# A Study on the Human Rights Situation of People Living with HIV/AIDS

2024

**National Human Rights Commission of Nepal**

Harihar Bhawan, Pulchowk, Lalitpur

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# Remarks

It is the constitutional duty of the National Human Rights Commission of Nepal to ensure respect, protection, promotion, and effective fulfillment of human rights, as mandated by Article 249 of the Constitution of Nepal. The National Human Rights Commission Act, 2012 further mandates the NHRCN to monitor the status of implementation of the prevailing laws related to human rights and to make recommendations to the Government of Nepal for their effective implementation. The Government of Nepal is also obliged under Nepali and international law to implement the recommendations effectively. The NHRCN has accorded high priority to health issues and related human rights. It is within this (priority) that the NHRCN has carried out a study and prepared this report on the situation of human rights of people living with HIV/AIDS.

According to the information received by the NHRCN during this study, there are currently 27,745 people living with HIV/AIDS in Nepal. Of them, 23,276 people living with HIV/AIDS, including 12,065 men, 10,871 women, and 340 LGBTIQ+, are receiving Anti-Retroviral Therapy (ART) services. Among those receiving ART services, 500 are boys and 416 girl children. Likewise, 111 inmates in 29 prisons across Nepal are HIV/AIDS infected. The ART services of the Government of Nepal do not cover a total of 3,516 people living with HIV/AIDS. Nepali migrant workers who return after employment in India and their families are found to be at high risk of HIV/AIDS. Also at risk are sex workers and their clients and drug users.

According to the Sustainable Development Goals, the world has set a target of eliminating the HIV/AIDS epidemic from the earth by 2030. In Nepal, the National HIV/AIDS Strategic Plan (2021-2026) is in force. Government agencies are taking significant measures to ensure the human rights of the citizens living with HIV/AIDS, including identifying them, providing them with treatment, and raising public awareness about it. The HIV/AIDS-infected citizens themselves are found working collectively to contribute to the state for the protection and promotion of their human rights.

However, it was found during the study in Achham, Kailali, and Kapilvastu districts that the infected widows, sons, and daughters of people who have died

of HIV/AIDS have not been able to obtain birth registration and citizenship certificates. Without birth certificates and citizenship, they were found to be going through their daily lives with problems in carrying out business, getting employment, health insurance, and purchasing immovable assets. The right to confidentiality of the infected persons is not yet protected. It is no secret that people living with HIV/AIDS face various forms of stigma from service providers, health workers, peers, society, and family due to their HIV/AIDS infection (health condition). There is a need to correct the discriminatory language used in the prevailing laws. The infected community has been advocating for a separate law related to HIV/AIDS.

Finally, on behalf of the National Human Rights Commission of Nepal, I would like to express my gratitude to all the infected citizens, all three-tier government agencies, human rights activists, journalists, and civil society for their support in carrying out this study about human rights of people living with HIV/AIDS. I would like to express my gratitude to Hon. Member Manoj Duwadi, who led the review of the laws concerning the human rights of the citizens living with HIV/AIDS, and to Secretary Murari Prasad Kharel for overseeing the management of this study. I would also like to thank Joint Secretary Yagya Prasad Adhikari, Joint Secretary Nava Raj Sapkota, Joint Secretary Buddha Narayan Sahani Kewat, Under Secretaries Loknath Bastola and Hari Prasad Gyawali, for editing the report, Under Secretary Jhankar Bahadur Rawal, who was involved to review the concerned laws, Human Rights Officer Runa Maharjan, and Advocate Rup Narayan Shrestha.

I am grateful to Ms. Binda Magar, Assistant Resident Representative of the United Nations Development Program, Aarti Bista, Manager of the NHRCN Strategic Planning Support Project, and Program Officer Poonam Thapaliya for the financial and technical management of this study. I would like to extend special thanks to Human Rights Officer Kiran Kumar Baram, who wrote this report. I am confident that this study will help to establish the human rights of citizens living with HIV/AIDS and those at risk of it and ensure that it is realized more effectively in the future.

Thank you!
September, 2024

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**(Prof. Dr. Surya Prasad Dhungel)**
Member

# Foreword

The National Human Rights Commission of Nepal is constitutionally mandated to monitor the situation of respect, protection, promotion, and fulfillment of human rights and made recommendations to the Government of Nepal for its effective enforcement. Like many matters related to human rights, the NHRCN has carried out a study and monitoring of the situation of human rights of the people living with HIV/AIDS and published this report '**Situation of Human Rights of People Living with HIV/AIDS -2024.'**

The study has found that there are currently 27,745 citizens living with HIV/AIDS in Nepal. Of them, 23,276, including 12,065 men, 10,871 women, and 340 LGBTIQ+, are receiving Anti-Retroviral Therapy (ART) services. Similarly, 111 inmates in 29 prisons across Nepal are HIV/AIDS infected. Furthermore, 3.516 people living with HIV/AIDS were found not covered by the ART service of the Government of Nepal.

The Nepali migrant workers returning from employment in India and their families, sex workers and their clients, and drug users, among others, were found to be at high risk of HIV/AIDS. The efforts made by the concerned government agencies, a network of PLHIVs, the media, etc., for the respect, protection, and promotion of the human rights of the infected citizens are laudable. However, the right to identity, including birth registration and citizenship, right to confidentiality, right to health, right to employment, and right against stigma and discrimination are still found to be challenging for them.

Finally, I would like to extend my heartfelt gratitude on behalf of the NHRCN to the PLHIVs, concerned government agencies, rights workers, journalists, civil society, and all others who contributed to this important study. I would also like to express special thanks to Human Rights Officer Kiran Kumar Baram, who has authored and edited this report. I am grateful to Joint Secretary Dr. Tikaram Pokharel, who edited the language of this report, to Joint

Secretary Yagya Prasad Adhikari, who was involved in the study and promotional works, to Chief of Promotion Department Joint Secretary Nava Raj Sapkota; Joint Secretary Buddha Narayan Sahani Kewat, Under Secretaries Loknath Bastola and Hari Prasad Gyawali who carried out overall editing of the report, to Under Secretary Jhankar Bahadur Rawal, human rights officer Runa Maharjan and Advocate Rup Narayan Shrestha for their involved in the review of the concerned laws. On behalf of NHRCN, I extend gratitude to the Assistant Resident Representative of the United Nations Development Programme, the Project Manager of the NHRCN Strategic Plan Support Project, Arati Bista, and Programme Officer Punam Thapaliya for the financial and technical management of the study. The NHRCN believes that the Government of Nepal would be fully committed to implementing the recommendations made to it through this special study.

Thank You.

September, 2024

**Murari Prasad Kharel**
Secretary

# Executive Summary

As mandated by Article 249 of the Constitution of Nepal, it is the constitutional duty of the National Human Rights Commission of Nepal (NHRCN) to ensure respect, protection, promotion, and effective fulfillment of human rights. The Sustainable Development Goals (2015-2030) sets a target of eliminating HIV/AIDS infection by 2030, and accordingly, the NHRCN has conducted this study intending to make public the situation of human rights of people living with HIV/AIDS and made recommendations to the Government of Nepal to take further necessary measures to ensure their human rights.

