

JOINT REPORT ON
MUSLIM WOMEN'S RIGHTS IN
Nepal

71st CEDAW Session
Geneva, Switzerland
October 2018



Musawah
15 Jalan Limau Purut, Bangsar Park
59000 Kuala Lumpur, Malaysia
Tel: +603 2083 0202 Fax: +603 2202 0303
Email: musawah@musawah.org
Website: www.musawah.org



**Nepal Muslim Women Welfare Society
(NMWWS)**
Bagbazar Kathmandu Nepal
Tel : +977-14253867
Email: nmwws.seema@gmail.com
Website: www.nmwws.org

TABLE OF CONTENTS

A. INTRODUCTION	3
B. BACKGROUND AND LEGAL FRAMEWORK.....	3
C. KEY ISSUES AFFECTING MUSLIM WOMEN	5
1. INFORMAL COMMUNITY PRACTICES (Articles 3,5,14,15,16).....	5
1.1. Unregistered marriage.....	5
1.2. Triple talaq and halala.....	5
1.3. Dowry	8
2. CHILD MARRIAGE (Articles 4, 5, 14, 16).....	8
3. VIOLENCE AGAINST WOMEN (Articles. 3,5,16)	10
MUSAWAH VISION FOR THE FAMILY	12

A. INTRODUCTION

Musawah is a global movement for equality and justice in the Muslim family and Nepali Muslim Women's Welfare Society (NMWWS), is a NGO established in 2006 working for the marginalized, disadvantaged and low-income Muslim communities, particularly the Muslim women. NMWWS is the only national level organization working for marginalized Muslim women of Nepal.

Musawah together with NMWWS, jointly submits this Thematic Report on concerns related to Muslim women's rights in Nepal, for consideration by the CEDAW Committee in its review of the Government of Nepal, reporting before the 71st Session of the CEDAW Committee in October 2018. This is the CEDAW Committee's 4th engagement with Nepal which ratified CEDAW in April 1991.

Despite the application of civil laws on marriage and divorce, Nepalese Muslims continue to practice marriage customs according to their notions of Islamic law. This report examines the community practices in Nepal that discriminate against Muslim women in the realm of marriage and family, including unregistered marriage, child marriage, unilateral talaq divorce, halala, dowry and violence against women.

We hope that the research, analysis, and recommendations in this Thematic Report will provide critical information in highlighting key concerns of Nepalese Muslim women and identifying gaps in the State party report and the State party's response to the list of issues. We hope that the CEDAW Committee will utilise this report as a key resource during its constructive engagement with the State party and identifying follow-up issues in the Concluding Observations.

B. BACKGROUND AND LEGAL FRAMEWORK

Muslims in Nepal constitute roughly 4.4% of the population and primarily live in the Terai region of the country. Multiple reports by civil society, national population census and human development indices indicate that Muslims are among the most socio-economically disadvantaged minority group in Nepal. However, issues concerning Nepalese Muslims, and Muslim women in particular, have not been adequately covered in the Nepal State Party report to the CEDAW Committee.

Literacy rates of Nepalese Muslims are lower than the national average. According to a 2006 report on 'Gender, Caste and Ethnic Exclusion'¹ in Nepal, 48% of Muslims have not been to school. The literacy rate of Rautahat district with the highest percentage of Muslims is only 41%, and girl children of 5 years and above attending school is much below than the national average of 57%.²

Early school dropout and limited employable skills place Muslim and Madhesi³ women and girls at a particular disadvantage. According to the 2014 United Nations Human Development Report,⁴ Muslims had the lowest HDI score of 0.422. The report stated that, "*The greatest inequalities are in education, with pronounced long-lasting effects on capabilities.*" The Muslim and Madhesi women and girls also have low access to basic health, water, sanitation and hygiene due to situations pertaining to increased poverty. According to NMWWS, Muslim women and girls from low-income households with decreased socio-economic and livelihood conditions, are most vulnerable to occurrence of gender-based violence including domestic violence, child marriage, violence for dowry, as well as human trafficking.

