



नेपाल अपाङ्ग महिला संघ

NEPAL DISABLED WOMEN ASSOCIATION

Introduction

This policy platform is an advocacy instrument for disabled people's organizations (DPOs) to engage with federal, provincial and local governments in Nepal to ensure the inclusion of women with disabilities in planning, decision-making and development processes. NDWA organized the formulation of this policy platform, with the support from the International Foundation for Electoral Systems (IFES) through extensive discussions amongst women with disabilities from five districts who participated in the "**Power to Persuade: Empowering Women with Disabilities to Influence Public Policy**" workshop organized by NDWA from August 27-30, 2018.

This platform was developed to advocate for the voices, rights and participation of women with disabilities in developmental planning processes and policy formulation at all levels of government. The women identified five priority areas: 1) participation and access to decision making at all levels; 2) inclusion and access in the economic sphere; 3) access to law enforcement and justice; 4) accessible infrastructure and information systems; and 5) access to quality education.

These priority areas were selected to identify the barriers faced by women with disabilities and advocate with concerned authorities, such as policy makers, elected representatives and government authorities to ensure mainstreaming and inclusion of women with disabilities in developmental planning process, policy formulation and implementation.

The 2011 national census of Nepal reported that out of the 30 million population in Nepal, 2% of the population live with a disability, of which 45.44 % is women. The World Disability Report, published by the World Health Organization (WHO) and the World Bank in 2011, claimed that 15% of the world's population live with different types of disability, with most of them living in developing countries. Disability rights activists, organizations and other relevant agencies believe the data published in Nepal's 2011 census significantly understates the Nepali population with disabilities, based on the WHO estimate that 15% of the world's population are persons with disabilities. However, there is a lack of disaggregated data on persons with disabilities in Nepal.

International Context on the Rights of Women with Disabilities

The barriers faced by persons with disabilities, particularly women and girls with disabilities, and the need for their inclusion and empowerment has long been recognized by the international community. Article 29 of the CRPD provides for the participation and representation of persons with disabilities in political and public life and Article 6 addresses the rights of women with disabilities. The CRPD sets out a twin-track approach to promote gender equality and the empowerment and participation of women with disabilities in political and public life. The CRPD also calls for equality between men and women and stipulates the responsibilities of states parties to take measures to ensure the full and equal access for women with disabilities to all human rights and fundamental freedoms.

Other international standards, such as the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) have addressed the concerns of women with disabilities. In its recommendations – including General Recommendations 24 (Women and Health [1999]),¹ 27 (Older Women and the Protection of their Human Rights [2010]),² and 28 (Core Obligations of States Parties under Article 2 [2010])³ – CEDAW affirms the need for special attention to the health rights of women and girls with disability. CEDAW's General Recommendation 18 focuses specifically on women with disabilities, recommending that states parties provide information on women with disabilities in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life."⁴

Context of Women with Disabilities in Nepal-Legislative Framework

Nepal's Constitution provides a powerful framework for addressing gender equality and the rights of minority groups. However, despite legal protections for women broadly, the position of women with

¹ Comm. on the Elimination of Discrimination against Women, *General Recommendation 24*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24>.

² Comm. on the Elimination of Discrimination against Women, *General Recommendation 27*, U.N. Doc. CEDAW/C/GC/27 (Dec. 16, 2010), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/472/53/PDF/G1047253.pdf?OpenElement>.

³ Comm. on the Elimination of Discrimination against Women, *General Recommendation 28*, U.N. Doc. CEDAW/C/GC/28 (Dec. 16, 2010), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>.

⁴ Committee on the Elimination of Discrimination against Women, *General Recommendation 18*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

disabilities remains very vulnerable. Women constitute 52 percent of Nepal's population, and are large contributors to its economy, especially in agriculture; however, they remain politically, socially and economically unrepresented. The statistics of the recently held elections at all levels of government of Nepal shows that 6 women with a disability have been elected in the local level elections (out of 14,352 elected women) and none in House of Representatives (out of 90 elected women), Province Assembly (out of 189 elected women) and National Assembly elections (out of 21 elected women).

Women with disabilities face additional and unique barriers because they have multiple marginalized social identities. Exclusion of women as a result of traditional practices is compounded for women with disabilities. Limited understanding among state authorities regarding international commitments such as the CRPD and CEDAW, coupled with lack of awareness among women with disabilities of the national legal provisions in their favor also present substantial barriers to their participation in political, social and economic spheres.