For this study, in consultation with the PLHIVs, primary and secondary data have been collected and analyzed by selecting Achham, Doti, Dadeldhura, Kailali districts of Sudurpaschim Province, Nawalparasi (West), Rupandehi and Kapilvastu districts of Lumbini Province, Kathmandu, Lalitpur, Kavrepalanchok, Makawanpur and Chitwan districts of Bagmati Province as sample districts. For this, key informant interviews, focus group discussions, promotional and consultation programs, workshops, and a review of national and international laws have been conducted.

According to the information shared by the concerned government agencies at the time of drafting this report, 27,745 people are living with HIV/AIDS in Nepal. Among them, 23,276 people living with HIV/AIDS, including 12,065 men, 10,871 women, and 340 LQBTIQ+, are receiving Anti-Retroviral Therapy (ART) services. Among those receiving ART services, 500 are boy children and 416 girl children. A total of 111 prisoners, including 97 men and 14 women in Nepal's 29 prisons, were found to be HIV/AIDS infected. Furthermore, 3516 people living with HIV/AIDS were found not included in the ART service of the Government of Nepal.

The number of new HIV infections has been increasing over the past five years. Data shows that 3,046 people were identified as HIV-positive in 2023. Mostly, Nepali migrant workers who return from employment in India and their families are found to be at high risk of HIV/AIDS. Sex workers, their clients, and drug users are also found to be at risk.

The National HIV Strategic Plan (2021-2026) is currently in effect in Nepal. To ensure the human rights of citizens living with HIV/AIDS, government agencies are taking significant steps to identify and provide them with treatment and raise public awareness about it. The infected citizens themselves are found to be working collectively and contributing to the state for the pro-

tection and promotion of their human rights. They are also found to have been organized at the local level and taking initiatives for collective interest. However, it was found during the study in Achham, Kailali, and Kapilvastu districts that the infected widow and children of the person who has died of HIV/AIDS infection have not been able to obtain birth and citizenship certificates. In the absence of birth certificates and citizenship, the infected are going about their daily life facing all kinds of problems concerning business, employment, health insurance, and purchase of real estate. Most of the citizens living with HIV/AIDS are found to be poor. Due to poverty, it was found that the infected in the Sudurpaschim Province districts were unable to receive regular medicine.

Though the government agencies, ART Centers, etc., are protecting the right to the confidentiality of the infected through the data system, overall, the right to confidentiality of the infected is still not secured. The HIV/AIDS-infected persons were found to have endured various kinds of stigma from service providers, including health workers, when they must undergo surgery, from peers, society, and family due to HIV/AIDS infection (health condition). There is a need to amend the discriminatory language used in prevailing laws such as the Civil Code, 2017 and Criminal Code, 2017. However, the organizations of concerned infected citizens are advocating for the need for a specific law for them.

The role of both local and provincial governments in controlling the rate of HIV/AIDS infection, prevention, public awareness, and ensuring livelihoods is weak. It would be reasonable for the federal, provincial, and local level governments to formulate an integrated strategy to achieve the targets by 2030 by the Sustainable Development Goals.

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# Chapter One
# Introduction

## 1.1. Background

The H.I.V. (Human Immunodeficiency Virus-HIV) virus is said to have been diagnosed in the 1930s.[1] It is believed that the virus got transmitted to humans after humans ate the chimpanzee infected with the Simian Immunodeficiency Virus (SIV). The virus weakens the immune system. As SIV entered humans, it became HIV (Kenneth and Tricia, 2009). A blood test of a person in Kinshasa, Democratic Republic of Congo, in 1959 had revealed HIV/AIDS.[2] The HIV/AIDS epidemic began in 1980. After the World Health Organization (WHO) began discussing legal and ethical issues related to HIV/AIDS in 1988, the United Nations has taken various initiatives towards that end. To reduce the growing differences between those infected and those not infected, various resolutions have been endorsed since 1990 to reduce the human rights violations caused by discrimination associated with HIV/AIDS.[3]

According to the Sustainable Development Goals, the target of eliminating the HIV/AIDS epidemic from the world by 2030 has been set globally. Various national initiatives have been taken to achieve the universal goal. The Constitution of Nepal envisages basic health services as a fundamental right. The Fifth National Action Plan on Human Rights (2020 - 2025) of the Government of Nepal includes an initiative to provide free basic health services under the health category.

Nepal is currently implementing the National HIV Strategic Plan (2021-2026). The strategic plan has identified two major priorities related to human rights. To address human rights and gender, and to address the inter-sectional issues related to prevalent gender and human rights-related stigma and discrimination, as well as barriers to access services. The plan has set the major objectives of identifying 95 percent of estimated HIV/AIDS-infected people by 2026, providing treatment to 95 percent of those confirmed of HIV infection, achieving viral load suppression in 95 percent of those receiving ART services, and reducing new HIV infections by 90 percent. It also targets to eliminate mother-to-child transmission of HIV/AIDS.

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1 https://canfar.com/awareness/about-hiv-aids/history-of-hiv-aids/Retrived July 7, 2024

2 https://dchealth.dc.gov/page/what hivaids#:~:text=A%20subspecies%20of%20chimpanzees%2native,became%20exposed%20to%2 infected%20blood.Retrived July 7, 2024.

3 Prevention and control of acquired immunodeficiency syndrome (AIDS)": Resolutions 45/187 and 46/203 of 21 December 1991, the United Nations General Assembly. Others Resolutions are E/CN.4/RES/2005/84, E/CN.4/RES/2003/47, E/CN.4/RES/2001/51, A/HRC/RES/12/27, A/HRC/RES/16/28

For this, antiretroviral therapy is currently being provided free of cost from 92 ART centers and 12 viral load testing centers in 63 districts across the country.[4] A community-based Prevention of Mother-To-Child Transmission (PMTCT) program is being implemented in all districts of the country to prevent PMTCT. Under this, there is a provision of free HIV testing facilities for pregnant women in the maternity centers. The HIV voluntary counseling and testing centers are providing services from health centers located in all 77 districts of the country. In addition, community-based HIV testing programs are also being implemented among vulnerable groups.[5]

Responding to Writ No. 0287 (2063) and considering the special circumstance of HIV/AIDS, the Supreme Court in 2066 BS issued a directive order in the name of the Government of Nepal to formulate a separate law for the human rights of the infected and vulnerable groups.[6] However, even after a decade and a half since the order was issued, no law has been formulated accordingly. The Education and Health Committee of the Federal Parliament, House of Representatives, has also suggested on 22 August, 2022 to the Government of Nepal, Ministry of Health and Population, to move ahead with the formulation of a law related to HIV.