Constitution

Nepal's new Constitution of 2015 recognised Nepalese Muslims as a distinct and marginalised community and lists them as such. According to Article 18(3) of the Constitution on Right to Equality:

¹ Lynn Bennett, World Bank, 2006

<http://siteresources.worldbank.org/INTRANETSOCIALDEVELOPMENT/Resources/Bennett.rev.pdf>

² Nepal Population and Housing Census 2011 <https://unstats.un.org/unsd/demographic-social/census/documents/Nepal/Nepal-Census-2011-Vol1.pdf>

³ People of Indian ancestry residing primarily in the Terai region of Nepal.

⁴ UNDP 2014 Human Development Report – Nepal
http://www.hdr.undp.org/sites/default/files/nepal_nhdr_2014-final.pdf

'The state shall not discriminate among citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language or geographical region, ideology and such other matters.

Provided that nothing shall be deemed to bar the making of special provisions by law for the protection, empowerment or advancement of the women lagging behind socially and culturally, Dalits, Adibasi, Madhesi, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups, peasants, laborers, youths, children, senior citizens, sexual minorities, persons with disability, pregnant, incapacitated and the helpless persons, and of the citizens who belong to backward regions and financially deprived citizens including the Khas Arya.'

Article 38 of the Constitution on 'Rights of Women' guarantees all Nepalese women equality and states 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."*

As a continuation of the previous interim Constitution, Article 264 of the 2015 Constitution allows for a Muslim Commission to be established as a constitutional body. The current functions and duties the Muslim Commission include⁵:

1. Formulating national policy and programs for the upliftment of Nepalese Muslims to oversee social, financial, religious and cultural development of Muslims in Nepal;
2. Examining, monitoring and evaluating prevailing legal provisions, government policy and recommend to Government of Nepal for the creation of enabling environment for the use of rights and benefits to the Muslim peoples
3. Organising various central and local level conferences, discussion, seminars and gatherings, for the welfare and interest related to Muslim community peoples and increase public awareness through communication and broadcasting media;
4. Investigate complaints registered in the commission regarding violation of rights and duties of Muslim community and recommend to concerned authorities for further action.

It is unclear at this time the extent to which the Nepal Muslim Commission has undertaken efforts to address concerns around discriminatory customary practices that affect Muslim women. However it is clear that the body has a mandate that could incorporate initiatives to uplift the rights and well-being of Muslim women.

Legislation on Marriage and Family

Provisions in multiple laws govern civil marriages in Nepal, including a chapter on marriages under the previous Civil Code (Muluki Ain). This was replaced by the introduction of new Civil and Criminal Codes⁶ in August 2018, which are still in the early days of implementation. Additionally all marriages in Nepal, including for Muslims, must be registered under the Registration of Marriages Act 1971 to ensure legality.

Given the diversity of ethnic and religious groups in Nepal, marriages are solemnised and celebrated according to religious and cultural customs of individuals. Registration of religious marriages continues to be optional under the new Civil Code which includes provisions such as⁷:

- Minimum age of marriage as 20 years for men and women (previously 18 years for women)
- Criminalisation of the dowry system including three-year jail sentence and fine
- Ability of husbands to file for divorce in courts on equal grounds as women (previously only wives could initiate divorce on particular grounds).

⁵ Functions, Rights and Duties of the Nepal Muslim Commission <http://www.nmc.gov.np/site/cms/8>

⁶ My Republic, August 17, 2018: *New Muluki codes take effect from today* <https://myrepublica.nagariknetwork.com/news/new-muluki-codes-take-effect-from-today/>

⁷ Kathmandu Post, August 2018. *15 things in the new national law every Nepali should know about* <http://bit.ly/2BfpS6S>

C. KEY ISSUES AFFECTING MUSLIM WOMEN

1. INFORMAL COMMUNITY PRACTICES

ARTICLES 3,5,14,15,16

CRITICAL INFORMATION

Firstly, there is a dearth of official and civil society information on issues and challenges faced by Muslim women in Nepal, especially when it comes to practices of marriage and divorce. The information obtained for this report are collected and compiled from experiences and observations of Nepal Muslim Women's Welfare Society (NMWWS) in conducting initiatives and programs on Muslim women's rights over the span of 12 years. Media and civil society reports have been sourced where information is available.

1.1. Unregistered Marriage

According to NMWWS, despite the fact that Muslims can register their marriages under the civil laws of country, a large portion of Muslim religious marriages are unregistered given that registration is not mandatory. Non-registration is also a result of prevailing belief that marriages must be conducted according to 'Islamic *Shari'ah*'.