The Constitution of Nepal has specifically included persons with disabilities among its citizens afforded the right to equality (Art. 18), social justice (Art. 42), and accessible transportation (Art. 51). The Constitution also includes provisions that intend to ensure the representation and participation of persons with disabilities in different state mechanisms. For the House of Representatives and Provincial Assemblies, the Constitution states that political parties should include persons with disabilities in their candidate lists (Art. 84 and 176) while the language pertaining to the National Assembly specifically reserves seven seats (one from each state) for persons with disabilities or minorities (Art. 86). On the contrary, the House of Representatives Election Act, 2017 and the State Assembly Election Act, 2017 do not go so far as to require that persons with disabilities be included in either body as the legislation does for other minority groups. The House of Representatives Election Act, 2017 and the State Assembly Election Act, 2017 also restrict the right to stand for persons "with unsound mind"⁵, without further defining this term. "*Unsound mind*" is a vague justification for an objection, and this lack of precision could lead to discrimination; there are no details in these Acts on how to prove that someone is of "unsound mind". Likewise, the Electoral Rolls Act, 2017, also restricts the right to vote for persons with intellectual and psychosocial disabilities⁶, which is not in line with the CRPD.

The Act related to the Rights of Persons with Disabilities, 2017 state that all persons with disabilities have the equal right to be a candidate in an election and right to cast vote voluntarily with or without someone's

⁵ Section 13 (j) in both Acts.

⁶ Described in the Electoral Rolls Act, 2017 as "a person of unsound mind" (Section 23.2(a))

support and the government to make appropriate provision to access, understand and use the polling process, facilities and materials (s.11). The Act also provides for right of a woman with disability which requires the government to protect their right and create appropriate environment for maximum utilization of knowledge, skills and capacity and protect health and reproductive health (s.19). Following Nepal's ratification of the CRPD, the Government of Nepal also passed the "Accessible Physical Structure and Communication Service Directive for People with Disabilities, 2013" to guide the country's full and effective participation in the international agreement. The guideline outlines requirements for making many types of infrastructure such as roads, parking lots, and schools accessible. However, the municipalities and rural municipalities have yet to take these issues into consideration. Also, given that polling stations are all located in schools and other public buildings, this legislation should have the power to ensure any new polling stations are constructed in line with the CRPD. Therefore, it can be noted that the existing laws do not sufficiently ensure that suffrage rights are exercised in a non-discriminatory manner based on equal treatment before the law.

In addition, the Right to Information Act, 2007 requires all public entities to make available all relevant information to the citizens of Nepal. However, there are no provisions on making electoral information available in formats accessible to persons with disabilities, which should be suitably reformed.

Therefore, there is a need for public education on the country's legal provisions that promote equity, affirmative action, representation and effective participation of women with disabilities in all levels of government. While the Constitution of Nepal (2015) provides for citizen participation, all levels of government and stakeholders need to be sensitized to the rights of women with disabilities to ensure their rights are protected and promoted.

POLICY PLATFORM STATEMENT

- 1. Ensure meaningful participation and access to decision making at all levels** for women with disabilities, to ensure the attainment of their economic, social, cultural, civic and political rights.
- 2. Ensure inclusion and access in the economic sphere**, through promoting self-employment of women with disability, implementation of reservations to ensure employment opportunities, provision of internship opportunities, skills-based training according to choice, distribution support for goods and materials manufactured by them, and regular expert advice to entrepreneurs, through promoting Public-Private Partnership.
- 3. Increase access to law and justice for women with disabilities** in order to minimize physical, economic, societal, political, cultural, sexual and all other kinds of gender-related violence against women with disabilities.
- 4. Develop or modify existing infrastructure and information systems**, both in the public and private sectors, to make them disability friendly according to international standards. Furthermore, implement awareness-raising programs to create awareness on existing policies and remove societal perception and stereotypes.
- 5. Increase the access to quality education for children and persons with disabilities** through ensuring inclusive and disability-friendly physical infrastructure, curriculum, teachers' learning programs, educational materials, secured living spaces and evaluation systems, thereby ensuring the effective implementation of national and international policies and commitments.

CONCLUSION

This policy document provides information on promoting the human rights of women with disabilities, integrating human rights promotion throughout all levels of government and allocating sufficient financial resources to disability inclusion. The document also provides DPOs with a guide to ensure the inclusion of women with disabilities in the development processes in all levels of government and can also be used by civil society organizations (CSOs) that work on elections, civic engagement and democracy promotion in order to integrate gender and disability considerations.