The Constitution of Nepal has granted the National Human Rights Commission of Nepal the jurisdiction to probe and investigate the violation of the rights of any individual or group or its abetment and recommend action against the guilty. The NHRCN has also been given the jurisdiction to monitor the implementation of international conventions or treaties related to human rights, to which Nepal has become a party, and to recommend to the Government of Nepal to implement them if they are found not implemented.[7] In addition, the National Human Rights Commission Act, 2012 has made provision for monitoring the status of implementation of prevailing laws related to human rights and making recommendations to the Government of Nepal for their effective implementation.[8]

Although HIV infection may primarily appear to be a health problem, it is also a human rights issue. The right to health itself is a human rights issue. Accordingly, HIV infection has become a human rights issue. But this infec-

[4] According to information received over the phone from the information officer of National Centre for AIDS and STD Control on 31 July, 2024
[5] NCASC (2022) https://ncasc.gov.np/information/85 (Retrieved on Oct 16, 2023)
[6] Rishiram Ghimire Vs GoN, case writ mandamus order included, Case no. 8703, NKP 2068, edition 10, date of verdict 13 May, 2009
[7] According to Article 249 (2) (a) and (g) of the Constitution of Nepal
[8] National Human Rights Commission Act, 2012, Section 4 (1)

tion is not only a health problem but also affects broader human rights issues. Hence, it is also a subject of study from a human rights perspective. Among the various issues of collective human rights, the issue of HIV-infected persons has not possibly been studied yet from a human rights perspective. Considering this situation, the NHRCN has carried out a study monitoring the situation of human rights of HIV-infected persons in Nepal.

Monitoring was carried out through field visits, key informant interviews, forced group discussion, consultant, etc. in the A.R.T. Centers, hospitals, community care centers, houses of infected people, etc. in Achham, Doti, Dadeldhura and Kailali of Sudurpaschim Province, Surkhet of Karnali Province, Banke, Nawalparasi West, Rupandehi and Kapilvastu of Lumbini Province, Kathmandu, Lalitpur, Kavrepalanchok, Makwanpur and Chitwan districts of Bagmati Province. This report has been prepared also by reviewing national and international laws related to the human rights of people living with HIV/AIDS.

## 1.2. Objectives of the Study

The major objective of the study is to conduct a study of the situation of human rights of people living with HIV/AIDS and to make their human rights situation public. In addition, it is to make recommendations to the Government of Nepal for further necessary action. The specific objectives of the study are as follows:

- To acquire information on the status of implementation of the prevailing legal provisions related to the human rights of people living with HIV/AIDS.
- To study the situation of people living with HIV/AIDS from a human rights perspective.
- To review the situation of human rights of people living with HIV/AIDS.
- To make recommendations to the Government of Nepal for improving the situation based on the facts obtained.

## 1.3. Rationale of the Study

The Sustainable Development Goals (2016-2030) have set a target to eliminate HIV/AIDS infection by 2030. Various strategies and programs are being implemented globally to achieve this goal. In Nepal, too, the government has set a strategy and is implementing programs through the National Centre for AIDS and Sexually Transmitted Diseases Control (NCASC). However, people

living with HIV/AIDS and their organizations have been complaining to the NHRC that the human rights of people living with HIV/AIDS are yet to be fully guaranteed.

The relevant bodies need to be suggested to perform their task more effectively while monitoring the global goal of eliminating HIV/AIDS by 2030 and the national situation of Nepal. In the context of Nepal adopting a strategic plan to achieve the goal by 2030, from the international perspective, it is necessary to provide feedback, suggestions, and recommendations from a human rights perspective to help achieve the goal. This study has been carried out to analyze, and review the state of protection, promotion, and fulfillment of the human rights of people living with HIV/AIDS by making the role of the federation, province, and local level in the federal form of governance in Nepal more responsible and accountable.

## 1.4. Methodology

Primary and secondary data have been analyzed, promotional and consultation programs have been organized, and national and international laws have been reviewed for the study. The facts and information obtained from the study have also been compared with the relevant sustainable development goals.

### 1.4.1. Primary Data Collection

The sample districts for on-site monitoring of the human rights situation of people living with HIV/AIDS were selected for primary data collection in consultation with people living with HIV/AIDS and their related organizations.

#### 1.4.1.1. Key Informant Interview

The key informant interview method has been adopted to collect primary data, facts, and information for this study. Key informant interviews have been conducted with people living with HIV/AIDS who were willing to be interviewed by the NHRCN study and monitoring team. Primary data has been collected through a total of 95 key informant interviews, including 37 in Sudurpaschim, 4 in Lumbini, and 54 in Bagmati province. A total of 64 women, 30 men, and one LGBTIQ+ participated in the key informant interviews.

Out of the 76 people who revealed their identity in the key informant interviews, 30 were from the Khas Arya community, 27 were from Dalit, 16 were from indigenous nationalities, and three were from the Madhesi community. Nineteen people from Bagmati Province did not want to reveal their identity. The questionnaire was prepared, and the Key informant interviews were conducted with people living with HIV/AIDS in Achham, Doti, Dadeldhura, Kailali of Sudupaschim Province, Nawalparasi West, Rupandehi and Kapil-

vastu of Lumbini Province, Kathmandu, Lalitpur Kavrepalanchok, Makwanpur and Chitwan districts of Bagmati Province. Key Informant Interviews were also conducted with employees working in ART centers, organizations of people living with HIV/AIDS, and representatives of organizations active in the human rights of people living with HIV/AIDS.

#### 1.4.1.2. Focus group discussion (FGD)

Focus group discussions were conducted with people living with HIV/AIDS in Achham and Kailali of Sudupaschim Province, Nawalparasi West Kapilvastu of Lumbini Province, and Kathmandu of Bagmati Province.

Field observations and photo collection have also been included in the study as primary data sources. Applications received at the NHRCN have also been regarded as primary data.

### 1.4.2. Secondary data collection

For the study, data from all over Nepal has been obtained from the National Centre for AIDS and STD Control and the Department of Prison Management and analyzed. Data collected during field visits to Bayalpata Hospital Achham, Malakheti Hospital, Kailali, Sudurpaschim Provincial Hospital, Lumbini Provincial Hospital, and A. R. T. Centers have been presented as samples. Publications and reports, mass media, District Public Health Offices, local levels, etc., have also been taken as secondary sources.

### 1.4.3. Promotional programs and consultation

During the study and monitoring, promotional programs were also conducted to provide information about the situation of human rights of HIV-infected people. Through promotional and training programs, the PLIHVs were helped to understand their issues and concerns from the rights-based perspective. An orientation was held for people living with HIV/AIDS, their affiliate organizations, vulnerable communities, human rights defenders, etc., in Kavrepalanchok, Makawanpur, and Chitwan of Bagmati Province to obtain necessary facts and information for the study.

Provincial consultations were held in Dhangadhi of Sudurpaschim Province, Surkhet of Karnali Province, and Bhairahawa of Lumbini Province. Two consultation seminars were held in Kathmandu. Similarly, a national consultation workshop was also held.

### 1.4.4. Review of National and International Standards

The international conventions to which Nepal is a party and the national legal framework related to the human rights of citizens living with HIV/AIDS

have been reviewed. The Constitution of Nepal, the Infectious Diseases Act 1964, the Criminal Code 2017, the Public Health Services Act 2018, and other laws have been reviewed. In addition, the Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights, 1966, and the International Covenant on Economic, Social and Cultural Rights, 1966, etc. have also been reviewed.

## 1.5. Study/Monitoring Team

The NHRCN deployed different study and monitoring teams to various locations on different dates. The details about the subject of the study and monitoring, location, date, and the officials and employees involved in the teams are mentioned in Annex 2.

