



Speech delivered by Justice Anup Raj Sharma, Hon. Chairperson, National Human Rights Commission, Nepal as a Co Speaker for "Gender Equality: Bridging the Gap" in Regional Conference organized by Honorary Consular Corps Nepal and World Federation of Consuls (HCCN – FICAC)

**13 November 2019
Kathmandu, Nepal**

*Chairperson,
All the distinguished Delegates
Ladies and Gentlemen,*

I would like to express my sincere gratitude to the organizer inviting me as a guest on the occasion of the Honorary Consular Corps Nepal and World Federation of Consuls (HCCN – FICAC) Regional Conference 2019 and would also like to express good wishes for the success of the program. I am delighted to have the opportunity to deliver my views regarding gender equality within this intellectual gathering. I shall base my views on the constitution and statutory provisions.

The word Gender is now being used sociologically and has given a very specific meaning, the famous Indian Feminist Kamala Bhashin has coined the definition of gender in her book " Understanding Gender " I quote her. Although we have known the word gender in grammar, obviously it is being used differently now in its new reincarnation. Gender refers to the socio cultural definition of man and women, the way societies distinguish men and women and assign them social roles. It is variable, it changes from time to time, culture to culture, family to family and even cast to ethnicity too.

I am assured that distinguished participants must have known that human rights are inherent to all human beings. Regardless of the nationality, religion, caste, gender or any other disparities. All of us are equally entitled to human rights without any discrimination. Human rights are the foundation of justice and peace in the world.

The Constitution of Nepal (2015) is a significant milestone for Gender Equality and Social Inclusion (GESI) and enshrines equal rights for women, the poor, the vulnerable and people from different social groups. The Constitution in its preamble clearly fixed the goal of ending all form of discriminations and states for "protecting and promoting social and cultural solidarity, tolerance and harmony, resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination and being committed to civil liberties, fundamental rights, human rights, and independent, impartial and competent judiciary and concept of the rule of law, and build a prosperous nation.

The Constitution aims to end all forms of discrimination and oppression against all people of Nepal. It guarantees the right to equality and rights of women. The rights to equality state that all citizens shall be equal before law. No person shall be denied the equal protection of law. No discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds. The Constitution says that state shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, gender, economic condition, language, region, ideology or on similar other grounds."

Similarly, the right of women clearly states every woman shall have equal lineage right without gender based discrimination. Every woman shall have the right to

safe motherhood and reproductive health. 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. Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion. Women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination. The spouse shall have the equal right to property and family affairs."

May I be allowed to draw your kind attentions to United Nations General Assembly summit in September 2015 which has agreed to pass the agenda on Sustainable Development Goals, among 17 goals on Sustainable Development Goals (SDG), one of the goal is gender equality. Nepal has ratified the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) on April 22, 1991.

Nepal's new constitution has incorporated almost same notions as described in SDG goals on gender equality and equal rights without gender based discrimination as embodied in CEDAW.

Additionally, it can be seen that the Constitution contains provisions for institutional mechanisms relating to gender equality. Positive discrimination provisions include affirmative action to address historical disadvantage and a ban on sex or caste/ethnicity-based discrimination. Rights of Women also includes right to equal lineage; right to safe motherhood and reproductive health; right to participate in all bodies of the State; right to property and family affairs; and positive discrimination in education, health, employment and social security. It also makes any act of violence against women punishable by law. The Right to Equality further elaborates the special provisions by law for the protection,

empowerment or development of citizens, including those described by the constitution as “socially or culturally back-ward.” The Right to Social Justice establishes the people’s right to participate in state bodies on the basis of the principles of inclusion and proportional representation. Other Nepalese statutes too reveal legal safeguards on special provisions for the women. However, the deep rooted patriarchal mindset often takes precedence over these laws and policy, regressing the status of women.

Women constitute over 50 percent of Nepal’s population, but their representation in political parties, other state bodies, policy formulation and in decision making remains meagre. Due to some strict constitutional and legal provisions as well as Nepal's national and international commitments, women's representation in the parliament is gradually increasing and progress in recent years. The percentage (33%) of women in both national, provincial level legislatures and local government has become a standard measure of a country's achievement in the women's political participation.

Constitution clearly states that at least one third of the total number of members elected from each political party representing in the Federal Parliament must be women. If women are not so elected as to constitute one third of the elected members of any political party... such political party must, in electing members. So elect that women members constitute at least one third of the total number of members elected to the Federal Parliament from the party.”

Likewise, the constitution deals with inclusion at the time of a political party’s registration in the Election Commission. It states: “There must be a provision of such inclusive representation in its executive committees at various levels as may be reflecting the diversity of Nepal.” Clause 15 (4) of the Political Party Registration Act says: “A political party should have at least one-third women’s representation in all its committees.”

