discussions of domestic violence or LGBT human rights, this type of abuse does occur at significant rates and causes serious harm for LGBT survivors throughout the world. Therefore, the issue of same-sex domestic violence is entitled to the same degree of international attention as opposite-sex domestic violence and similar mobilization to eradicate the problem and protect its survivors.¹⁸ Also, many states have not legalized and recognized marriage equality which has become a catalyst in increase in intimate partner violence. The omission of same-sex domestic violence from international human rights discourse is mirrored by the failure of many states to offer LGBT survivors access to national domestic violence remedies, such as criminal prosecution of perpetrators or the availability of restraining orders for LGBT survivors against their violent partners.¹⁹

2.1.2 National Laws Addressing Intimate Partner Violence

As far as the national laws relating to gender equality and gender based violence are concerned the Constitution of Nepal enshrines principles of equality and non-discrimination and prohibits any form of violence on the basis of gender. The spirit of the Constitution has been reflected to other legal provisions to some extent. However, there exists many of discriminatory provisions which are necessary to be amended with the perspective of gender equality.

While referring to the domestic laws relating to gender based violence particularly the violence occurring between intimate partners very limited legal provisions are found in a scattered form in Nepal. Here we briefly discuss the national laws which directly or indirectly address the issue gender equality, gender discrimination, and gender based violence particularly an intimate partner violence in Nepal:

A. Constitution of Nepal

The Constitution provides the right to equality as a fundamental rights and guarantees that all citizens are equal before law²⁰ and no discrimination shall be made in the application of general laws on grounds of

18. Natalie E. Serra, Queering International Human Rights: LGBT Access to Domestic Violence Remedies, *Journal of Gender, Social Policy and the Law*, Vol 21, 2013, p.601

19. Ibid.

20. The Article 18(1), the Constitution: "All citizens shall be equal before law. No one shall be denied the equal protection of law".

origin, religion, race, caste, tribe, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language or region, ideological conviction or on similar other grounds.²¹

The **Article 18(3)** further stipulates that the state shall not discriminate among citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideological conviction or on similar other ground.

The Constitution also provides right against exploitation and guarantees that every person shall have the right against exploitation²² and no person shall be exploited in any manner on the grounds of religion, custom, tradition, usage, practice or on any other grounds.²³

Moreover, the Constitution guarantees right of women as a fundamental right. The **Article 38(1)** states that every woman shall have equal lineage right without gender based discrimination and shall have the right to safe motherhood and reproductive health.²⁴ It further stipulates that no woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law.²⁵

Further, the Constitution provides constitutional remedy in case of violation of fundamental rights. The **Article 46** guarantees that there shall be a right to obtain constitutional remedies in the manner set forth in **Article 133** or **144** for the enforcement of the rights conferred by this Part. The **Article 47** stipulates that the state shall, as required, make legal provisions for the implementation of the rights conferred by this part, within three years of the commencement of this Constitution.

Similarly, the Constitution ensures that any citizen of Nepal may file a petition in the Supreme Court to have any law or any part therefor declared void on the ground of inconsistency with this Constitution because it imposes unreasonable restriction on the enjoyment of any fundamental rights²⁶ and provides the Supreme Court jurisdiction for the enforcement of the fundamental rights conferred by the Constitution or of any other legal rights for which no other remedy has been provided for or for which the remedy even though provided appears to be inadequate or ineffective.²⁷ The **Article 133(3)** states that the Supreme Court may issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and Quo Warranto for the enforcement of fundamental rights conferred by the Constitution under the extra-ordinary jurisdiction.

B. The National Civil (Code) Act, 2017 (2074)

The National Civil (Code) Act, 2017 came into effect from August 17, 2018 replacing the Country Code, 1963 better known as the *Muluki Ain* which was first implemented by first Rana Prime Minister Jung Bahadur that had been guiding civil, criminal and legal proceedings for last 165 years. The Code came into force to make timely the civil provisions contained in the Country Code and other Laws, by amending and consolidating such provisions, in order to maintain morality, decency, etiquette and convenience and economic interest of the public by maintaining law and order in the country and also to main harmonies relationship between various castes, races and communities by making just provisions in the economic,



21. Ibid.

22. The Article 29 (1), the Constitution

23. The Article 29(2), the Constitution

24. The Article 38(2), the Constitution

25. The Article 38 (3), the Constitution

26. The Article 133(1), the Constitution

27. The Article 133(2), the Constitution

social and cultural field.²⁸ The Code has various provisions relating to equality and non-discrimination, and the provisions which directly or indirectly address the issues of the intimate partner violence.

The Code ensures that every citizen shall be equal before law and no citizen shall deprive of equal protection of law.²⁹ It guarantees non-discrimination in the application of general law on grounds of origin, religion, color, caste, race, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language, region, ideological conviction or on similar other ground.³⁰ It also stipulates that every person shall recognized other person's personality³¹ and it recognizes individual as a person immediately after birth and entitles to exercise rights under law until he or she survives.³²

Under the Family Law Part, Chapter of Provisions Relating to Marriage, **Section 67**, the Code deems a marriage to be concluded if a man and a woman accept each other as the husband and wife through any occasion, ceremony, formal or other act and **Section 69** ensures that every person shall, subject to law, have the freedom to conclude a marriage, establish a family and spend a conjugal life. The Code further has provisions relating to consequences of marriage. **Section 86** specifies relation and obligation of husband and wife, it articulates that the husband and wife must have mutual love and good faith; the husband and wife must establish and spend conjugal life by living together, except as otherwise arranged through mutual understanding and the husband and wife must help, protect and respect each other.³³

The Chapter of the Provisions relating to Divorce of the Code³⁴ permits a wife to dissolve the conjugal relation if any of the following circumstances, even without consent of the husband, (a) Except the husband and wife are living separately after obtaining their partition share or separating bread and board in accordance with law, if the husband, without consent of the wife, has been living separately for three years or more consecutively, (b) if the husband deprives the wife of maintenance costs or expels her from home, (c) If the husband commits an act or conspiracy likely to cause grievous hurt or other severe physical or mental pain to the wife, (d) If the husband concludes another marriage, (e) If the husband is proved to have made sexual intercourse with another woman, and (f) If the husband is proved to have raped the wife. Similarly, Section 94³⁵ permits a husband to dissolve the conjugal relation in the following circumstances, (a) Except where the husband and wife are living separately after obtaining their partition share or separating bread and board in accordance with law, if the wife has been living separately for three or more consecutive years, without consent of the husband, (b) If the wife deprives the husband of maintenance costs or expels him from the house, (c) If the wife commits an act or conspiracy likely to cause the grievous hurt or other severe physical or mental pain to the husband, and (d) If the wife is proved to have made sexual relation with another person.

The Code obligates the concerned court, if divorce is to be effected because of the husband, if the wife so demands, to cause partition of property to be effected before divorce³⁶ and Section 100³⁷ permits the Court

28. Preamble, the National Civil (Code) Act, 2017

29. Section 17, Chapter: Provision Relating to Civil Rights, Part: General Provisions, the National Civil (Code), 2017

30. Section 18, Chapter: Provision Relating to Civil Rights, Part: General Provisions, the National Civil (Code) Act, 2017

31. Section 12, Chapter: General Principles of Civil Law, Part: General Provisions, the National Civil (Code) Act, 2017

32. Section 30, Chapter: Provisions Relating to Natural Persons, Part: Law relating to Persons, the National Civil (Code) Act, 2017

33. Section 86 (1)(2)(3), Chapter: Provisions Relating to Consequences of Marriage, Part: Family Law, the National Civil (Code) Act, 2017

34. Section 95, Chapter: Provision relating to Divorce, Part: Family Law, the National Civil (Code) Act, 2017

35. Section 94, Chapter: Provisions relating to Divorce, Part: Family Law, the National Civil (Code) Act, 2017

36. Section 99, Chapter: Provisions relating to Divorce, Part: Family Law, the National Civil (Code) Act, 2017; *Partition of property to be effected before divorce*: (1) If divorce is to be effected because of the husband, the concerned court shall, if the wife so demands, cause partition to be effected between the husband and wife before effecting divorce. (2) If a petition is filed by the wife for divorce on the ground referred to in clause (b), (c), (d), (e) or (f) of Section 95, divorce is deemed to be effected because of the husband, for the purposes of sub-section (1). (3) If a property in common is registered in the name of both husband and wife or either of them, then such property shall be partitioned between them according to law, prior to effecting divorce. (4) If the husband himself has not obtained partition from his father or other coparceners, the court shall, by causing both the parties to disclose the coparceners, and if there are other coparceners who are entitled to partition, by inquiring such coparceners as well, cause partition to be apportioned between the husband and wife.

37. Section 100, Chapter: Provisions relating to Divorce, Part: Family Law, the National Civil (Code) Act, 2017

to order the husband to pay lump sum amount or annual or monthly alimony or expense, if the wife who effects divorce desires so, instead of the partition share, on the basis of his property or income. However, if such wife concludes another marriage, it is not required to provide such amount or alimony. The Court may order the husband to provide maintenance cost to wife.³⁸

C. The National Penal (Code) Act, 2017

The Preamble of the National Panel (Code) Act, 2017 stipulates that the Code came into the force to provide for a timely code on criminal offences, by amending and consolidating the laws in force relating to criminal offences, in order to uphold morality, decency, etiquette, convenience, economic interest of the public, by maintaining law and order in the country, maintain harmonious relationship and peace among various religious and cultural communities, and prevent and control criminal offences. The Code also has various provisions which directly or indirectly address the issues relating gender equality and intimate partner violence.

Section 160, Chapter of Offences relating to Discrimination and Other Degrading Treatment prohibits of making discriminatory treatment except as otherwise provided by laws³⁹ and under the prohibition of degrading or inhuman treatment, the Code spells that no persons shall subject, or cause to be subjected, any one to degrading or inhuman treatment.

The Code prohibits to conclude or to cause to be concluded, a marriage without consent of the persons getting married.⁴⁰ It also prohibits to commit slander⁴¹ and punishes for libel.⁴² Similarly, **Section 178** of the Code, under the Chapter of Offences relating to Human Body stipulates that no person shall do any act, with the knowledge that, or having reason to believe that, such act is, in an ordinary course, like to cause the death of another person.

The Chapter of Sexual Offences criminalizes an offence of rape⁴³ and makes a person who commits rape liable to the sentence of imprisonment up to 20 years on the basis of the circumstances of sexual intercourse and the age of woman. The Code also prohibits a marital rape and stipulates that if the husband commits rape on his wife during the existence of marital relationship between them, he shall be liable to a sentence of imprisonment for a term not exceeding five years. However, the Code clarifies that there shall not be considered as the existence of marital relationship: (a) A case of partition has been instituted upon making separation of board and bread, (b) The wife has lived separate upon taking her partition share from the husband, and (c) A case of divorce from the husband has been instituted.⁴⁴

38. Section 101, Chapter: Provisions relating to Divorce, Part: Family Law, the National Civil (Code) Act, 2017; Order to provide Maintenance Costs: If the wife, who has not obtained partition from the husband for there being no property for partition under Section 99, desires to receive maintenance costs from the husband and the husband has income, the Court may order the husband to provide maintenance costs to the wife according to the income of the divorced husband. Provided that: (1) If such a wife concludes another marriage, it is not required to provide such costs (2) If the income of the wife is higher than that of the husband, it is not required to provide such costs.