## 1.6 Scope of the Study

Based on the suggestions of people living with HIV/AIDS and related organizations, this study is based on field observation, interviews, focus group discussions, consultations etc. of ART centers, hospitals, community care centers, houses of the infected people, etc. in Achham, Doti, Dadeldhura, Kailali of Sudurpaschim Province, Nawalparasi West, Rupandehi and Kapilvastu of Lumbini Province, Kathmandu, Lalitpur, Kavrepalanchok, Makawanpur and Chitwan districts of Bagmati Province. This report has been prepared by also reviewing national and international laws related to the human rights of people living with HIV/AIDS.

## 1.6. Structure of the report

This report is divided into four chapters. The first chapter includes the background, objectives, rationale, study, and monitoring methodology and procedures. Chapter two reviews the national and international legal standards related to the theme of the report. This chapter also reviews the Sustainable Development Goals. Chapter three highlights the situation of people living with HIV/AIDS. Chapter four comprises the conclusions and recommendations of the study. Finally, information related to the report is included in the Annex.

# Chapter Two:
# Legal Standards related to HIV/AIDS

## 2.1. International Standards

### 2.1.1. Universal Declaration of Human Rights, 1948

Article 1 of the Universal Declaration of Human Rights (UDHR), 1948, states that all human beings are born free and equal in dignity and rights. They should treat one another in a spirit of brotherhood. Every individual is entitled to all the rights and freedoms enshrined in this Declaration without discrimination of any kind on any ground, including race, color, sex, language, religion, birth, or other status. Article 5 prohibits inhumane or degrading treatment. Article 7 provides for equal protection against any form of discrimination or against incitement to such discrimination. Article 21(2) provides for the right to equal access to public service in one's country.

Article 25 of the UDHR states that everyone has the right to a standard of living adequate for the health and well-being of oneself and her/his family, including medical care, and the right to security in the event of unemployment, sickness, disability, widowhood or other deprivation of livelihood in circumstances beyond one's control. All children, whether born in or out of wedlock, have the right to equal social protection.

### 2.1.2. International Covenant on Civil and Political Rights (ICCPR), 1966

Article 24 of the International Covenant on Civil and Political Rights, 1966, states that every child has the right to protection from family, society, and the State without any discrimination based on ethnicity, race, gender, language, religion, national or social origin or birth. Every child has the right to be registered immediately after birth and to acquire a nationality. Article 26 of the Covenant guarantees equal and effective protection against any discrimination carried out based on any kind of status.

### 2.1.3. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

Article 2 of the International Covenant on Economic, Social, and Cultural Rights, 1966, guarantees that there shall be no discrimination of any kind in the enjoyment of rights. Article 12 provides that each State Party or country shall ensure the right to the enjoyment of the highest attainable standard of physical and mental health. Likewise, it shall take measures to control, treat, and eradicate pandemics, epidemics, and occupational diseases. In the course of interpreting this article, the UN Committee, in its Recommendation No. 14[9]

[9] Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health (general comments) 2000 Aug 11; E/C.12/2000/4. Available at: http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En. [Ref list

on the Right to Health, has stated that each State Party should take immediate steps to fully guarantee the right to health without discrimination by the provisions of Article 2 on non-discrimination and that the State Party should take the necessary legislative, administrative, economic, judicial, promotional and other measures for the full realization of the right to health.

### 2.1.4. International initiatives related to HIV/AIDS

The United Nations Security Council has regarded the HIV/AIDS pandemic as a serious threat to the international security system. The 4172nd meeting of the United Nations Security Council on 17 July 2000 adopted Resolution No. 1308, identifying it as a serious obstacle to the international security system Similarly, in 2011, the 6547th meeting of the Council adopted Resolution No. 1983 (2011). This resolution recognizes HIV infection as a challenge to international peace and security.

The United Nations General Assembly adopted the Declaration on Commitment to HIV/AIDS, on 27 June 2001. This declaration recognized the HIV/AIDS epidemic as a global crisis and pointed out the need for global action. For this, it has pointed out the need for all governments, civil society, the business sector, civil society, and individuals to play their part in addressing the crisis. Recognizing that progress had not been made as per the Declaration, the General Assembly adopted the Strategic Declaration on HIV/AIDS in 2006 and 2011 to accelerate action towards that end.

In 2011, the United Nations General Assembly issued the Political Declaration on HIV/AIDS. The Declaration, which includes the target to end the HIV/AIDS epidemic by 2030, addresses social, economic, racial, and gender inequalities, discriminatory laws, policies, intersectional stigma, practices, and prevention of discrimination.[12] The United Nations Human Rights Council has prepared a report in 2022 measuring and reviewing the progress of the relevant declarations issued by the United Nations. Concluding that the progress in line with the Declaration of the General Assembly and the UNAIDS strategy has not been achieved and that the goal cannot be achieved in this way, the report has recommended effective action on various issues.

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[10] Para 30. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties' various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.

[11] Para 33 "……the obligation to fulfil requires States to adopt appropriate legislative, administrative budgetary, judicial, promotional and other measures towards the full realization of the right to health.

[12] UN A/RES/75/284 Implementation of the Declaration of Commitment on HIV/AIDS and the political declarations on HIV/AIDS | General Assembly of the United Nations

### 2.1.5. Sustainable Development Goals, 2030

Although Sustainable Development Goal 17 aims to significantly increase the availability of disaggregated data based on income, sex, age, ethnicity, disability, etc., the data about people living with HIV/AIDS based on communities such as women, indigenous nationalities, Dalit, Muslim, Madhesi is found to not have been updated. Sustainable Development Goal 3 sets the targets of good health and prosperous life. It aims to promote a healthy life for people of all ages and to promote a prosperous life. The third target of Goal 3 aims to end AIDS and other communicable diseases by 2030. Sustainable Development Goals no. 17 aims to significantly increase the availability of disaggregated data based on income, sex, age, ethnicity, disability, etc.

**Details of the Sustainable Development Goals and their targets related to the human rights of people living with HIV/AIDS**

**Table no. 2**

| Goal | Theme | Target |
|---|---|---|
| Goal 1 | End poverty in all its forms in every sector | 1.3. Nationally appropriate social protection systems, including those in crisis/vulnerable situations by 2030 |
| | | 1.4. By 2030, ensure equal rights to economic resources for all men and women, especially those in poor and vulnerable situations, and access to basic services. |
| Goal 2 | End hunger, ensure food security and improved nutrition | 2.1. By 2030, end hunger and ensure access to safe, nutritious and sufficient food for all, especially children, the poor and those in vulnerable situations, all year round. |
| Goal 3 | Ensure healthy life for people of all age group and promote a prosperous life | Ending the epidemics of AIDS, tuberculosis, malaria and other communicable diseases by 2030. |
| | | 3.7. Ensure access of all to sexual and reproductive health services by 2030, and integrate family planning information and education and reproductive health into national strategies and programmes. |
| | | 3.8. Achieve universal access to health services by expanding access to quality essential health services and essential medicines and vaccines at safe, effective, quality and affordable prices. |

| | | |
|---|---|---|
| Goal 10 | Reduce inequalities within and among countries | 10.3. Eliminate discriminatory laws, policies and practices and promote appropriate laws, policies and practices to ensure equal opportunities and reduce inequalities in outcomes. |
| Goal 11 | Make cities and human settlements inclusive, safe, resilient and sustainable | 11.1. Ensure access to safe housing for all by 2030 and upgrade slums |
| Goal 16 | Promote peaceful and inclusive societies for sustainable development, ensure access to justice for all and establish effective, accountable and inclusive institutions at all levels | 16.9. By 2030, provide birth registration and other legal identity for all |

## 2.2. National legal standards

### 2.2.1. The Constitution of Nepal

Article 18 of the Constitution of Nepal guarantees the fundamental right to equality to all citizens. Discrimination based on health status or any other ground is prohibited. The fundamental right to health provision of Article 35 of the Constitution establishes the right to emergency health care, the right to information, the right to equal access, and the right to access to clean drinking water and sanitation. Article 43 guarantees the fundamental right to social security for economically disadvantaged citizens.