Religious marriages are an intimate affair and conducted by religious leaders or imams of a particular mosque or community that the couple belongs to. They are done according to religious practices interpreted at the discretion and opinion of the leaders. Informal practices on requirement of consent of brides means that early and forced marriages do occur within the Muslim communities, especially in families with difficult socio-economic circumstances.

Women and girls from low-income families are usually unaware of the process and purpose of registration of marriages. Registration is therefore very dependent upon husbands, who in some cases may purposefully not register the marriage, in order to prevent civil law applying to the marriage in which women can access divorce and inheritance rights. Usually marriages that are unregistered during the time of the *nikah* are eventually registered only in the event a national policy requires proof of marriage, such as for the purpose of obtaining official documentation, passport to go abroad or for obtaining bank loans etc.

Non-registration of religious marriages poses tremendous challenges for Muslim women when they decide to pursue legal claims in civil court. This happens especially at the time of divorce, when the husband practices polygamy, and in claims for a fair share of inheritance and financial rights.

RECOMMENDATION

We recommend the CEDAW committee to urge the State party to:

- Ensure that it is mandatory for all religious marriages to be registered (applicable retrospectively for marriages previously contracted);
- Introduce penalties for non-registration of religious marriages on persons and institutions (eg: Mosques) conducting *nikah* ceremonies.

1.2. Practice of triple talaq and halala

1.2.1. Triple talaq

If marriages are registered, divorces happen through civil courts and are based on certain requirements or criteria stipulated in the relevant chapters in Civil Code.⁸ According to NMWWS which has handled multiple triple talaq cases over the past decade, divorce cases are lengthy, time consuming and expensive. In the event of property and custody claims and/or disputes, the process is even longer. There is also a lot of social stigma attached to divorce.

⁸ Muluki Ain regarding Husband and Wife, Chapter 12
<http://www.asianlii.org/np/legis/laws/marhawc12357/>

Muslims who have had unregistered religious marriages and wish to abide by 'Islamic customs' choose to divorce out-of-court. This means that practices such as triple talaq and men divorcing their wives at will and without reason are prevalent as they believe that is their right in Islam. In the event of triple talaq, a husband pronounces 'talaq' or "I divorce you" three times in a single sitting, effectively rendering the wife divorced in the eyes of the community.

In 2008, media reports⁹ highlighted the case of triple talaq when hundreds of Muslim women in Nepalgunj district protested in the streets against this practice. Many women who faced triple talaq were cut off from financial support, cast out from marital homes and forced to seek support from their parents or relatives. There have also been media reports¹⁰ of Muslim women contesting divorce settlements imposed on them, through the civil court system with little success.

Women complained of the misuse of Islamic law by husbands to obtain quick divorces, without legal repercussion and little to no possibility of pursuing maintenance for their children. The lack of clarity around what constitutes 'Islamic law' means that informal practices like triple talaq are at the discretion of community men. It is also generally considered that Muslim women do not have the same right as men to divorce their husbands, and require his consent or the payment of a sum of money to obtain a divorce from him (*khul* divorce).

Case obtained by NMWWS

A Muslim couple in Kathmandu was married for 20 years and had two young children. Few years ago in a fit of anger, the husband pronounced talaq three times to his wife in a single sitting, which he regretted doing shortly afterwards. Not meaning to divorce his wife, the husband consulted with the religious leader (Alim) of the area, who suggested that the triple talaq was only counted as one talaq and that the couple should reconcile.

However after a few weeks of successful reconciliation, another religious leader who was educated abroad (Mufti - considered more knowledgeable than an Alim) got to know about the case and told the couple that the triple talaq meant that they were divorced and it was 'haram' / not permissible for them to live together. He said it would be unharmonious and unlucky for the family if they failed to obey the divorce. The husband and his family took the Mufti's word seriously and ousted the wife along with the children from the marital home without any compensation or maintenance.