39. Section 160, Chapter: Offences Relating to Discrimination and Other Degrading Treatment, the National Panel (Code) Act, 2017: Prohibition of Making Discriminatory Treatment: (1) Except as otherwise provided by laws, no authority who exercises power under law shall, in the exercise of such power or a general law, intentionally make a discriminatory treatment against any citizen on grounds of origin, religion, color, caste, race, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds.

40. Section 171, Chapter: Offences relating to Marriage, the National Panel (Code) Act, 2017

41. Section 305, Chapter: Offence relating to Defamation, the National Panel (Code) Act, 2017: Prohibition of Committing Slander; (1) No person shall slander another person

42. Section 305, Chapter: Offence relating to Defamation, the National Panel (Code) Act, 2017: Punishment for libel: (1) A person who commits, or causes to be committed, libel shall be liable to a sentence of imprisonment for a term not exceeding two years or a fine not exceeding twenty thousand rupees or both the sentences.

43. Section 219, Chapter: Sexual Offences, the National Panel (Code) Act, 2017: Prohibition of Committing Rape: (1) No one shall commit rape. (2) Where a man has sexual intercourse with a woman without her consent or with a girl child below eighteen years of age even with her consent, the man shall be considered to commit rape on such woman or girl child.

44. Section 219(4), Chapter: Sexual Offences, the National Panel (Code) Act, 2017

The Code permits the court, if it is necessary to do so upon a petition by the victim, to order the husband to do (a) To allow the wife to reside in the same house where she has resided, to provide her with food and clothes, not to hurt her and to behave her politely and decently, (b) To get the wife to have required medical treatment or provide reasonable amount for her treatment.⁴⁵

D. Domestic Violence (Offence and Punishment) Act, 2009

The Domestic Violence (Offence and Punishment) Act came into force to prevent and control violence occurring within the family and for matters connected therewith and incidental thereto making such violence punishable, and for providing protection to the victims of violence.⁴⁶ The Act defines a "Domestic Violence" as any form of physical, mental, sexual and economic harm perpetrated by a person to a person with whom he/she has a family relationship and further clarifies that this word also includes any acts of reprimand or emotional harm.⁴⁷ It further defines "Domestic Relationship" as a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family members living together as a joint family or a dependent domestic help living in the same family.⁴⁸ The Act also defines physical harm, mental harm, sexual harm and economic harm.⁴⁹

The Act defines a victim (aggrieved person) as a person who is, or has been, in a domestic relationship with the defendant and who alleges to have been subjective to an act of domestic violence by the perpetrator⁵⁰ and a perpetrator as a person having family relations with the victim and for whom the victim alleges to have been subjected to an act of domestic violence and this word also includes any person involved in the domestic violence or in the accomplice of the crime.⁵¹

Section 3 of the Act deems to have committed an offence of domestic violence if a person with whom he/she has a family relationship commit; or aid or abet; or incite for the commission of any form of physical, mental, sexual and economic harm and if a person commits an act of domestic violence the Act punishes the perpetrator with a fine of Three Thousand Rupees up to Twenty-Five Thousand Rupees or Six months of imprisonment or both.⁵² The Act authorizes the Police Office, National Women Commission or Local Body to register a written or oral complaint of domestic violence.⁵³ The Act further requires the National Women Commission to take necessary action in accordance. In a case the complaint is filed before the Police Office, the Police Office shall produce the perpetrator within 24 hours of the complaint, excluding the time of travel and make arrest if s/he refuses to appear for the statement. If in a case the complaint filed in the Local Body, the Local Body shall produce the perpetrator within 24 hours of the complaint, excluding the time of travel and requesting to arrest to the Police Office if he/she refuses to appear for the statement.⁵⁴

45. Section 219(5), Chapter: Sexual Offences, the National Panel (Code) Act, 2017

46. Preamble, Domestic Violence (Offence and Punishment) Act, 2009

47. Section 2(a), Domestic Violence (Offence and Punishment) Act, 2009

48. Section 2(b), Domestic Violence (Offence and Punishment) Act, 2009

49. Section 2, Domestic Violence (Offence and Punishment) Act, 2009: Definitions; "Physical harm" means an act of committing or causing bodily harm or injury holding as a captive, inflicting physical pain or any other act connected therewith and incidental thereto except the act of breaking the limbs of body (Angabhanga). (d) "Mental harm" means any act of threatening the Victim of physical torture, showing terror, reprimanding him/her, accusing him/her of false blame, forcefully evicting him/her from the house or otherwise causing injury or harm to the Victim emotionally and this expression also includes any discrimination carried out on the basis of thought, religion or culture and customs and traditions. (e) "Sexual harm" means sexual misbehavior, humiliation, discouragement or harm in self-respect of any person; or any other act that hampers safe sexual health. (f) "Economic harm" means deprivation from using jointly or privately owned property or deprivation of or access to employment opportunities, economic resources or means.

50. Section 2 (g), Domestic Violence (Offence and Punishment) Act, 2009

51. Section 2 (h), Domestic Violence (Offence and Punishment) Act, 2009

52. Section 13, Domestic Violence (Offence and Punishment) Act, 2009

53. Section 4, Domestic Violence (Offence and Punishment) Act, 2009

54. Section 4(3)(4)(5), Domestic Violence (Offence and Punishment) Act, 2009

Further, the Act obligates to provide protection to victim or his/her dependents if it is found necessary from the preliminary investigation on the complaint.⁵⁵ **Section 4(8)** requires the police officer or local body upon recording the statements, if finds reason to believe that an act of domestic violence has been committed and the Victim so desires, conduct reconciliation between the parties within Thirty Days from the date of registration of the complaint.

The Act allows the court, if has reason to believe, on the basis of preliminary investigation of the complaint that victim needs to be given immediate protection, till the time the final decision on the complaint is made, pass the following orders against the perpetrator: (a) To allow the Victim to continue to live in the shared house, to provide him/her with food, clothes, to not cause physical injury to him/her and to behave with him/ her in a civilized and dignified manner, (b) To manage for necessary treatment or to give money for the treatment of the Victim if he/ she has suffered physical or mental injury, (c) To make necessary arrangements for the separate stay of the perpetrator in a case that it's not conducive for them to live together, and make necessary arrangements for the maintenance of the Victim, (d) To not insult, threaten or behave in an uncivilized manner; or not to cause to do these acts, (e) To not harass the Victim by entering his/ her place of separate residence; or in public roads; or entering his/ her place of employment; or through the communication media or in any other manner, (f) To carry out or cause to carry out necessary and relevant actions for the protection and welfare of the Victim.⁵⁶

The Act further has provisions relating to camera proceedings and hearing,⁵⁷ compensation to the victim⁵⁸ and a service center.⁵⁹

E. Nepal Treaty Act, 1990

The Nepal Treaty Act, 1990 stipulates that upon a treaty/convention/agreement being ratified, acceded to or approved, the provisions of such treaty/convention/agreement shall be the law of the land and at par with the existing domestic law and to the extent any provisions of prevailing laws inconsistent with the provision of such treaty/convention/agreement shall be void and the provisions of such treaty/convention/agreement shall be enforceable as good as Nepalese laws.⁶⁰ Nepal therefore is obligated to treat the provisions of those international instrument as good as domestic laws.

55. Section 4(7), Domestic Violence (Offence and Punishment) Act, 2009

56. Section 6(1), Domestic Violence (Offence and Punishment) Act, 2009

57. Section 7 (1), Domestic Violence (Offence and Punishment) Act, 2009: Proceedings to be held in Camera: If it is so request by the Victim, the court shall conduct in camera proceedings and hearings of the complaint relating to this Act.

58. Section 10, Domestic Violence (Offence and Punishment) Act, 2009: Compensation to be Provided: The Court may, depending on the nature of the act of domestic violence and degree, the pain suffered by the Victim, and also taking into account the economic and social status of the perpetrator and Victim, order the perpetrator to pay appropriate compensation to the Victim.

59. Section 11(1), Domestic Violence (Offence and Punishment) Act, 2009: Service Centre: The Government of Nepal, as per necessity, may establish Service Centers for the purpose of immediate protection of the Victim, and for the separate accommodation of the Victim during the course of treatment.

60. Section 9, Nepal Treaty Act, 2047 (1990): Treaty Provisions Enforceable as good as Laws..... (1) In case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws (2) Any treaty which has not been ratified, accede to, accepted or approved by the Parliament, though to which Nepal or Government of Nepal is a party, imposes any additional obligation or burden upon Nepal, or Government of Nepal, and in case legal arrangements need to be made for its enforcement, Government of Nepal shall initiate action as soon as possible to enact laws for its enforcement

2.1.3 Gaps in the Prevailing Laws and Policies

Nepal has ratified the major international conventions including nine of the core conventions which enshrine principles of equality and non-discrimination, and rights and protections for all citizens. Being a party state to these international human rights conventions Nepal is obligated to domestic its international human rights obligations into the national legal framework. Nepal, therefore, is obligated to ensure and promote full gender equality and to protect its citizens from being subjected to gender based violence in all spheres of lives. It is also obligated to take measures to address gender based violence including the intimate partner violence. Moreover, the Treaty Act, 1990 of Nepal states that the international provisions, once the Parliament of Nepal ratifies, shall be enforceable as good as national law.

As far as the domestic laws relating to gender equality and gender based violence is concerned many of the state obligations to international human rights instruments have been found translated into numbers of legal provisions of Nepal. However, with regard to an intimate partner violence very few legal provisions addressing the intimate partner violence are found in a scattered form within limited domestic laws of Nepal.

The review indicates that the National Civil (Code) Act, 2017 has provisions relating to marriage and divorce whereas the National Panel (Code) Act, 2017 criminalizes marriage without a consent. It also prohibits an offence of marital rapes and penalizes such act. Even though the National Civil (Code) Act, 2017 ensures the freedom to conclude a marriage, establish family and spend a conjugal life the Code does not recognize a marriage concluded between same sexes. Because of this, these provisions relating to marriage, divorce and offence of martial rape are not applied in the case of marriage equality.

The review found that the Domestic Violence (Offence and Punishment) Act, 2009 is a sole act which directly addresses the issue of violence within domestic relation including intimate partner violence in Nepal. The Act prohibits domestic violence in domestic relationship. However, the Act defines “Domestic Relationship” as a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family members living together as a joint family or a dependent domestic help living in the same family. However, the Act neither term explicitly the relation between the couple who are living together as having a domestic relationship nor recognizes the intimate relationship between the LGBTIQ couples.