Article 51 (h) of the Constitution of Nepal states that it shall be the policy of the state to invest in the public health sector, to make quality health services easy, accessible, and with equal access, to increase investment in the health sector, to make health services accessible and of quality, and to provide health insurance coverage. The 51 (j) also states that it shall be the policy of the state to give priority to the economically disadvantaged while providing social security and justice. It also explains that the state must make Nepal prosperous by protecting and promoting fundamental rights and human rights.

According to the Constitution of Nepal, the jurisdiction of the federal government includes health policy, health services, health standards, quality and monitoring, national or specialized service provider hospitals, traditional

treatment service, and infectious disease control. The jurisdiction of the provincial government includes health services. The jurisdiction of the local level includes basic health and sanitation.

**Fundamental rights directly related to HIV/AIDS.**

**Table No. 3**

| Article | Fundamental Rights and Duties | Major Provisions |
|---|---|---|
| 16 | The right to live with dignity | • Every person shall have the right to live with dignity. |
| 17 | Right to Freedom | • No person shall be deprived of personal freedom except in accordance with law. |
| | | • Freedom to form associations and organizations, |
| | | • Freedom to mobility and residence in any part of Nepal, |
| | | • Freedom to engage in any occupation, or employment and to establish and operate industry, trade and business in any part of Nepal. |
| 18 | Right to Equality | • 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 State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds; |
| | | • Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or development of the citizens including the socially or culturally backward women, Dalit, indigenous people, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless including others. |

| Article | Fundamental Rights and Duties | Major Provisions |
|---|---|---|
| 20. | Rights relating to Justice | • Any indigent party shall have the right to free legal aid in accordance with law. |
| 21. | Right of Crime Victims | • Victims of crime shall have the right to receive information regarding the investigation and proceedings of the case in which he or she is the victim; |
| | | • Right to Justice including social rehabilitation and compensation |
| 24 | Right against Untouchability and Discrimination | • Discrimination or exclusion of any kind on the basis of origin, caste, ethnicity, community, profession, business or physical condition in any private or public place shall be prohibited |
| 25. | Right to Property | • Every citizen has the right to acquire, use, sell, get commercial benefits and engage in other transactions of property subject to the law |
| 27 | Right to Information | • Citizens have the right to seek and receive information on any matter of their own or public concern |
| 28. | Right to Privacy | • Privacy of a person's body, home, property, documents, data, correspondence and character |
| 29. | Right against Exploitation | • Every person has the right against exploitation |
| | | • No exploitation on the basis of religion, custom, tradition, culture, practice or any other ground |
| | | • No forced labor against one's wish |
| 31. | Right to Education | • Access to basic education to every citizen |
| | | • Compulsory and free education up to the basic level and free education up to the secondary level from the state |
| 33. | Right to Employment | • Every citizen has the Right to employment |
| | | • To choose employment |
| 34. | Right to Labour | • Right to fair labour practices for workers |

| Article | Fundamental Rights and Duties | Major Provisions |
|---|---|---|
| 35. | Right to Health | • Every citizen shall receive basic health services free of cost from the state |
| | | • No one shall be deprived of emergency health services; citizens shall have equal access to health services |
| | | • To receive information regarding their health treatment |
| | | • Access to clean drinking water and sanitation |
| 36. | Right to Food | • Citizens shall have the right to food, |
| | | • To be protected from life threatening situation due to lack of food |
| | | • Right to food sovereignty in accordance with the law |
| 37. | Right to Housing | • No citizen shall be evicted or encroached upon from the house he or she owns except in accordance with the law |
| 38. | Rights of Women | • Every woman shall have equal rights to inheritance without gender-based discrimination, |
| | | • Right to safe motherhood and reproductive health, |
| | | • Right against physical, mental, sexual, psychological or any other form of violence or exploitation against women on the basis of religious, social, cultural traditions, customs or any other basis, |
| | | • Right to receive special opportunities on the basis of positive discrimination in Education, health, employment and social security, |
| | | • Equal rights of couples in property and family matters |
| 39 | Rights of Children | • Children have right to naming with own identity and birth registration, education, health, upbringing, proper care, sports, entertainment and all-round personality development from the family and the state. |
| | | • Right to early childhood development and child participation. |

| Article | Fundamental Rights and Duties | Major Provisions |
|---|---|---|
| 42. | Right to Social Justice | • Socially disadvantaged women, Dalits, indigenous nationalities, gender and sexual minorities, youth, farmers, workers, citizens from oppressed or underprivileged regions and economically disadvantaged Khas Aryas have the right to participation in state bodies on the basis of the principle of inclusion. |
| 43. | Right to Social Security | • Social security for economically disadvantaged, physically challenged and helpless people, helpless single women, people with disabilities, children, citizens who cannot take care of themselves and citizens of endangered castes. |

### 2.2.2. Public Health Service Act, 2018

The Public Health Service Act 2018 defines basic health services as promotional, preventive, diagnostic, curative, and rehabilitative services. It has provided that referral services can only be made if the health institution lacks the necessary infrastructure, equipment, or specialized services or if treatment cannot be provided for any other appropriate reason.

Section 12 of the Act provides that there should be no discrimination in medical treatment on any grounds such as sexual and gender identity, physical or health condition. Section 14 provides in the law itself to protect the confidentiality of information about the health condition, diagnosis, or treatment received by the service recipient. It states that the prevention, information, and treatment of infectious diseases shall be as prescribed by the Government of Nepal by the list of infectious diseases. Annex 1 of the Act also covers HIV/AIDS.

### 2.2.3. Infectious Diseases Act, 1964

Section 2 of the Infectious Diseases Act 1964 provides the federal government the authority to take necessary action and issue orders for the public in the case of any infectious disease throughout Nepal or in any part of it. It also provides authority to the provinces to take necessary action and issue orders to the public.

### 2.2.4. Criminal Code, 2017

Section 104 of the Criminal Code, 2017 provides for the prohibition of committing any act that spreads or is likely to spread infection. In addition, Section 105 provides for the prohibition of donating blood or making such a person

donate blood to transmit HIV or Hepatitis B, or of having sexual intercourse with anyone without taking any kind of precaution, or of transmitting own or such person's blood, semen, saliva, spit or any human organ into the body of another in any way.