Recent abolishment of triple talaq in India

In September 2018, neighboring India introduced legislation making triple talaq a punishable offence with a jail sentence of up to three years and a fine.¹¹ Prior to that in August 2017, the Indian Supreme Court issued a judgment¹² on triple talaq rendering the practice of void, illegal and unconstitutional. In addition to *Qura'nic*, historical and Islamic jurisprudential justifications that the practice is unjust and discriminatory to women, the judgment also included examples from other Muslim contexts, where triple talaq is no longer practiced and divorce pronounced in the first attempt is counted as one a single talaq. Furthermore divorce initiated by husband needs to go through a court process and includes attempts at reconciliation. Such examples included Muslim personal status laws of Pakistan, Bangladesh, Sri Lanka and other Middle-Eastern and South-East Asian countries.

⁹ AsiaNews. *Muslim women in the streets against 'talak' or Islamic divorce*
<http://www.asianews.it/news-en/Muslim-women-in-the-streets-against-%E2%80%98talak%E2%80%99-or-Islamic-divorce-13892.html>

¹⁰ IRIN News. *Muslim women battle ex-husbands through the courts*
<http://www.irinnews.org/report/73635/nepal-muslim-women-battle-ex-husbands-through-courts>

¹¹ Al Jazeera, September 2018. *India: Triple talaq or instant divorce now a criminal offence*
<https://www.aljazeera.com/news/2018/09/india-triple-talaq-instant-divorce-criminal-offence-180919073349658.html>

¹² IN THE SUPREME COURT OF INDIA Original Civil Jurisdiction Writ Petition (C) No. 118 of 2016
<https://www.juridice.ro/wp-content/uploads/2017/08/Triple-Talaq-Judgment-Supreme-Court.pdf>

1.2.3. Halala

Similar to cases in India, husbands often say ‘talaq’ in anger or for petty reasons and husbands often want to take back their pronouncement of triple talaq and reconcile with their wives. *Halala* is a colloquial name given to an unIslamic and highly unjust practice linked to triple talaq, whereby if husband pronounces triple talaq, regrets his decision and wants to reconcile with his wife, then she is required to wait for three months, contract and consummate a marriage to another man, divorce him and wait for another three months before she is allowed to reconcile with her former husband.

NMWWS reports that there is a high prevalence of both triple talaq and *halala* in Mahotari and Banke districts, among lesser-educated families, who are unaware of what constitutes (or does not constitute) ‘Islamic’ practices. In such situations, Muslim women often lack agency, autonomy and the support services to challenge their families and community members and therefore have to pay a heavy price for the unjust practices of triple talaq and *halala*. In most cases, parents of the women also succumb to community pressures.

Case obtained by NMWWS

In Mahottari district a Muslim woman was given talaq and was removed from her marital home. However, her husband wished for reconciliation with her. Upon consultation with religious leaders of the area, he was told that his wife would need to do ‘halala’ in order to marry him again. Unable to challenge her circumstances, three months after the triple talaq, she was made to marry another man, consummate the marriage for one night and then be divorced by him. She then had to wait three more months before re-marrying her former husband. Upon contact with NMWWS, the woman mentioned that she didn’t want to do halala but was pressured by her husband and family and she did it for the “sake of her children”.

RECOMMENDATIONS

We recommend the CEDAW committee to urge the State party to:

- Take concrete steps in abolishing the practice of triple talaq (using India as an example) and *halala* by declaring such practices harmful and discriminatory towards women and imposing penalties on husbands who undertake triple talaq and individuals who compel women to partake in *halala*;
- Launch awareness raising among religious leaders and the most vulnerable communities on these harmful practices, and establish a reporting and referral mechanism and support services for affected Muslim women;
- Mandate the Muslim Commission to undertake studies to investigate the nature and extent of discriminatory practices such as *halala* and triple talaq and its impact on Muslim women and children.
- Mandate the Muslim Commission to set up a committee of representatives (men and women) who are knowledgeable about issues of Nepalese Muslims and legislative system, to start a process of consultation with Muslim communities and Muslim women’s groups to understand better the needs of the community in terms of practices governing Muslim marriages and divorces.