2.2 Experiences of Intimate Partner Violence in Lesbian, Transman and Third Gender Couples

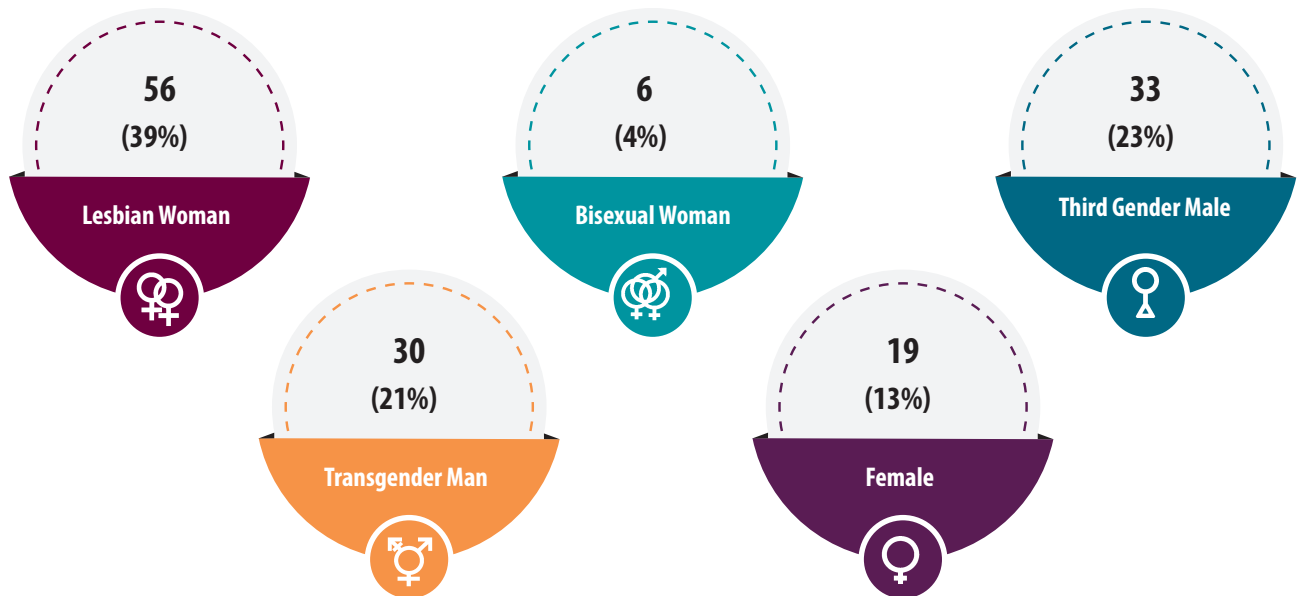
2.2.1 Socio-demographics Characteristics of Respondents

This part will contain the basic demographic information of the respondents from all 7 provinces. The information will be the basis for analyzing the rest of the component of the study. It will include the data of the respondents on the basis of their sex assigned at birth, gender identity, ethnicity, religion, age, education and occupation. This study also has demographic information of the partner of the respondents which will also be later used while analyzing the causes of intimate partner violence. The disaggregated data of the respondents are as follows:

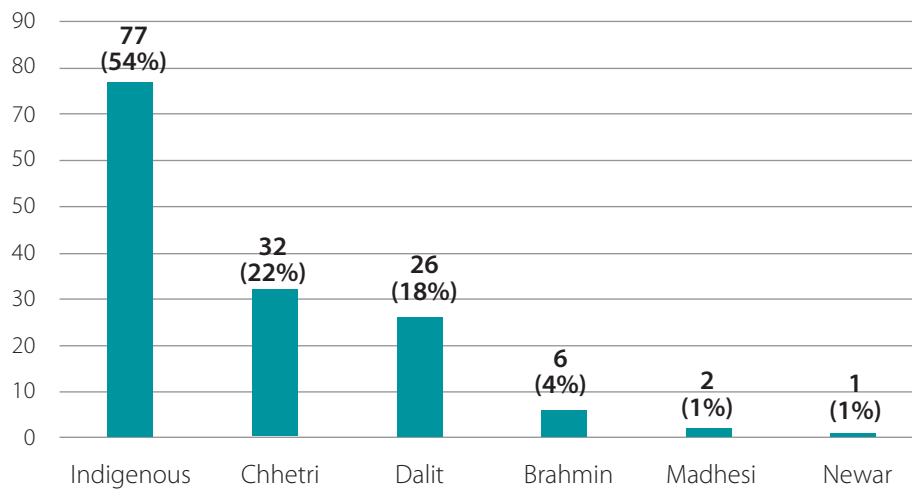
Sex Assigned at Birth of the Respondents

The sex assigned at birth of the respondents is female.

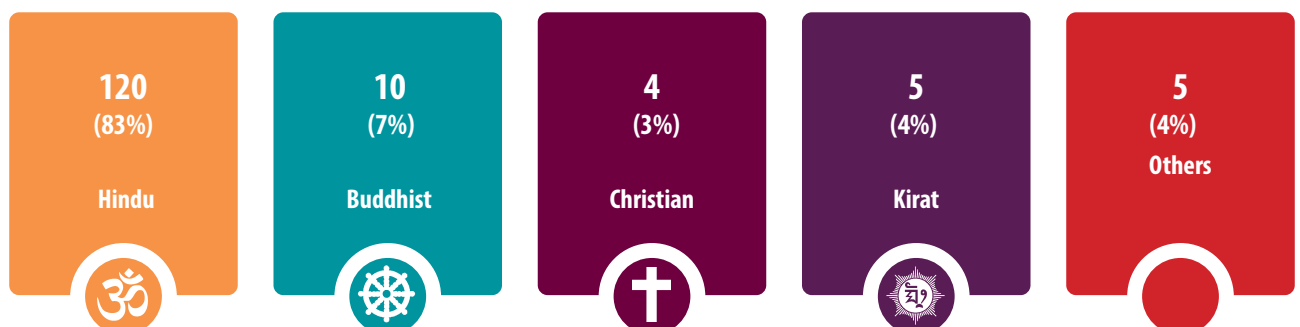
Sexual and Gender Identity of the Respondents