In the current House of Representative (HoR), out of the 165 lawmakers elected under the first-past-the-post (FPTP) category, only six are women. The political parties met the constitutional requirement by selecting more women in the Proportional Representation (PR) category. Of the 275 House of Representative members, 90 are women (32.7 percent). And of the 59 National Assembly (NA) members, 22 are women (37.3 percent). The figure shows a happy situation. However, women are not in leadership positions. Both the speakers are male whereas the deputy speakers are female. In the provincial assemblies, all deputy speakers are women. This clearly shows women's secondary role and position from the center, down to the grassroots. There is also the provision of 33 percent women's representation in the parliamentary committees, which are considered mini-parliaments. Of the 12 parliamentary committees under the HoR, women lawmakers lead four. Of the four committees under the NA, women lawmakers lead only two.

Women's representation in the provincial assemblies is satisfactory. In the 93-member Provincial Assembly (PA) in Province 1, there are 31 women. In the 107-member PA in Province 2, there are 35 women. In Province 3, there are 36 women in the 110 member PA. The 60-member PA in Province 4 has 20 women. The number of women in the 87-member PA in Province 5 is 29. There are 13 women in the 40-member PA in Province 6 and 17 women in the 53-member PA in Province 7.

Women's representations in the local elections are very encouraging. It has changed the political landscape for Nepali women. A total of 35,041 local representatives were elected across 753 local units: 6 metropolises, 11 sub-metropolises, 276 municipalities, and 460 rural municipalities (Election Commission 2017). Of these 35,041 elected representatives, 14,352 or 40.96 percent are women (Election Commission 2017). There is the fact that 91% of the deputy positions, deputy mayors in municipalities and vice chairpersons in rural municipalities—were won by women, but men won 98 percent of chief

positions, mayors and chairpersons (Election Commission, 2017). This was because of the 753 mayor/chairperson positions across the country, women were nominated for mayor/chairperson in only 190 positions, i.e. only in 25 percent of the total positions. The constitution lists the function of local government into its schedule 8 and provides that the local governments' municipality and rural municipality set up judicial committees to deal with community based disputes. As provided the provisions of the deputy mayors and vice chairpersons are leading the local judicial committees in the both municipality and rural municipalities were female.

With quotas, scholarships, government programmes, diverse representation, but most of all bottom-up, inclusive, sustainable development, Nepal is improving towards monumental change. Now, we have female president, chief justice, deputy speaker, ministers, chief of province, deputy mayors, and first class officers in civil service and head of the business organizations too. Though is it not enough.

The economic and social status of women is not enhanced accordance with its target in spite of well affirmative legal provisions and endeavors are accelerating in Nepal. There is huge gap between legal, policy level participation of women and implementation of those laws in practice. The Nepalese societies are rooting upon vicious circle of numerous challenges, those existed as national structural or legal provisions are not able to shaped accordance with constitution and international commitments.

Women who are in the political leadership discriminated against by the proponents of patriarchy. The women are marginalized from equal opportunity of employment and deprived of responsive working environment. Violence against women is increasing day by day in private and public spheres. Though the law has criminalized the stereotyping and discriminatory harmful cultural practices, like chhaupadi, witchcraft, child marriage etc. But still the issues are existing into the society. We are not able to procure equality in education. Early marriage, early pregnancy, school dropout, chhaupadi, witchcrafts practices are

barrier for gender equality. Rural women are passing away continuously due to limit access of maternal health facilities, scarcity in changing stereotypical thoughts, far away from civil awareness, educational syllabuses are deprived of human rights friendliness, religious, cultural, harmful and superstitious phenomenon are not eradicated, women's stereotyping role is not changing, poverty abolition is not properly addressed, not significance participation of women on decision making and leadership platform, lack of effective empowerment on issue of social inclusion and participatory approach accordance with the constitution, existed as constant of patriarchy, impunity and not proper effective implementation of Supreme Court decrees and decisions of National Human Rights Commission including international obligations and commitments too.

By concerning such circumstances, Nepal Government has formulated law, policy, an action plan, program and enforcing these to eradicate gender inequality and also made compulsion provision for allocating Gender Responsive Budget. The issues of improvements are well standing in spite of several challenges. Further advancement, we should boost up on effective implementation of positive endeavors performed by us and step toward to eliminate those still existing discriminatory new criminal code and civil code and other laws toward women.

Without empowering women, gender equality can't be achieved. Nepal is a patriarchal society where socio-economic and political power is hold by men. So, political empowerment is the key for bridging the gap, increasing women access to assets, economic leadership, and eliminating violence against women in private and public spheres, increasing ease, safe and access to justice, ease and safe access to health, opportunity in employment, political and social leadership will lead to equality. Similarly, eliminating patriarchal mindset through human rights education and awareness programs. Effective implementation of laws, policies, plans and programs is important for bridging the gap. Once again, I would like to express good wishes for the success of the program.

!!Thank you!!