1.3. Dowry

Despite the practice of dowry being declared unIslamic in other Muslim contexts, Nepali Muslims also practice dowry similarly to other ethnic communities. In 2012, a young woman Shiwa Hasami¹³ died from injuries after being set on fire over dowry disputes between the families of the couple-to-be, after the intended groom's father demanded Rs. 200,000 as dowry. According to media reports, there is a lot of shame and stigma attached to any unwillingness or inability of the bride's family to pay dowry to the groom. News reports in 2012, indicated that according to police, Muslims and Madheshi communities had the highest number of domestic violence cases related to dowry. According to Sheikh Chandtara,¹⁴ former chairperson of National Women's Commission and Provincial Assembly lawmaker, the practice of dowry taking was one of the main causes of killing of female fetuses and high dropout rates of Muslim girls from schools.

There have been recent efforts of Muslim religious leaders in Birgunj and other Terai districts to raise awareness of the negative consequences of dowry and its 'unIslamic nature'. However, these initiatives need to be sustained and widespread.

RECOMMENDATIONS

We recommend the CEDAW committee to urge the State party to:

- Strictly implement penalties (as per the new provisions of the Civil Code introduced in August 2018) for anyone requesting/practicing dowry;
- Launch widespread awareness raising campaigns targeting religious leaders (of Muslim communities and in districts and villages with high prevalence of dowry);
- Provide a legal mechanism whereby the bride's family can reclaim dowry in the event that a marriage is contracted following a dowry payment;
- Ensure support services and referral mechanisms for women in situations where they are vulnerable to domestic violence as a result of dowry exchange.

2. CHILD MARRIAGE

ARTICLES 4, 5, 14, 16

CRITICAL INFORMATION

The minimum age of marriage in Nepal is 20 years for men and women. Article 39 of the Constitution ensures that no child shall be subject to child marriage, The State Cases Act includes child marriage as an offence, which obligates the government to initiate investigation and prosecution.¹⁵ Currently the punishment for a man conducting or partaking in child marriage is imprisonment of up to three years and fine of Rs 10,000 (\$95).¹⁶

¹³ Kathmandu Post, December 2012, *Shiwa Hasami loses battle for life*
<http://kathmandupost.ekantipur.com/news/2012-12-12/shiwa-hasami-loses-battle-for-life.html>

¹⁴ Kathmandu Post, April 2018, *Muslim leaders take the fight to dowry practice*
<http://kathmandupost.ekantipur.com/news/2018-04-29/muslim-leaders-take-the-fight-to-dowry-practice.html>

¹⁵ UNFPA, Center for Reproductive Rights, Justice and Rights Institute Nepal. 2016. *Ending Impunity for Child Marriage in Nepal: A Review of Normative and Implementation Gaps*
https://nepal.unfpa.org/sites/default/files/pub-pdf/Ending%20Impunity%20for%20Child%20marriage%28final%29_25Nov16.pdf

¹⁶ Child Marriage Is Illegal In Nepal. But Nearly 40% Of Girls Wed Before 18
https://www.huffingtonpost.com/entry/child-marriage-is-illegal-in-nepal-but-nearly-40-of-girls-wed-before-18_us_57d2c86ae4b00642712d0b1e

However despite multiple laws, child marriage continues to be practised in the country in a widespread manner. 37% of girls in Nepal marry before age 18 and 10 % are married by age 15.¹⁷ Girls Not Brides¹⁸ indicates that Nepal has an international ranking of 16 on child marriage rates, indicating a high prevalence. In Asia, Nepal has the third highest rate of child marriage after India and Bangladesh.

According to reports by international child rights organisations¹⁹ the rates of child marriage are also higher among Muslims and Hindus than Buddhists and Christians, as well as among individuals who have spent fewer years in education. The highest percentage of underaged marriages is among Muslim communities (60.5%).²⁰

According to NMWWS, girl children, particularly from marginalized Muslim and Madhesi families, are considered to be a family burden and parents' tendency has always been to release their responsibility to others through child, early and forced marriage.²¹ News reports stated that Nepalese Police have noted a rise in the number of Muslim families who take minor daughters across the border to India in order to give them in marriage for fear of getting caught within Nepal.²²

This trend is observed in studies conducted by researchers in specific districts such as Banke²³ which show that Muslims were 2.2 times more likely, girls residing in rural area were 4.2 times more likely and girls having poor knowledge or no knowledge about minimum age of marriage were 4.6 times more likely to get married as minors. There appears to also be a directly link between child marriage and literacy rates. As per the 2011 Population Census, marriage among 10-18-year-old girls and boys was most common among the five broad ethnic/caste categories including Madhesi Dalits (10.2%); Muslims (9.8%); Hill Dalits (7.8%)²⁴.