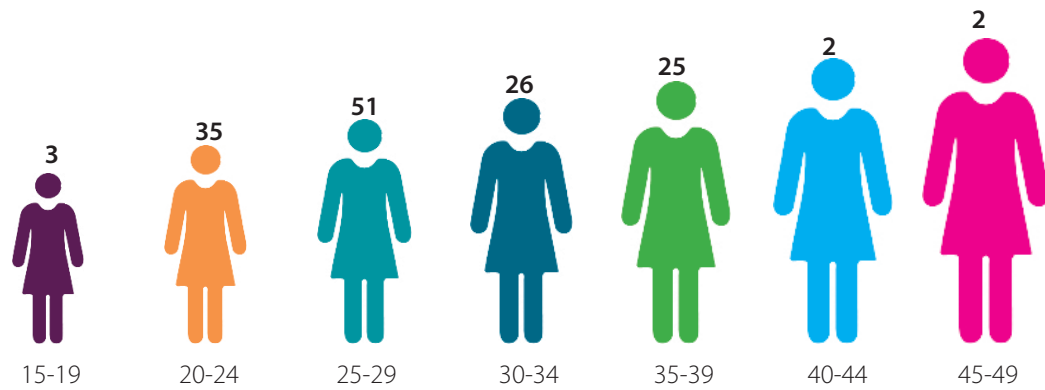
Ethnicity of the Respondents



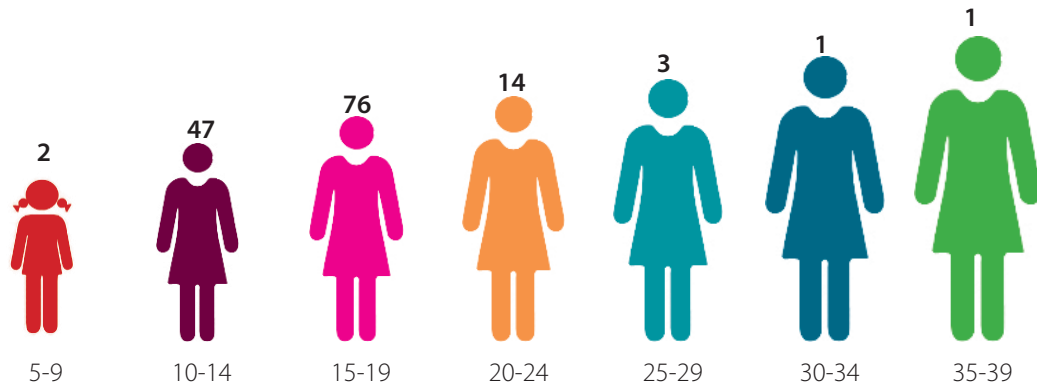
Religion of the Respondents



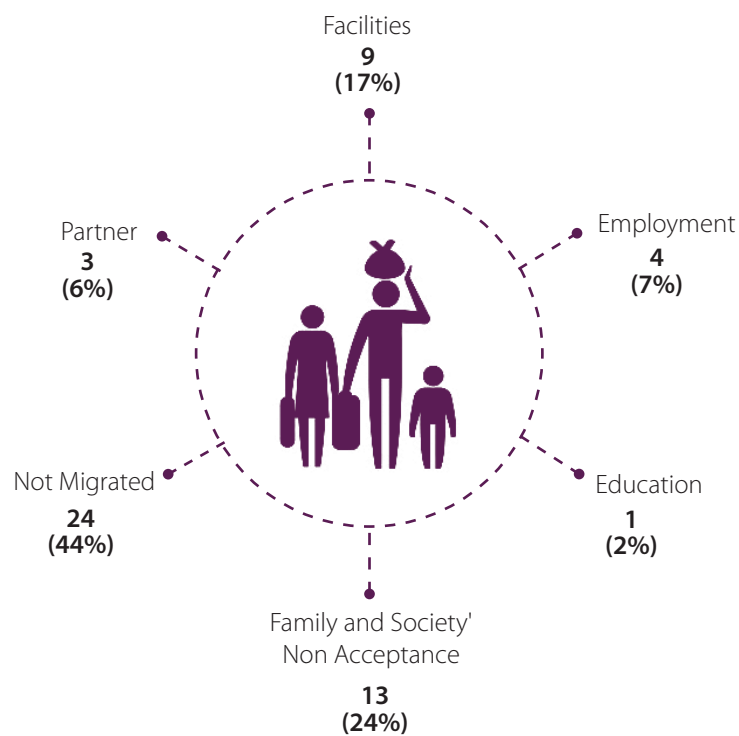
Age Range of the Respondents



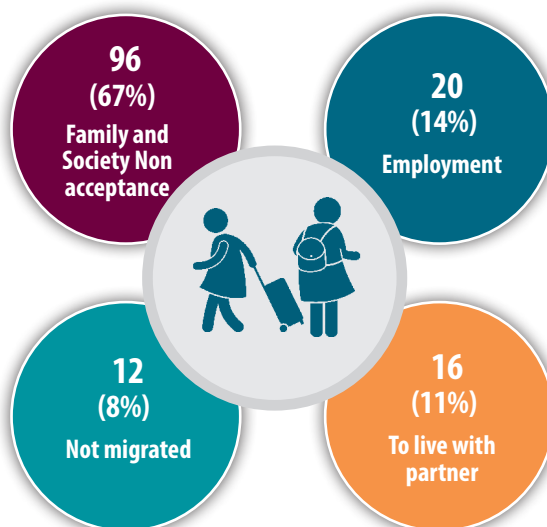
Gender Realization Age



Reason behind Family Migration



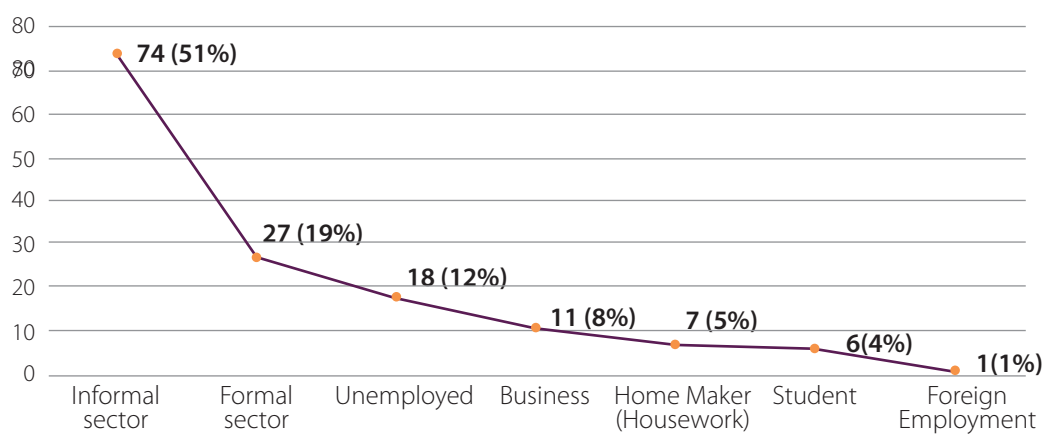
Reason behind Couple Migration



Education of the Respondents



Occupation of the Respondents



As per the data above, we can see that the biological sex of all the primary respondents is female and owing to their sexual and gender identity, the highest number of respondents are Lesbian i.e. 39%, 23% identified as Third Gender Male which is the second highest, 21% as Transgender Man, 13% identified as Bisexual, 13% as female and only 4% identified as bisexual women. Similarly, most of the respondents are indigenous with Brahmin/Chhetri at second and Dalit at third with remaining respondents from Newar and Madhesi ethnicity. A majority of the respondents follow Hindu Religion whereas Buddhist Religion followers are second in category along with Christian, Kirat and other at third, fourth and fifth respectively. Similarly, most of the respondents are between 25 - 29 age range, with least respondents between 15 -19 and above 40 age range. The data shows that most of the respondents realized their sexual and gender identity at the age range of 15 – 19, with many of them realizing at the age range of 10 – 14. This shows that they became aware of their sexual orientation and identity at their adolescence with few of them realizing at their early and late thirties.

It was also found that many respondents had migrated from their birth place to their current place of residence. Some respondents migrated with their family and some respondents migrated with their partners. Out of the respondents who migrated with their family, the main reason behind their migration is the non-acceptance by other family members and society of their sexual and gender identity and some migrated for employment, education and facilities. Similarly, those who migrated with their partner, the main reason behind their migration was non-acceptance and discrimination by family and society, second reason was employment and the third to live together with partner. Thus in both cases, i.e. those who migrated made the decision because they were not recognized, not accepted by their family and society. This shows that although the law and constitution have recognized their sexual and gender identity, our society is yet to understand the concept of equality and non-discrimination and recognize their existence.

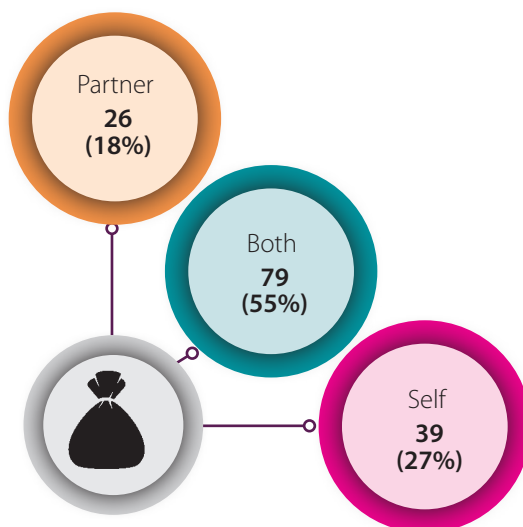
The majority of respondents i.e. 37% are educated up to secondary level whereas respondents with education level up to college/ University, lower secondary, primary are at second, third and fourth respectively. The respondents who are illiterate stands at fifth with only 11% whereas only one respondents have non-formal education. It was found that the majority of the respondents were engaged in informal sector for work whereas 19% of them were in formal sector. 12% were unemployed and very few were in business. This is interconnected with their education status. Since majority of the respondents could not complete their education they are found to be working in informal sector. We also found similar education status and occupation status of the partner of the respondents as the majority of the partners were also educated up to secondary level and majority of them were in informal sector. This was also substantiated by the Focus Group Discussion with LGBT organizations/rights activists.⁶¹ This finding is very important as the education status and occupation plays a vital role in intimate partner violence. This shows that since they did not have proper education and were not working in a formal setting they were not aware that the violence is a criminal act and is punishable by law.

2.2.2 Intimate Partner and the Relation

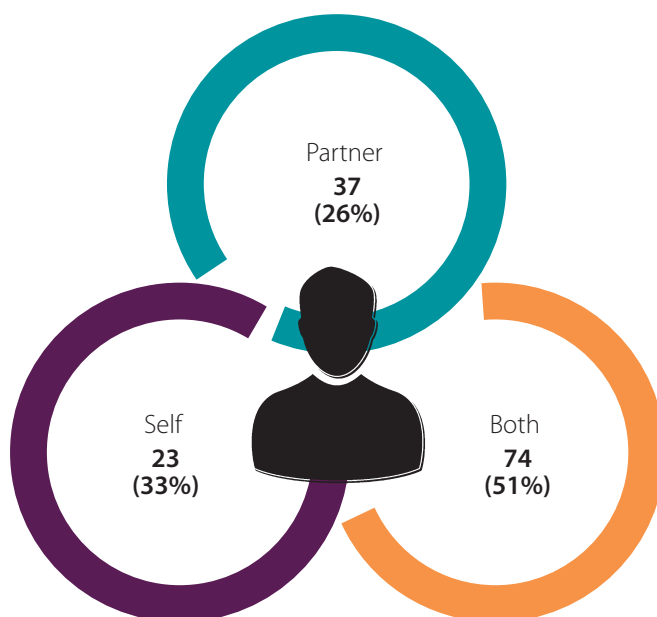
In this part, we will assess the type of relationship between the partners. This is very important as it will show the dynamics of their relationship. The results of the survey shows us a pattern that shows the correlation between the way of their lives and if it has been the reason behind violence or not. We will look into the duration of their relationship, family acceptance of their relationship, financial contribution at home, decision making role, interaction with other people outside family, whether or not one needs to take permission from another for doing certain things and capacity to take self-decision.

61. Most of the community members are involved in informal working sector as daily wage earners.

Financial Contribution at Home



Decision Making Role in Household Expenses



The duration of the relationship between the respondents and their partner ranged from 1 year – 20 years and majority of them were in relationship for around 6 years. Some of the respondents even stated that although they had been in an intimate relationship from a very long time they had to hide it. And this has also taken a toll on their relationship and has led to fights between the couples.⁶²

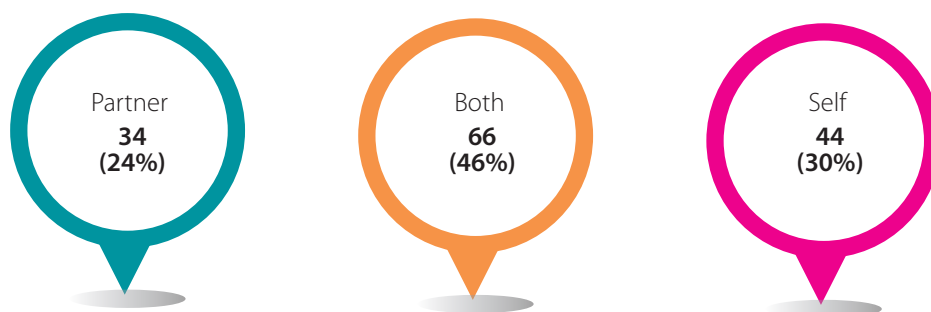
Violence is interrelated to financial dependence. A financially dependent person is bound to live with the perpetrator despite of abuse and violence against such person because the person will not be able to stand on their own feet or do not have any means of livelihood. And is forced to live bearing the pain

62. FGD

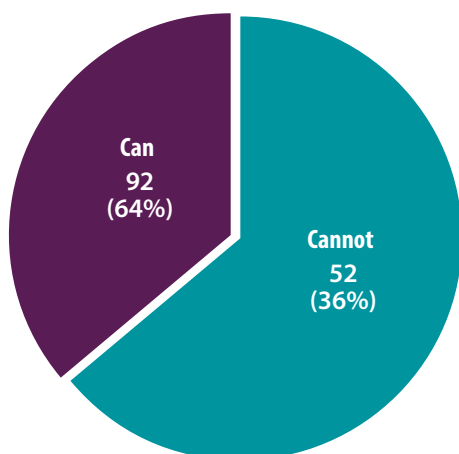
and suffering despite the desire to walk out of the abusive relationship. Inability to deal with their finances is a major contributing factor, which is often enhanced by the fact that the abuser often has all of the economic and social standing and complete control over the family finances. We can see that in cis-heterosexual relationships where men inflict violence upon women, it has been found that women were financially dependent on men. However, this survey shows a different pattern and this might be interesting owing to the changing context of the society as the data shows that despite majority of the couple make joint financial contribution and joint decision on household expenses there is still prevalence of intimate partner violence within them.

Owing to the financial contribution at home, as per the data received from this survey majority of the respondents i.e. 55% financially contribute for their expenses at home together with their partner whereas 27% percent respondents were themselves solely contributing for their finances and 18% respondents stated that their partner pay for their expenses at home. Similarly, majority of the respondents jointly take decisions regarding household expenses while 26% respondents stated that their partner makes the decision and around 23% respondents stated that they themselves make decisions about the household expenses. The data shows that since majority of respondents and partners both are working, both partners are involved in decision making and financially contributing to the household expenses. And we have found from this survey that these factors are independent to the partner violence. Despite both partners being involved in financial contribution and decisions making, the majority of the respondents stated that they have been suffering from violence. This data is unlikely in cases of heterosexual couples.

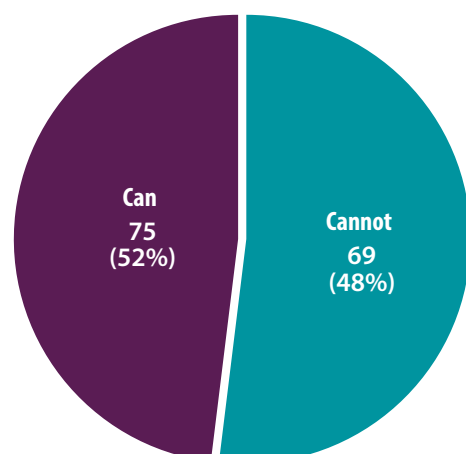
Interaction with other People



Permission



Self-Decision



We also tried to see who among the respondents or partners were dealing with people outside their family. And we found that majority of both respondents and partners i.e. 46% jointly interact and deal with people outside their family whereas 30% of respondents individually deal with other people and 24% partners of the respondent deal with other people. Similarly, in order to find whether the respondents can independently take decisions on very simple issues like inviting friends and guests, we asked the respondents if they need to take permission before calling their friends at home, it was found that majority of the respondents i.e. 64% do not need permission to invite their friends and guests while 36% stated that they need to ask for permission from their partner. Also, it was found that 52% of the respondents can take self-decision without taking permission from their partners while 48% of them cannot take self-decision.