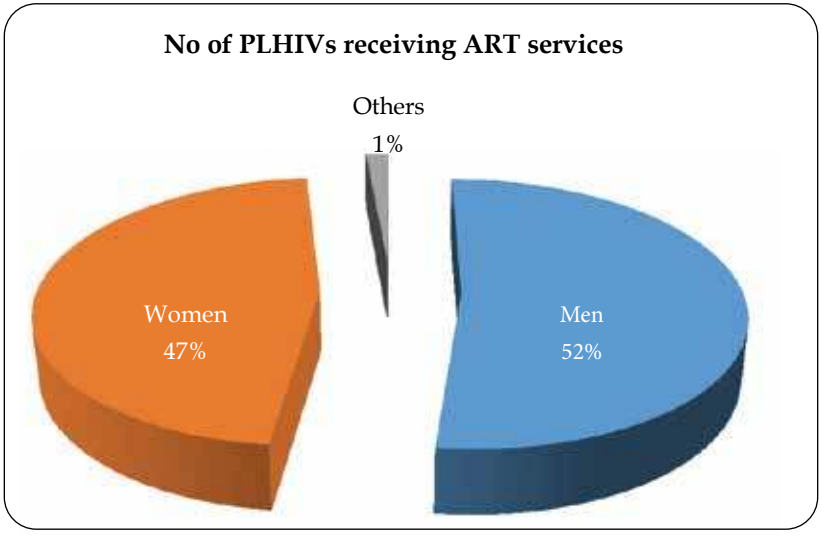
Section 106 of the same Act prohibits violating the rules, directives, or orders related to communicable diseases issued by the Government of Nepal, provincial government, local level, or authorized agency. Section 160 prohibits deliberate discrimination against citizens based on health status or any other grounds. It also provides that if a woman with HIV or a similar incurable disease consent to an abortion, then such abortion shall not be deemed an offense. Sub-section 6 of Section 219 of the Act also provides for additional punishment if someone commits rape after knowing of having HIV or a sexually transmitted disease.

# Chapter Three
# Facts and Information received from the Study/Monitoring

## 3.1. Details of people living with HIV/AIDS

### 3.1.1. Number of people living with HIV/AIDS

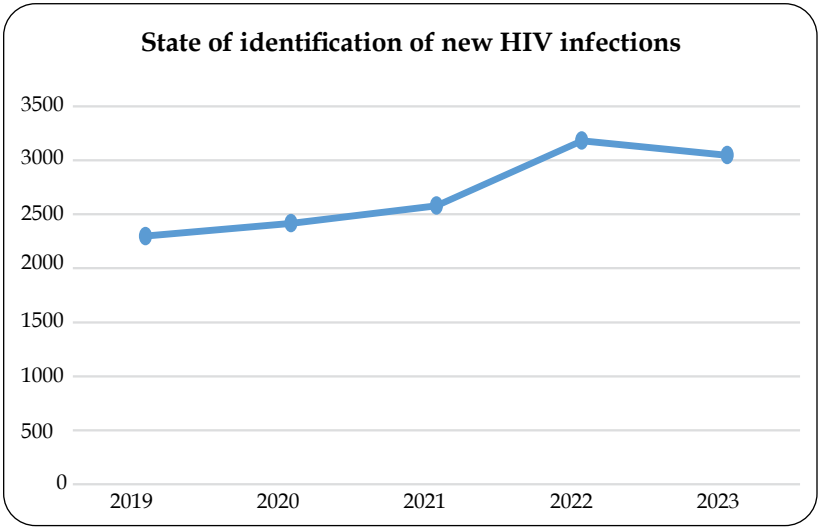
The number of people living with HIV/AIDS in Nepal at present is 27,745. Of them, 23,276 PLHIVs, including 12,065 men, 10,871 women, and 340 others, are taking Anti-retroviral Therapy (ART) services. Among those receiving ART services, 500 are boy children, and 416 are girl children.



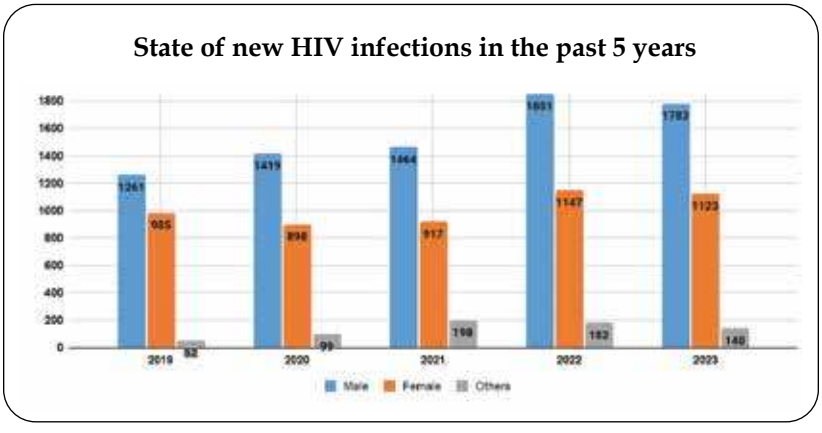

Arrangements have been made for an infected person receiving service from one ART center to be able to receive service from another center based on a transfer letter. It has been found that 4256 men, 3365 women, and 37 others have been transferred to receive service within Nepal. Such transfers are found to have been made from Nepal to India as well. A total of 586 men, 350 women, and 17 others have been transferred from Nepal to India for ART services.

### 3.1.2. Status of new HIV infections

Identification of new HIV infections is found to have been increasing over the past five years. In 2019, a total of 2298 cases were identified, while 3046 people were identified with HIV infection in 2023. The number of HIV cases, which had been continuously increasing from 2019 to 2022, is found to have decreased slightly in 2023. It was 3180 in 2022 and decreased to 3046 in 2023.