The fact that religious marriages do not need to be registered promotes the prevalence of child marriage in the Muslim community. Such marriages happen in private settings and unknown to State authorities. Implementation of the minimum age of marriage continues to be weak and many cases slip between the cracks because of weak police intervention. In 2016, Human Rights Watch reported that Nepal is failing to act on child marriage and "police rarely act to prevent a child marriage or bring charges, and almost never do so unless a complaint is filed. Government officials often officially register child marriages, even though child marriage is a crime."²⁵

Child marriage within the Muslim community is also condoned by community members on the basis that it is allowed by Islamic *Shari'ah* and therefore some religious and community leaders encourage early marriage.

¹⁷ Human Rights Watch, 2016 "Our Time to Sing and Play" Child Marriage in Nepal

<https://www.hrw.org/report/2016/09/08/our-time-sing-and-play/child-marriage-nepal>

¹⁸ Girls Not Brides – Nepal <https://www.girlsnotbrides.org/child-marriage/nepal/>

¹⁹ Save the Children, World Vision International, and Plan International, "Child Marriage in Nepal: Research Report," 2012, p. 18, 20.

https://resourcecentre.savethechildren.net/node/8239/pdf/child_marriage_research_report_final.pdf

²⁰ Muslim practiced the greatest proportion of marriages below 19 years 60.5%

https://resourcecentre.savethechildren.net/node/8239/pdf/child_marriage_research_report_final.pdf

²¹ Arrow, 2017 Ending Child, Early and Forced Marriage: SRHR as Central to the Solution

<https://arrow.org.my/publication/ending-cefm-srhr/>

²² Nepal Times, Child Marriage in Nepal <http://archive.nepalitimes.com/article/Nepali-Times-Buzz/child-marriage-in-Nepal.3863>

²³ Kshitij, Gurung, June 2017. *Factors Associated With Child Marriage in Banke District of Nepal*

https://www.researchgate.net/publication/318012546_FACTORS_ASSOCIATED_WITH_CHILD_MARRIAGE_IN_BANKE_DISTRICT_OF_NEPAL-KSHITIJ_GURUNG [accessed Oct 02 2018].

²⁴ Nepal Population and Housing Census 2011 <https://unstats.un.org/unsd/demographic-social/census/documents/Nepal/Nepal-Census-2011-Vol1.pdf>

²⁵ Nepal: Child Marriage Threatens Girls' Futures <https://www.hrw.org/news/2016/09/08/nepal-child-marriage-threatens-girls-futures>

Case obtained by NMWWS

In Sarlahi district a young girl was studying in a madrasa (Muslim religious school), however as soon as she started menstruating when she was 14 years old she was removed from the madrasa and given in marriage to an older man. The girl also became pregnant shortly afterwards and sent to her maternal home for her confinement.

RECOMMENDATIONS

We recommend the CEDAW committee to urge the State party to:

- Impose temporary special measures such as scholarships and incentives to encourage primary, secondary and higher education of Muslim girl children and launch targeted educational campaigns within Muslim communities to increase literacy rates;
- Introduce and implement stricter penalties for family members and community/religious leaders contracting a child and early marriage (below 20 years);
- Make marriage registration of all marriages (including religious marriages) mandatory and establish a requirement that anyone conducting or registering a marriage must confirm the age of the spouses;
- Launch widespread awareness raising campaigns on the harms of child marriage and its illegality in Nepal.

3. VIOLENCE AGAINST WOMEN

ARTICLES. 3,5,16

CRITICAL INFORMATION

A survey report released by Gender Empowerment and Coordination Unit (GECU) in the Office of the Prime Minister and Council of Ministers (OPMCM) in 2015 disclosed an alarming situation of violence against women Nepal: close to half of women (48%) reported experiencing violence in their lifetime while the majority of women were unaware of any Nepali laws that address Sexual and Gender Based Violence (SGBV) and only about 24.8% of them were aware of services available to the survivors of SGBV.