I cannot make decision independently without taking a consent from my partner because he gets angry and does not listen to me.

- A Lesbian, Dang, Lumbini Province

Wherever I wish to invite a guest to our home, I have to ask for my partner consent.

- A Lesbian, Kaski, Pokhara, Gandaki Province

I have to take permission from my partner to make decision before inviting guests to our home and I cannot take decision independently.

-A Lesbian, Jhapa, Province 1

I cannot take any decision independently even I have to be ready for having physical relationship at my partner wishes.

- A Transman, Jhapa, Province 1



2.2.3 Family Acceptance and Support

While family is the central part of every human being and has a deep impact in on physical and mental wellbeing of any individual, rejections and non-acceptance by own families and parents is commonly faced by the LGBT people merely because of their sexual orientation and gender identity. This manifests in various forms including restriction from going outside from home and socialization, threat, mental pressure, physical harm, pressurize to get marry to opposite sex and to relinquish children, force to seek psychosocial support, disinherited, exclusion from families and removal from home which leads them to serious mental health problems such as anxiety, depression, self-harm, suicidal thoughts and abusive relationships.

The LGBT people therefore avoids or hesitates to disclose their sexual orientation or gender identity to their families and parents due to the fear of rejections and non-acceptance from the family and the parents. Instead they tend to seek friends or people from own community to share their feelings. The data drawn from the respondents shows that around 40 % (58 out of 144) of them have not informed their families about their sexual orientation or gender identity. While the respondents were asked with whom they first disclosed their sexual and gender identity out of 123 respondents, who have disclosed their sexual and gender identity, 54% of them had disclosed their identity for the first time to their friends whereas only 11 % of them had chosen their parents to disclose their sexual and gender identity. Mostly transgender man are being discriminated and disowned by their own family members. Even lesbians are forced to get marry

to fit them into gender stereotypes so that society can accept them easily.⁶³ Fear of rejection, exclusion, removal from home, mistreatment, disregard, humiliation, hate, losing of faith and top of this all fear to be pressurized to leave partner and get marry to man were the prime reasons found behind the respondents chosen not to disclose about their sexual orientation or gender identity to their families and parents.

The data also shows that out of the respondent, who disclosed their sexual orientation and gender identity, over 90 % of them received negative reactions. While some respondents were said it is not natural; go to hospital; take psychosocial counseling service and keep silence many others were suggested to repress their feelings their feelings are not fitted with the societal norms and it would harm family reputation. Whereas some respondents were physically and emotionally abused; some were teased and humiliated and some were even said to marry with opposite sex and have children.

When I shared my sexual orientation to my family they got very angry and kicked me out of the house. I am jobless and have been struggling through mental and economic violence by my partner. I even tried to commit suicide once.

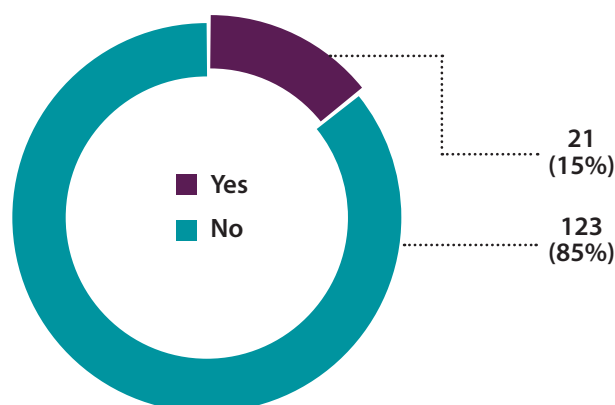
- A Lesbian, Kaski Pokhara, Gandaki Province

I have been boycotted form my own family because of my gender identity. Besides, I am a disable person and cannot work properly for earning, therefore, my partner also hates me nowadays.

-A Transman, Baglung, Gandaki Province)

Family support is very essential to any individual and it also provides a strong safeguarding to deal with different challenges and vulnerabilities. To understand whether the respondents have family support in the relationship with their partner, the respondents were asked if their relationship with their partner has been accepted by their family, 85 % (123 out of 144) of them responded negative.

Family acceptance on your relationship with your paterner



While family support provides an individual a strong protection from probable dangers and risks in the absence of the same one's vulnerabilities may amplify. The study tried to understand whether there is any interrelation between the family support and partner violence, the study suggests that out of those respondents who experienced violence, 87.80 % respondents' families have not accepted their relationship

63. Focus Group Discussion with LGBT organizations/rights activists on 25 August 2021

with their partner whereas only 12.20% respondents whose families have not supportive have experienced violence from the partner. In other word, the respondents whose families have accepted the relationship of the respondents with their partner have experienced lesser violence.

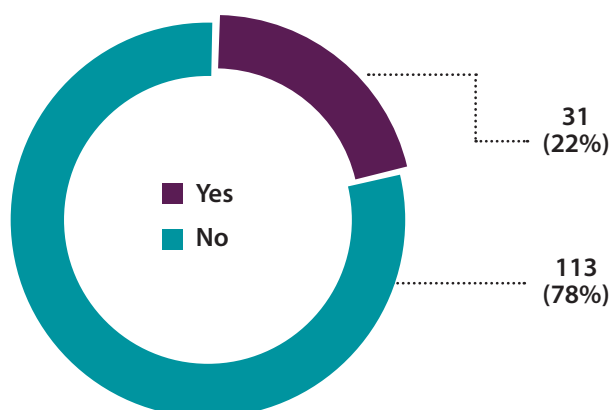
Have your family accepted your relationship with your partner?	Have you ever experienced violence from your partner?	
	YES	NO
YES	15	6
No	108	15
Total	123	21

2.2.4 Knowledge of Violence and related Laws and Policies among Lesbian, Trans-man and Third Gender People

Given that knowledge of violence and related laws and policies that provides rights and protects an individual from violence are pre-requisites for actualization of those rights and protection into the practice, the respondents were asked about their knowledge of violence, large percentage of the respondents replied a violence is humiliation, disregard, discrimination, exclusion, rejection as well as physical and metal violence. Moreover, majority of the respondents found aware of a domestic violence.

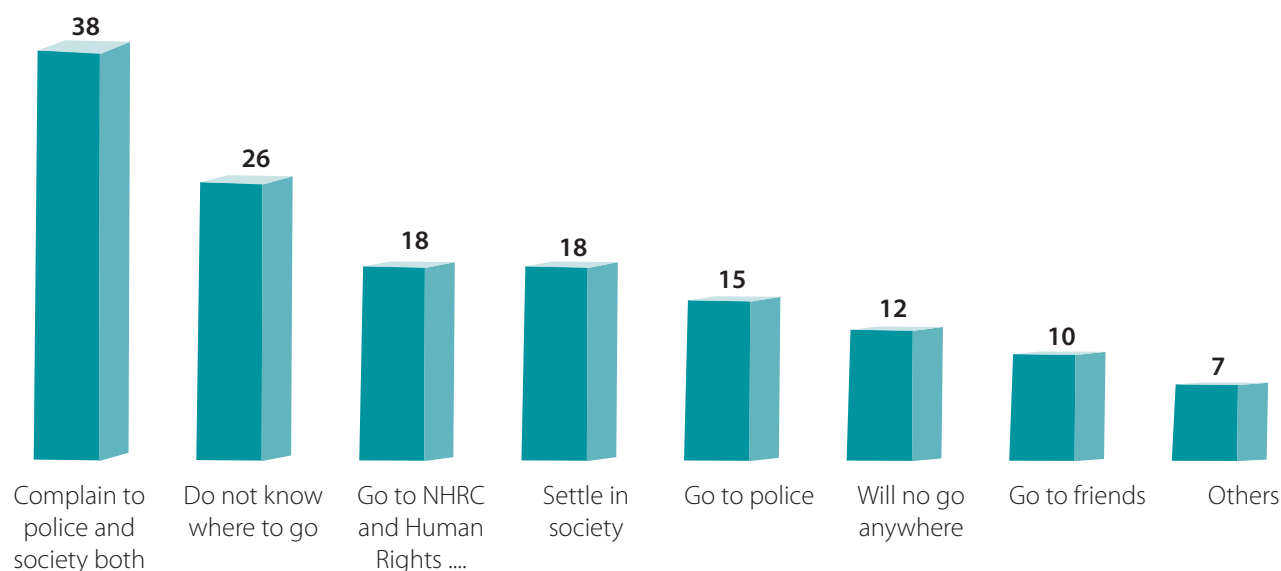
The respondents were further asked about their knowledge on laws and policies against violence, majority of the respondents (113 out of 144) had found no knowledge about laws and policies which could protect them against violence including intimate partner violence.

Knowledge of Gender Based Violence Related Laws and Polices



To understand patterns of support seeking of the respondents if any abuse inflicted upon them, the respondents were asked, where do they go for support if anyone abuse you? The source of support for 38 respondents was with both the society and police whereas 18 respondents seek support from society and 15 of them go to police. 18 respondents said they seek support of right based organizations including the National Human Rights Commission, Mitini Nepal, Blue Diamond Society etc. While 12 respondents replied that they will go nowhere 26 of them were unaware of where to seek support.

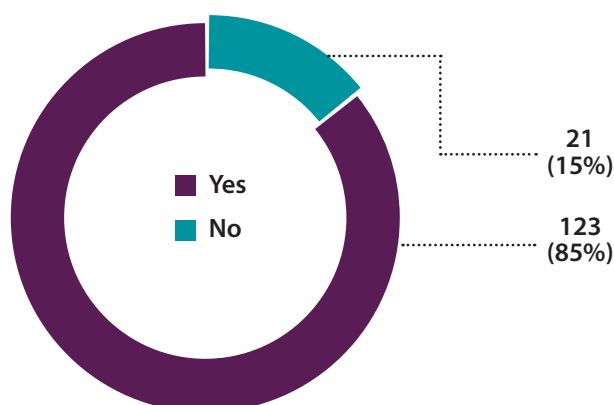
Where do you go to seek help if any abuse inflicted upon you?



2.2.5 Prevalence of Intimate Partner Violence within Lesbian, Trans-man and Third Gender Couple

Prejudices towards the LGBT people based on their sexual orientation or gender identity and also due to deficiencies in the laws often amplifies vulnerabilities of the LGBT people to various forms of violence particularly an intimate partner violence. Moreover, the Country Civil (Code) Act, 2017 still refers to marriage as between only a man and a woman despite the fact that the Supreme Court in *Sunil Pant vs. the Government of Nepal*⁶⁴ case had called on the Government to conduct a study and put into practice of a marriage equality policy years back. As the result, the relationship between LGBT couple is legally not defined which make their relations feeble in the foundation. This consequently pushes them into unstable and abuses relationships. Most studies found a lifetime prevalence of intimate partner violence among LGBT people that is as high or higher than the general population.⁶⁵ The respondents therefore were posed several questions to understand the prevalence of violence in their intimate partner relations. Overall, 85% respondents surveyed had ever experienced violence by their partners. The data shows that the prevalence of an intimate partner violence was highest among those respondents whose relationships have not been accepted by their families.