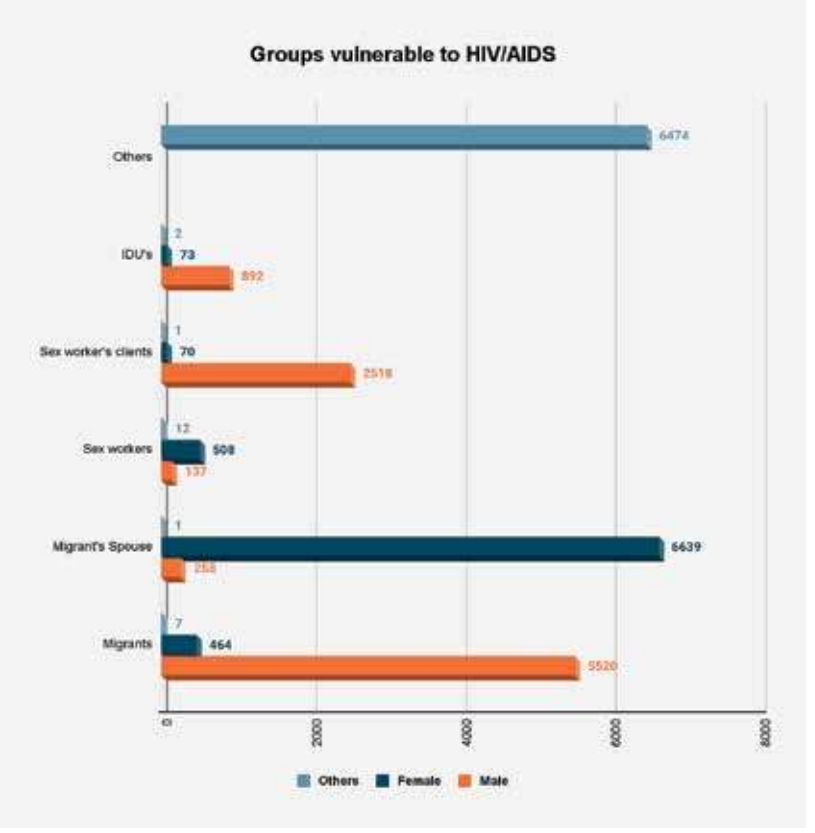



The identification of HIV cases is found to have increased among all groups of women, men, and sexual and gender minorities. In 2023, 1123 women, 1783 men, and 140 sexual and gender minorities were identified with HIV. Five years ago, in 2019, this number was 985 among women, 1261 among men, and 52 among sexual and gender minorities.[13]



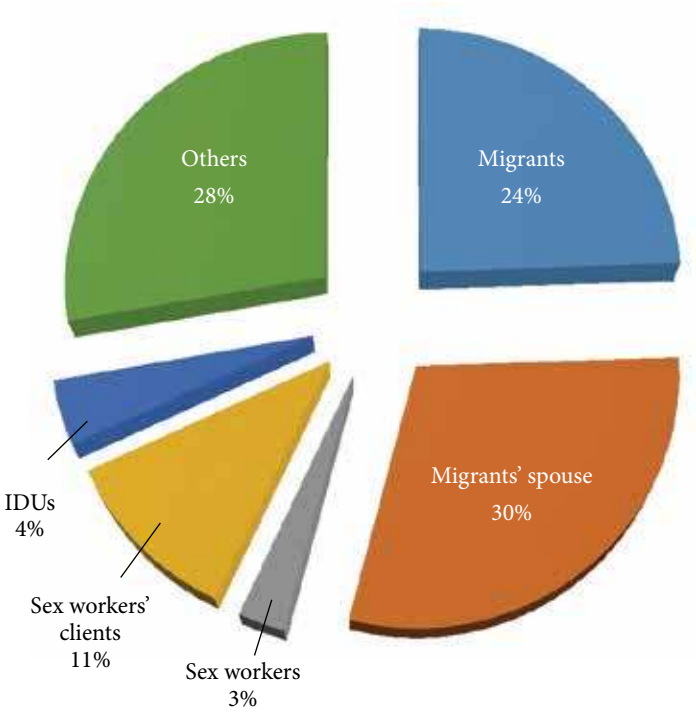

[13] According to information received from the National Centre for AIDS and STD Control on 16 June , 2024

### 3.1.3. Groups vulnerable to HIV/AIDS




Nepali migrant workers returning after employment in India and their families are found to be vulnerable to HIV infection. Among the migrant returnees, 5220 men, 464 women, and seven others were found to be receiving ART services. A total of 6898 migrant families, including 6639 women, 258 men, and one other, are found to be receiving ART services.

**Proportion of groups vulnerable to HIV/AIDS**




Altogether, 657 sex workers, including 508 women, 137 men, and 12 others, are also found to be receiving ART services. Likewise, 2589 clients of sex workers, including 2518 men, 70 women, and one other, are also found to be receiving ART services. Furthermore, 967 drug users, including 892 men, 73 women, and two others, are also receiving such services. Likewise, 1321 senior citizens are receiving ART services. However, the community of 6474 ART service users was not known. It was also found that people got infected by marrying an infected person without their knowledge.

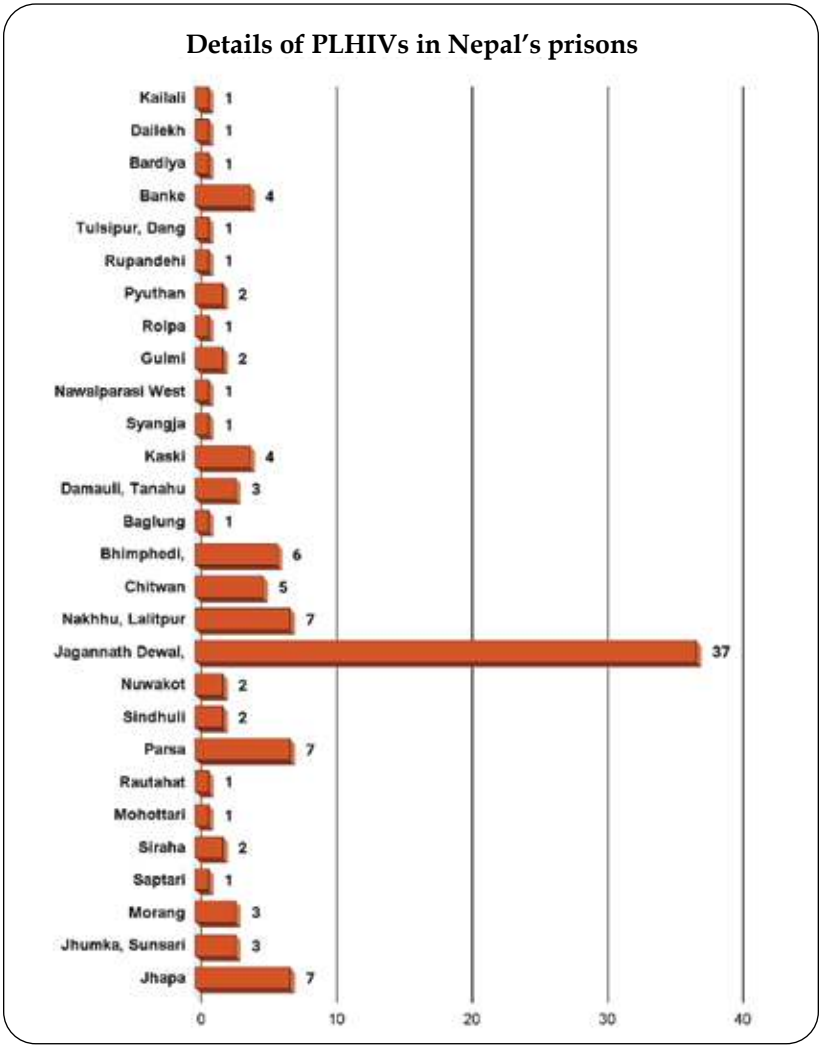
According to government data, 3085 people living with HIV/AIDS are not in contact with ART centers. However, an analysis of the total number of infected people, ART service users, and people transferred to India showed that 3516 people living with HIV/AIDS are not within the reach of the Nepal government's ART service. [14]

[14] According to information received from the National Centre for AIDS and STD Control on 2 August, 2024

Although Sustainable Development Goals no. 17 aims to increase the wide availability of disaggregated data based on income, sex, age, caste, disability, etc., the data of people living with HIV/AIDS based on communities such as women, indigenous nationalities, Dalits, Muslims, Madhesis is not updated. The updated data does not appear to be inter-sectional sensitive.