The situation of marginalized communities is much worse. Marginalized population especially women and girls are not aware of their basic human rights, gender-based violence and discrimination, and access to remedies. In 2017, of the 75 GBV cases recorded in the Rautahat district, 63 cases involved Muslim and Dalit women and girls.²⁶

According to the women's groups, marginalized Muslim and Madhesi women and girls in Nepal face gender-based violence and discrimination at every stage of their lives, including sex-selective abortion, differential access to food, education and medical care, child marriage, dowry, domestic and/or spousal violence, sexual exploitation and abuse, trafficking, elder abuse and traditional harmful practices.

Muslim and Madhesi women and girls living in Rautahat district experience the highest level of physical violence (34%) and spousal physical, sexual, or emotional violence (37%) in Nepal. Women who have experienced physical or sexual violence and have ever sought help is also lowest in Province 2 (15%) where Rautahat is located.

Many such cases are not recorded officially and escape the public knowledge. Adolescent girls in the Madhesi Dalit, Muslim, and non-Brahmin/Chhetri Madhesi communities were significantly more likely to say wife-beating was justified under all circumstances.²⁷ Moreover, due to the proximity to the Indian border, girls of these communities are more vulnerable to be exploited by traffickers in

²⁶ District Police Office, 2017.

²⁷ UNICEF, A profile of Adolescent girls in Nepal - MICS 2016 Further Analysis Report on Adolescents <http://unicef.org.np/media-centre/reports-and-publications/2017/02/22/a-profile-of-adolescent-girls-in-nepal-further-analysis-report-on-adolescents>

the name of giving decent job, visiting border market and for purposes of marriages. There are common practices to marry off daughters to Indian men and to work in India for higher wages. According to NMWWS, Muslim communities are neither aware of the rights of girl children nor sensitive to it.

Shanaz B. Muslim women rights activist and resident of Gaur Municipality in Rautahat district:

“The major reasons for the poor human rights situation of Muslim and other marginalized Madhesi women and girls in the district are illiteracy, poverty, lack of awareness about their human rights and poor capacity and skills of victims to take legal actions against culprits. She reiterated that due to lack of information and capacity among Muslim women and girls about their human rights and accessing to justice mechanism, the GBV is unabated among marginalized Muslim and Madhesi communities.”

RECOMMENDATIONS

We recommend the CEDAW committee to urge the State party to:

- Have targeted programs, campaigns and initiatives addressing gender based violence particularly in rural communities with high prevalence;
- Improve support services for victim-survivors and improve sensitization of police officers particularly in rural areas in dealing with domestic violence concerns;
- Ensure that cases of triple talaq, *halala* or dowry are immediately acted upon as illegal offenses.

ANNEX 1:

MUSAWAH VISION FOR THE FAMILY

Musawah asserts that in the twenty-first century, there cannot be justice without equality. Many provisions in Muslim family laws and informal community practices within Muslim contexts, as based on definitions and interpretations by classical jurists and are neither tenable in contemporary circumstances nor defensible on Islamic grounds. Not only do these family laws and practices fail to fulfill the *Shari'ah* requirements of justice, but they are being used to deny women rights and dignified choices in life. These elements lie at the root of marital disharmony and the breakdown of the family.

Musawah believes that Qur'anic principles and the richness of the Islamic juristic tradition enable us to formulate Muslim family laws and practices today that are egalitarian and reflect the needs of contemporary societies. Islamic teachings and universal human rights standards, including the CEDAW Convention, are fully compatible and are dynamic and constantly evolving, based on changing times and circumstances. Inspired by the Qur'anic vision of justice and gender relations, Musawah contends that gender equality and non-discrimination can only be achieved with laws that transform power relations in the family and in society in the direction of just outcomes.

It is our hope that the CEDAW Committee will encourage Governments everywhere, and particularly those purporting to speak for and in the name of Islam and Muslim communities, to:

- Recognize the diversity of opinions, laws and practices in the Muslim world and the growing scholarship in Islam that recognizes equality and justice;
- Recognize the possibility and necessity for reform of Muslim family laws today and the abolishment of unjust and discriminatory practices in the name of Islam;
- Promote human rights standards as intrinsic to the teachings of Islam, national guarantees of equality and non-discrimination, and the lived realities of men and women today.
- Encourage open and inclusive public debate regarding diversity of opinion and interpretations in Muslim laws and principles relating to family laws and practices.