Prevalence of Intimate Partner violence

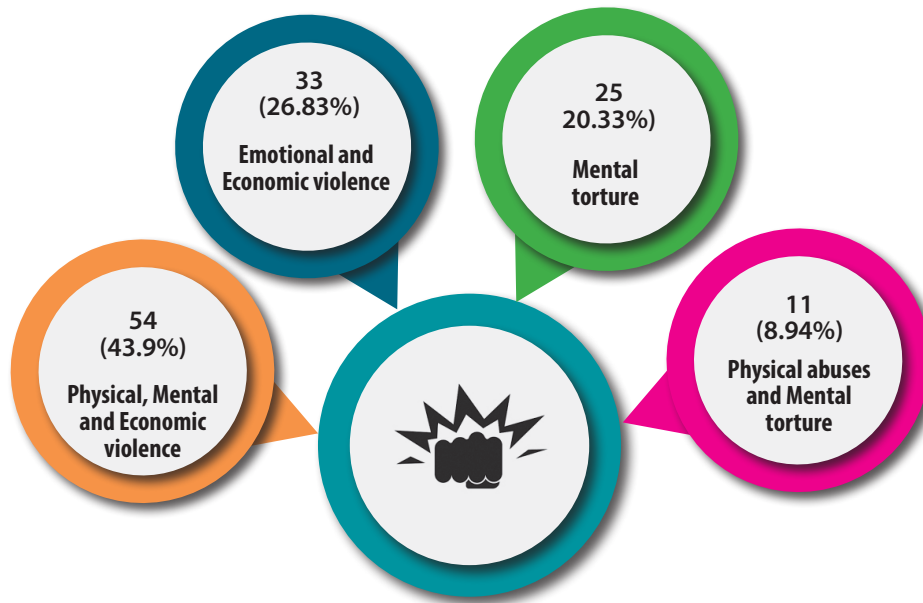


64. Sunil Babu Pant et al Vs the Government of Nepal et al., Writ No. 917, 2064 BS (2007 AD)

65. Intimate Partner Violence and Sexual Abuse Amongst LGBT people; A Review of Existing Researches, the William Institute available <https://williamsinstitute.law.ucla.edu/publications/ipv-sex-abuse-lgbt-people/>

The nature of violence ranged from physical violence and mental torture to mix of all physical, mental and economic violence. Physical, mental and economic violence (43.90%), emotional and economic violence (26.83%), mental torture (20.33%) and physical and mental torture (8.94%) were reported intimate partner violence that the respondents experienced. Doubt the relationship, disbelief, not allowing to talk other girls, use of abusive words and scolding were the most common emotional violence reported by the respondents.

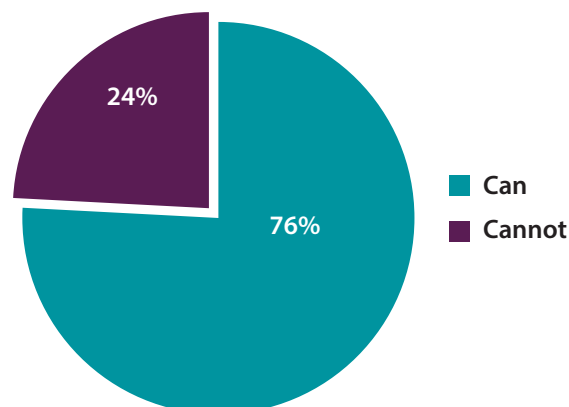
Nature of Violence



Sexual Relationship Reject

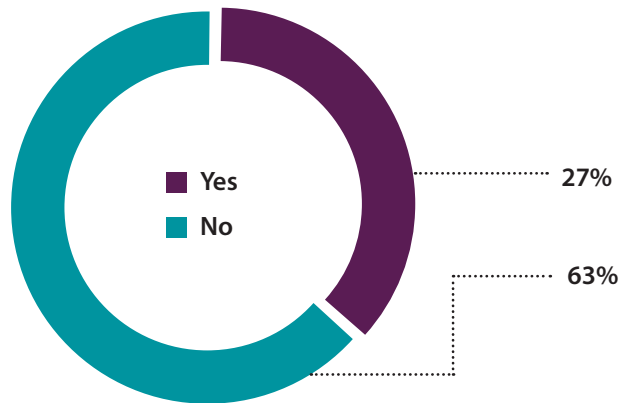
The data indicates that about four in five (77%) respondents reported that both of the partners decide to have a sex whereas 24% of the respondents reported that they cannot say 'no' to their partners.

Sexual Relationship Reject



To understand whether the respondents are forced to have sexual relationship when the respondents were further asked if they have ever had a sex against their will about 38% of them accepted.

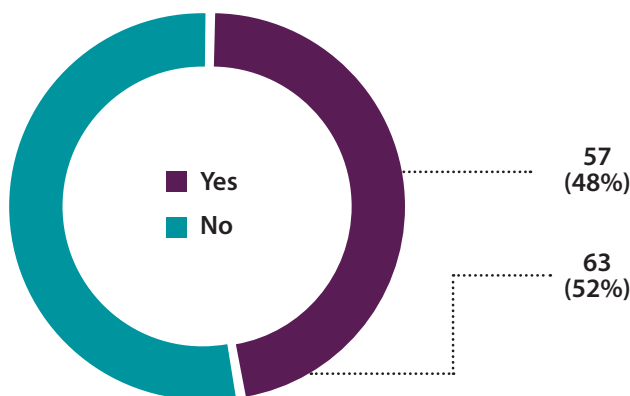
Force Sexual Relationship



Retaliation to Forceful Sexual Relation

Out of those who had to have forced sexual relationship over 52% had never retaliated about it out of fear that 'partner would feel bad' and 'it would break their relationship'

Retaliation to Forceful Sexual Relation



"Our relationship is not accepted by our family already, even if I file a case against my partner's violence it will further harm my family's reputation and I might be left alone."

- A Transgender Men, Hetauda, Bagmati Province

"I have not been forced for a physical relation however if my partner wishes to have a sexual relationship, I cannot say "NO" at that time because I feel that it will break our relationship."

- A Lesbian, Banke, Lumbini Province

"I have been forced to make a sexual relationship quite a few times, when I expressed my unwillingness, my partner used to be angry. My partner used to stare at me with suspicious eyes and used to go outside to fulfill sexual satisfaction."

- A Transman, Rupandehi, Lumbini Province

"As I am jobless right now I am fully dependent on my partner for living and thus I have faced economic violence sometimes from my partner. I have to listen to my partner all times."

- A Tranman, Rupandehi, Lumbini Province

"I am forced to make physical relation with my partner against my will and I cannot say NO."

- A Transman, Ghodaghodi-10, Pahalmanpur, Sudurpaschim Province

Complain to Authorities

There are so many cases of violence between a trans couple, but they don't come out with violent cases because the case is not taken seriously by the police, even when the victim reports such cases to the police, they are asked who accused them and by whether you said husband or wife, they ask for evidence as proof of marriage which they don't have, that way the case is dismissed. In addition, in many cases the victim does not even know that they are a victim, they do not know that they are being accused, most of the time they accept violence as something normal that has been happening in our society for a long time, they believe that it should be tolerate quietly.⁶⁶ Facing violence regularly also, these couples do not want to pursue legal action against their partner because they are afraid of being humiliated by the police and society.⁶⁷

Complain of the Violence



88	Not complained
27	Shared with friends and family
3	Complained

Moreover, the study shows that merely 2.44% of the respondent who had ever experienced violence from their partners had made complaint against the violence. The most of the respondents (75.61%), out of fear of "losing relationship" and thinking 'it is mere a domestic affair', had never complained against the violence from the partner.

66. Focus Group Discussion with Transman from Province 1, 5 and 7 on 24 August 2021

67. Focus Group Discussion with LGBT organizations from Province 1, 3, 5 and 7 on 25 August 2021

2.2.6 Causes and Impact of Violence

Causes of the Violence

To understand the causes of the violence, the respondents were given following options:

1. Marriage Inequality
2. Family Non-acceptance
3. Dependent on Partner
4. Financially Weak
5. Patriarchal Mindset

It was found that majority of the respondents cited marriage inequality, non-acceptance of their sexual and gender identity by the family and society, financial instability and patriarchal mindset the reason behind the violence inflicted by their partners which was also substantiated by the LGBT organizations/rights activists during Focus Group Discussion.⁶⁸ People in the community are afraid to share cases of violence with others because they are afraid of being humiliated by society and not having a legal marriage certificate. As a result, prevalence of violence is increasing due to lack of marriage equality.⁶⁹

We can see that there are very few standalone reasons behind the violence and it is the multiple reasons that causes the violence. Very few respondents mentioned other reasons such as suspicion, drinking addiction behind the violence. Lack of education has also been pointed as one of the reasons behind the intimate partner violence.⁷⁰ Because they are unaware of topic like sex, gender and violence itself.

“The man is superior to the woman or the woman is obliged to stay within the four walls and the man is the one who makes all of the woman's dreams come true, these patriarchal thoughts and beliefs are ingrained in their minds which becomes one of the main reasons for violence between transgender partners,”⁷¹ This shows that the patriarchal mindset is a cause in both homosexual as well as heterosexual relationship.



I have to keep physical relation forcefully and my partner plays major role to make decision regarding household chores.

- A Lesbian, Surkhet, Karnali Province

Though I am not forced to make intimate relation but I cannot say no to my partner when he approaches me because I am fully dependent economically with my partner economically, sometimes we get into argument due to financial issues.

- A Lesbian, Khadka Municipality, Bajraha, Province 2



Impact of the Violence

Intimate partner violence have various types of impacts on the victim. Intimate partnership violence and battering as its frequently part, has specific, long-term negative health consequences for victims, even after the abuse has ended.⁷²

68. The major causes of violence are financial insecurity, suicidal thoughts and family rejection of their relationship.

69. Focus Group Discussion with LGBT organizations/rights activists from Province 1, 3, 5 and 7

70. Focus Group Discussion with Transman of Province 1, 5 and 7 on 24 August 2021

71. Ibid.

72. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4768593/> accessed on 24 September 2021

As per the data received from the survey, we found that the respondents had had various types of impact due to the violence inflicted upon them by their partners. Psychosocial impact has been found as a major impact of the violence. Insomnia, loneliness, stress, suicidal feelings, attempt to suicide, eating disorder, negative mindset, low self-esteem, attention issues at work were the most prevalent form of psychosocial impact on the respondents. Some respondents even fell into smoking and alcohol addiction and also were hospitalized while some were hospitalized for attempting suicide. We found that some of them were also suffering from depression and were on medication. We found that their physical health also deteriorated due to their mental status. Some ran away from their home to avoid their violent partner. One interesting thing we found out during this survey is that in cases of partner violence society and family members ridicule the victims instead of protecting and helping them. This might be due to the homophobic mindset of the people in the society which is unlikely in cases of violence between heterosexual couples.

Case : Milan Thapa

Milan Thapa, a transgender man, aged 35 was born in Baglung. He came to know about his gender identity at the age of 15. When he disclosed his gender identity to his family, they disowned him. Currently, he is living far from his home where he met a girl and fell in love with her. Now he is residing in Pokhara, working in a hotel earning his and his partner's livelihood. Initially, their relationship was going smoothly but gradually people in the society started to talk about them. He also has a physical condition where one of his leg is shorter and thus he cannot walk properly. His partner's family and society tried to convince his partner to stay away from him because of his identity and disability. However, they lived together for some period of time but as time passed, he noticed difference in her behavior. She used to push him deliberately inflicting him with physical violence, mental torture and stress. One day, because of her such activity, he was hurt badly and faced medical consequences. He got treatment in a hospital but did not complain to anyone and anywhere about the incident thinking that it was not a serious matter and can be solved within them. Villagers also went through discussion about this matter but nothing was sorted out. After suffering such kind of violence for a long time, he tried to commit suicide many times, left home and started drinking. He feels that due to his identity and disability, he has become the subject of hatred for his family, partner and even friends.

Case : Kalpana Kumal

Kalpana Kumal, a bisexual, aged 28 was born in Rukum. She realized about her sexuality at the age of 24. Currently she is residing in Surkhet. She met her partner when she came to know that there are people who belong to sexual and gender minority community. She struggled a lot to earn her livelihood for her and her partner. When, her family knew about their relation, she was detained at her own home. Then she escaped and came to Kathmandu and she took beauty parlor training. She struggled for the sake of her relation with partner leaving her family. Now they are living together since 4 years.

In between this, her relationship with her partner started getting sour. Her partner inflicted mental violence upon her. Despite of the violence she is trying hard to fend for her and her partner. But her partner has no will to do anything to earn the living. Her partner even lied to her and ignored her. She tried to talk to her partner about it and but her partner never listens to her. Now she is in dilemma thinking about the future of their relation as she is not supported by her family as well.

This data shows that the impact of the intimate partner violence within the gender and sexual minorities is similar to that heterosexual couples. Women who are the victims of intimate partner violence were also found to have been suffering from higher level of emotional distress, thoughts, or attempts of suicide, alcohol and drug abuse, eating and sleep disorders, physical inactivity, a poor self-esteem, a post-traumatic stress disorder, smoking, self-harm.⁷³ However, the law and justice mechanism effectively addresses the violence within the heterosexual couples but due to no legal recognition of marriage of the couple from gender and sexual minorities and lack of recognition of their gender identity the intimate partner violence within the community is not widely heard of due to which the victims cannot get proper health, legal and other services.

2.3 Perspectives of Stakeholders

A mapping was conducted in order to identify and to map critical stakeholders through a meeting of the research team which involved the right based activists, who have been working in the field for years and have gathered unmatched experiences. The stakeholders were identified and listed out based on the institutional interests, primary functions, nature and authorities. The stakeholders were mapped and selected separately at federal, provincial, district levels as well as local levels. Subsequently, the key informants were selected from the list for in-depth interviews.

Key informant interviews (KIIs) were conducted with total 12 key informants who were identified through the initial stakeholder mapping as playing a vital role in the provisions of services. The KIIs included representatives from the parliamentary committee (1), the National Human Rights Commission (1), the Ministry of Women, Children and Senior Citizens (1), the Social Development Ministries in provinces (1), District Police- Women Cell (2), District Court (1), Federation of Sexual and Gender Minorities Nepal (1), and Non-Government Organizations (3). 6 key informant interviews were conducted in the federal level, 3 in provincial level (Bagmati, Lumbini and Gandaki), and 3 key informant interviews were done in district level focused on institutional roles and responsibilities for addressing the IPV particularly within the LGBT couples. While the interviews were mainly focused on the services including protections, legal, social services and justice providing by their organizations to the victims of violence, they were also interviewed about their perspectives on the LGBTI people and an intimate partner violence within the LGBT couples.

2.3.1 Perspectives of Stakeholders on the Prevalence of Intimate Partner Violence between Lesbian/ Transman/Third Gender Man Couple

Securing a change in the perceptions and the attitudes of people including policy makers and implementers, service providers as well as general people towards the LGBTI people is crucial to ensure their rights and safeguarding them from discrimination and violence. The globalizations, technological development, and rapid growth in the use of internet and social media have reduced the barriers to access to information helping people to be aware on different human rights issues, changing scenarios of the world, and understand the global perspectives. This has somehow helped to change people perceptions on the LGBTI people. In other hand it has motivated to begin the LGBTI people revealing their sexual orientation or gender identity that previously kept in a secret as it was considered shame, unnatural, against the code of society and religion.

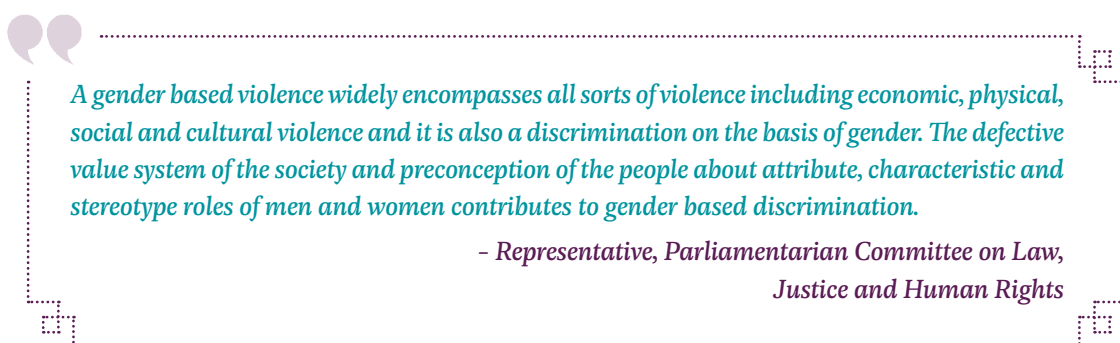
73. Plichta SB. Violence, health and use of health services. Falik MM, Collins KS, eds. Women's health: health and care seeking behaviour. Baltimore: Johns Hopkins University Press; 1996. pp 237-270.

Nonetheless, despite of witnessing progressive changes in the legal books and human rights documents the actualization of such provisions into the practice is still far away. The widespread patriarchal system in almost every society in the world and deeply rooted conservative values and norms still play vital role to control positive changes in the peoples' perceptions particularly of the people from sexual and gender minorities. This causes to discriminations and violence against the LGBTI people.

Through the promulgation of new Constitution in 2015 Nepal has included many progressive provisions in regards to human rights in compare to its processors and enshrined the principles of non-discrimination and equality. However, women, Dalit, marginalized people particularly gender and sexual minorities are still discriminated which makes them more vulnerable of various rages of violence. It is because of lack in the awareness and negative perceptions of the people including law makers, law enforcers and service providers towards them.

The key stakeholders therefore were posed several questions regarding their understanding on gender based violence and violence against the LGBTI people. They were also asked about their perceptions on an intimate partner violence within the Lesbian, Transman and Third-Gender Man couples. Almost all the key informants found having similar understanding about gender based violence.

According to them a gender based violence does not only mean any physical or other forms of violence but it also means discrimination on the basis of gender including a discrimination against the LGBTI people based on their sexual orientation or gender identity. They believe that Nepal is seen progressive to ensure the rights of the LGBTI people in compare to other South Asia countries as the Constitution of Nepal guarantees 'No Discrimination' including on the basis of gender however the patriarchal value system and gender stereotype prevailing in the society causes a gender discrimination which is also a form of gender based violence. They further opinioned that most of the people in general understand only a biological sex which regards an individual as a male or a female and expects that one should act accordingly, if not, he or she is considered breaking a rule of nature.



A gender based violence widely encompasses all sorts of violence including economic, physical, social and cultural violence and it is also a discrimination on the basis of gender. The defective value system of the society and preconception of the people about attribute, characteristic and stereotype roles of men and women contributes to gender based discrimination.

- Representative, Parliamentary Committee on Law, Justice and Human Rights

Majority of the key informants agreed that despite of the constitutional guarantees of non-discrimination including gender based discrimination the LGBTI people, in reality, have been facing humiliations, bullying and abuses by the communities, society and their own families. However, the representative from the Ministry of Women, Children and Senior Citizens indicated that the Government of Nepal is seriously taking the concerns of the LGBTI people into consideration and has initiated several programs and policies.



The LGBTI community and their issues have been addressed in the policies and programs of the federal government. The government of Nepal is serious working on the public agenda and public participation such as income generation activity for the community.

- Representative, Ministry of Women, Children and Senior Citizens

Similarly, Women Development Officer, Federal and Social Development Committee under the Social Development Ministry of the Lumbini province indicated that the Social Development Committee is supporting the Provincial Government to enact laws and policies to address the issues of the LGBTI people. It has been organizing various programs in coordination with the LGBTI community as well as it has been providing legal counseling and access to health care and emergency shelter home.

Even though it is entirely an issue of human right of an individual to choose his or her partner regardless of his or her sexuality or gender identity the homosexual relation is not accepted by the family and the community.

Still the LGBTI people are struggling for their fundamental human rights despite the fact that the Constitution guarantees non-discrimination. They have been facing discrimination from different sections of the society and community due to many reasons including economic constraint, property issue and different social issues. Most of the homosexual relation is not accept by the family as a result, violence is likely to take place against them. Because same-sex marriage is still not legalized in Nepal, many lesbian, transman and third-gender couples are compelled to face violence.

- Representative, National Human Rights Commission

The interviews indicated that though a high prevalence of an intimate partner violence cannot be denied including within the LGBT couples the seriousness of the problem in terms of how widespread it is, yet to be explored as most of cases of intimate partner violence are unreported. The key informants further stated that very few of the cases regarding violence within the LGBT couple are reported, mostly cases relating to the property issue, however due to lack of evidence to prove their relation the legal process cannot be pursued.

One case of a lesbian couple was registered at the Commission in the recently which was about the property issue but due to lack of the formal legal document the Commission could not process the case further

- Technical Advisor, National Women Commission

According to the technical advisor of the National Women Commission, the Commission likely to receive the cases of gender based violence including the violence against the LGBTI people however the Commission has rarely received the cases relating to the intimate partner violence within the LGBTI couples.

The main reason for intimate partner violence is extra marital affair, foreign employment, loneliness, weak economic condition, lack of legal knowledge, stereotypes social beliefs, drugs addiction. Sexual and gender minorities community are no exceptional.

- Inspector, Kalimati Women Cell, Kathmandu

Most of the violence cases are hidden by the victim themselves mainly because women are fully dependent on men for their living. Males are supposed to be more superior and powerful in Nepali society and thus these social practices further motivate them to do so.

- Joint Secretary, Kathmandu District Court

Most of the LGBTI people are not properly educated and are boycotted by their own families and are not economically independent. On the top of that, the existing laws are also not strong, thus awareness campaigns at community level is must.

- Chair of Social Development Committee, Federal and Social Development Ministry

Patriarchy, social values and norms, economic dependency, non-acceptance of sexual and gender minorities by the society and family and lack of proper implementation of the laws were mostly indicated as the core reasons by the key informants for an intimate partner violence within the LGBT couples. Whereas they believe most of the cases are unreported as it has less attentions, lack of awareness, fear of social isolation, as well as lack of explicit legal provisions to address the issue.

2.3.2 Perspective of the Stakeholders on Institutional Responses and Legal provisions to address the Prevalence of Intimate Partner Violence between Lesbian, Transman and Third Gender Man Couple

There are ranged of institutions which are primarily responsible for addressing and responding gender based violence in Nepal. In terms of addressing and responding an intimate partner violence the Domestic Violence (Offence and Punishment) Act, 2009 makes Police Office, National Women Commission and Local Body primary responsible to lodge a complaint of a domestic violence case. The Act further states that the court shall proceed the domestic violence case on the basis of complaint. The Act also provides provision of a Service Centre for the purpose of immediate protection of the victim, and for the separate accommodation of victim during the course of treatment and it states that the Service Centre shall provide as per necessity, legal aid, psycho-consultation service, psychological service and economic aid to the victim.⁷⁴ Besides, there are many non-government organizations in Nepal which provide shelters, psychosocial counseling, legal aid and other necessary services to victim of domestic violence in order to rehabilitate and reintegrate them. However, very few of organizations provides their services particularly a shelter support to the LGBTI people as their sexual orientation and gender identity is considered as the big challenge to accommodate them.

The key informants approved insufficient existence of institutions that provide services focusing to the victim from gender and sexual minorities. Out of which, most of the organizations are still focusing in advocacy activities for establishing the rights of the LGBTIQ people rather than responding and reintegrating the victims. Moreover, the victims of intimate partner violence within the LGBT people themselves found uninterested to seek care-services out of fear of losing the relationship, social shame and lack of awareness of legal provisions.

74. Section 11, the Domestic Violence (Offence and Punishment) Act, 2009



Our organization has been providing legal assistance to the victims of gender based violence since the beginning. We recently started to provide legal helpline services as well. We have also providing legal support to the LGBTI people. However, we have never received any case relating to an intimate partner violence from the LGBT people till the date. This might be due to unaware of such violence in the community and also they do not want to disclose it out of fear of social stigma and shame.

- Senior Legal Consultant/Lawyer, A Non-Government Organization

The representative of the Federation of Sexual and Gender Minorities Nepal (FSGMN) also indicated that there is no government institution that dedicatedly work to address violence against the LGBTIQ people. She further stated that there are very few of the non-government organizations purely working for the LGBTIQ people and majority of them are formed by the LGBTI people themselves. However, she believes everyone including family, community, society and state should be responsible to address the violence against the LGBTI people.



We all are including family, society and state is responsible to address the violence that may take place between the lesbian, transman and third-gender man and make accountable.

- Program Coordinator, Federation of Sexual and Gender Minorities Nepal (FSGMN)

Moreover, the major issue highlighted by the interviews with the key informants was lack of specific legal provisions to address the intimate partner violence within the LGBTI couples. They further stressed that though the Domestic Violence (Offence and Punishment) Act, 2009 is brought to eliminate violence within the domestic relations the relationship of the LGBT couples are not clearly defined as a domestic relation. Nonetheless, the National Civil (Code) Act, 2017 explicitly states that a marriage deems to be concluded if a man and a woman accept each other as the husband and wife. In regards to the laws, the conclusion of the key informant interviews was that Nepal has not legalized 'Marriage equality' yet because of this the LGBT couple are compelled to face violence.



Besides physical, verbal and economic abuses between the LGBT couples they face several other problems including identity crisis, lack of access to property rights, family unacceptance and most importantly non-recognition of marriage equality.

- Secretary, Sahara Samaj, Itahari

The interviews indicated that due to lack of specific laws and sufficient institutional frameworks to address violence against the LGBTIQ people and support them most of the such cases are remained unreported to formal channel rather they prefer to share their problems to their close friends.



No specific laws have been enacted to address the intimate partner violence between the lesbian, transman and third gender man couple however, we have been taking legal action against such offences, if reported, as the Constitution guarantees no-discrimination and no-violence on the basis of anything.

- Sub-inspector, Women and Senior Citizen Service Centre, Itahari

Conclusion, Key Findings and Recommendations

3.1 Conclusions

Even though IPV is an important health and social issue, less is known about IPV among sexual orientation and gender-minoritized (SOGI) populations such as Lesbian, Gay, Bisexual and Transgender (LGBT) couples. Despite the myth that IPV is exclusively an issue in heterosexual relationships, many studies have revealed the existence of IPV among lesbian and gay couples, and its incidence is comparable to or higher than that among heterosexual couples.

Stigma, discrimination, mistreatment, bullying and abuses are found common against the LGBTI people, the LBT are the most marginalized amongst them. The violence against lesbian women starts from family. In many cases, they suppress their sexual and gender identities or express not in a clear cut way due to the fears of non-acceptance in the family and other brutal consequences. They are controlled harshly, if their families learn about their gender identity and sexual orientation. The control ranged from emotional violence to physical harms which leads them to different psychological problems including fears, guilt, anxiety, depression and an elevated risk for suicidal ideation.

Moreover, The COVID-19 has amplified existing societal fissures, including growing threats and stigma and discrimination that are pushing minorities and other vulnerable groups such as lesbian, gay, bisexual, transgender and intersex (LGBTI) people to the margins of society. Concerns are mounting for their ability to access food, shelter, health care and other basic necessities. The LGBTI people who are already facing discrimination the Covid-19 has worsen the existing barriers. Most of the LGBTI people, throughout the world, earn their income through the informal sector or irregular work and the sector has been affected hugely due to the pandemic. Most of the workers of the informal sector have already lost their jobs and facing tremendous problem to afford for their basic needs and other essentials which further contributes to IPV within the LBT couples.

Despite the Constitution of Nepal enshrines the principle of gender equality and ensures non-discrimination and guarantees that nobody shall be subjected to physical, mental, sexual, psychological or other forms of violence on ground sex the constitutional provisions have not been reflected in the laws and policies. This resulted, women particularly those who face multiple inequalities such as Lesbian, Bisexual, and Transgender are experiencing violence in public as well as in private spheres. However, the gravity and extension of the violence within intimate partner of the LGBTI couples are not known as most of them remain unreported.

Although the Supreme Court of Nepal, in December, 2007, called on the Government to conduct a study and put into practice of a marriage equality, the same-sex marriage is yet to be legalized. Because of this, the lesbian, bisexual and transgender people are compelled to establish and maintain their intimate relationship in a quiet way and hide from others which leaded them into unstable and abuses relationships. Despite of many of instances of violence within inmate partner of the LBT couples are being noticed the issue has not been able to grab proper attention from the government and other concerned stakeholders. Even,

those who are responsible and authorized to address violence against the sexual and gender minorities have conveniently ignored their issues. Moreover, very less attempts have been made previously to study about the situation of LGBTI people particularly to identify the prevalence of IPV within the LGBTI couples.

3.2 Key Findings

- Being a party state to various international human rights conventions Nepal is obligated to take measures to address gender based violence including the intimate partner violence. It is found that despite many of international human right obligations of Nepal in regard to gender equality and gender based violence have been translated to domestic laws but very few legal provisions addressing the intimate partner violence are found in a scattered form within limited domestic laws of Nepal. The National Civil (Code) Act, 2017 has provisions relating to marriage and divorce whereas the National Panel (Code) Act, 2017 penalizes an offence of marital rape. However, as the laws defines marriage is to conclude between same sexes, these provisions relating to marriage, divorce and martial rape are not applied in the cases of marriage equality equality. Further, the Domestic Violence (Offence and Punishment) Act, 2009 penalizes a domestic offence and establishes institutional frameworks to address the issue the Act neither term explicitly the domestic relation between the couple who are living together as having a domestic relationship nor recognizes the intimate relationship between the LGBTIQ couples.
- It is found that majority of respondents and partners both are working, both partners are involved in decision making and financially contributing to the household expenses and this survey found that these factors are independent to the partner violence. Despite both partners being involved in financial contribution and decisions making, the majority of the respondents stated that they have been suffering from violence. This data is unlikely in cases of heterosexual couples.
- Majority of the respondents have chosen to keep hidden their intimate relationship from their families. Fear of rejection, exclusion, removal from home, mistreatment, disregard, humiliation, hate, losing of faith and top of this all fear to be pressurized to leave partner and get marry to man were the prime reasons found behind the respondents chosen not to disclose about their sexual orientation or gender identity to their families and parents. Those who have shared their relationship to their families, majority of them received negative response. The data suggests that majority of those who ever experienced violence from the partner have no family acceptance and whose families have accepted the relationship have experienced lesser violence.
- Majority of the respondents have ever experienced violence ranged from physical violence and mental torture to mix of all physical, mental and economic violence. The data indicates marriage inequality, family non-acceptance, financial instability, lack of education and patriarchal mindset are the prime causes behind such violence. The data shows the respondents had had various types of impact due to the violence inflicted upon them by their partners. Psychosocial impact has been found as a major impact of the violence. Insomnia, loneliness, stress, suicidal feelings, attempt to suicide, eating disorder, negative mindset, low self-esteem, attention issues at work were the most prevalent form of psychosocial impact on the respondents.
- Despite of that higher number of the respondents stated that they are not forced to have sexual relationship most of them said that they do not say 'No' for sexual relationship as they have fear of losing their partner, or scare of making them angry. The data indicates that most of the respondents who ever experienced violence have not complaint. Even if some made complaint against their partners, the complaints were made in front of friends, relatives and people from own community. The complaint was rarely made to police or any other formal institution.

- Though the respondents are aware of a domestic violence majority of them found no knowledge about laws and policies which could protect them against violence including intimate partner violence and they have lesser knowledge on formal institutional framework where they can seek support.

3.3 Recommendations

(A) Government Agencies

- Legal Recognition of marriage equality and registration of the marriage
- Shelters and hotlines for the survivor of Domestic violence, Gender Base Violence and IPV should be LGBTI friendly
- To ensure implementation of inheritance rights of gender and sexual minorities
- To allow the same sex couple for the in-vitro fertilization (IVF) process or to adopt children and provide the child birth registration.
- To introduce laws on equal spousal rights over property for same sex couple.
- To effectively implement the rights provisioned for gender and sexual minorities by the Constitution.
- To implement existing laws and policies meaningfully and form new laws that can directly address the IPV.
- To allocate budget for the advancement of the gender and sexual minorities community.
- To generate skill and capacity building trainings specially targeting the gender and sexual minority community in order to make them financially stable.
- To ensure that LGBTI people are consulted in the drafting, implementation and monitoring of laws, policies and programs that affects them.

(B) Non-government agencies

- To conduct public awareness programs at all national, provincial and local level regarding the intimate partner violence that occur within the couples from the gender and sexual minorities.
- To conduct advocacy meetings for legal recognition of marriage equality.
- To conduct trainings, workshops and orientation to the member of gender and sexual minority community about the laws and policies on intimate partner violence, reporting mechanism and available support services to them.
- To provide the survivors free legal aid and psycho social counselling.
- To provide support the survivors of intimate partner violence by providing them vocational trainings.
- To plan and implement programs targeted towards minorities and marginalized groups.

(C) Other

- To socially accept couples within the gender and sexual minorities and give respect in the community.
- To bring the same sex couples IPV in mainstream



(An Organization for the rights and dignity of Lesbian, Bisexual & Transgender)

Bhatbhateni, Kathmandu, Nepal

GPO Box: 8974, Cpc 331

Tel: +977-1-4433118

Fax: +977-1-4433118

Website: www.mitininepal.org.np

Twitter: <https://twitter.com/MitiniNepal>

Facebook: www.facebook.com/Mitininepal

Instagram: https://www.instagram.com/mitini_jewellery/