### 3.1.4. People living with HIV/AIDS in prisons

People living with HIV/AIDS were found in 29 prisons across Nepal. According to the data received from the Prison Management Department, 111



prisoners, including 97 men and 14 women, are infected with HIV/AIDS. The highest number of HIV-infected prisoners is 37, including 28 men and nine women in Jagannath Dewal Prison in Kathmandu. There are 7 PLHIVs in Jhapa, Parsa, and Nakkhu, Lalitpur prisons, and 6 in Bhimphedi. Makawanpur. 5 in Chitwan. 4 each in Kaski and Banke. Likewise, there 3 PLHIVs each in Jhumka, Sunsari, Morang, Tanahun, and Kanchanpur and two each in Siraha, Sindhuli, Nuwakot, and Pyuthan, and one each in Saptari, Mahottari, Rautahat, Baglung, Syangja, Nawalparasi West, Rolpa, Rupandehi, Tulsipur, Dang, Dailekh and Kailali.

Female prisoners infected with HIV/AIDS are in prisons in 5 districts. There are nine women prisoners in Jagannath Dewal and 11 in Bhimphedi, Makawanpur, Kaski, Syangja, Nawalparasi West, and Bardiya prison offices who were found to be infected with HIV/AIDS.[15]

**Details of PLHIVs in Nepal's prisons**

| S.No. | Name of Prison Office | Male | Female | Total |
|---|---|---|---|---|
| 1 | Jhapa | 7 | 0 | 7 |
| 2 | Jhumka, Sunsari | 3 | 0 | 3 |
| 3 | Morang | 3 | 0 | 3 |
| 4 | Saptari | 1 | 0 | 1 |
| 5 | Siraha | 2 | 0 | 2 |
| 6 | Mahottari | 1 | 0 | 1 |
| 7 | Rautahat | 1 | 0 | 1 |
| 8 | Parsa | 7 | 0 | 7 |
| 9 | Sindhuli | 2 | 0 | 2 |
| 10 | Nuwakot | 2 | 0 | 2 |
| 11 | Jagannathdewal, Kathmandu | 28 | 9 | 37 |
| 12 | Nakkhu, Lalitpur | 7 | 0 | 7 |
| 13 | Chitwan | 5 | 0 | 5 |
| 14 | Bhimphedi, Makawanpur | 5 | 1 | 6 |
| 15 | Baglung | 1 | 0 | 1 |
| 16 | Damauli, Tanahun | 3 | 0 | 3 |
| 17 | Kaski | 3 | 1 | 4 |
| 18 | Syangja | 0 | 1 | 1 |
| 19 | Nawalparasi West | 0 | 1 | 1 |
| 20 | Gulmi | 2 | 0 | 2 |

[15] According to information received from the Department of Prison Management on 8 August, 2024

| S.No. | Name of Prison Office | Male | Female | Total |
|---|---|---|---|---|
| 21 | Rolpa | 1 | 0 | 1 |
| 22 | Pyuthan | 2 | 0 | 2 |
| 23 | Rupandehi | 1 | 0 | 1 |
| 24 | Tulsipur, Dang | 1 | 0 | 1 |
| 25 | Banke | 4 | 0 | 4 |
| 26 | Bardiya | 0 | 1 | 1 |
| 27 | Dailekh | 1 | 0 | 1 |
| 28 | Kailali | 1 | 0 | 1 |
| 29 | Kanchanpur | 3 | 0 | 3 |
| | **Total** | **97** | **14** | **111** |

## 3.2. Human rights situation of people living with HIV/AIDS

### 3.2.1. Right to identity

The husband of an HIV-infected woman receiving services from Bayalypata Hospital in Achham died due to the infection, and since the husband's home address was not known, she could not get her citizenship certificate. As a result, her daughter, who is also HIV infected, has not been able to get a birth certificate.

The same situation has been found among the service recipients of Seti Provincial Hospital. Many were found to have been deprived of citizenship due to problems such as the inability to obtain citizenship due to the death of the husband, the father passing away, and the infected mother not having a citizenship certificate, with no relatives left, some going for getting a copy of citizenship certificate but denied even after going with a recommendation, and due to the lack of support of the family. The number of such PLHIVs in Nawalparasi (West) is more than 90. A PLHIV of Madhesh Province, who lost his parents due to the infection, has not been able to obtain a citizenship certificate despite various efforts and due procedures and hence has filed a petition for facilitation. It has been found that PLHIVs have not been able to obtain citizenship due to the lack of legal ground and evidence required for obtaining a citizenship certificate. It has been found that women, in particular, have not been able to obtain citizenship, and their children don't even have birth certificates. Those without citizenship face obstacles in medical treatment as they are unable to obtain health insurance.

Article 10 of the Constitution of Nepal provides that no Nepali citizen shall be deprived of the right to acquire citizenship, but it has been found this constitutional provision has not been guaranteed for PLHIVs who have lost their husband and parents to the infection. As a result of the lack of citizenship certificates, the

PLHIVs were found going through their daily lives with all kinds of problems related to birth registration, business, employment, health insurance, and the purchase of real estate. This has deprived them of exercising their human rights on many occasions.

Article 39 of the Constitution of Nepal does not seem to protect the fundamental right to birth registration in the case of children whose birth registration has not been able to take place. The International Covenant on Civil and Political Rights, 1966, has stipulated the obligation of the state to register every person immediately after her/her birth. According to Sustainable Development Goal No. 16, the target to provide birth registration and other legal identities to all by 2030 seems challenging to fully achieve.

### 3.2.2. Right against discrimination and stigma

Civil society organizations were found to have taken significant positive initiatives in controlling and reducing discrimination and stigma. The PLHIVs were found to have endured various types of stigma due to their HIV/AIDS infection (health condition). They are still facing stigmatization from the society and family members. A private school in Kapilvastu was found to have provided free education to children with HIV/AIDS. However, an infected female student shared that she had to face stigma from her classmates in a school in Achham. Another 18-year-old student from Achham also reported that she had to face discrimination from her classmates. It has been reported that health workers wrote HIV/AIDS in capital letters on the documents accompanying patients in hospitals, which has violated their confidentiality and has led to stigmatization from other health workers and visitors of other patients. A female school teacher in Gorkha lost her job due to stigma. A PLHIV in Kathmandu reported that he had to postpone the wedding of his daughter, who is not infected, after it became known that her parents were PLHIVs and thus faced social stigma. Section 160 of the Criminal Code, 2017 prohibits intentional discriminatory treatment of citizens based on their health status or any other grounds, but the fact that stigma still exists shows that promotional programs related to health are still missing.

In the Sudurpaschim Province, discrimination and stigma for revealing one's identity (of HIV infection) were found to be less to a larger extent. However, PLHIVs in Lumbini and Bagmati Provinces were found to have kept their identities secret due to the fear of facing discrimination and stigma.

**CASE STUDY-1**

My name is Priti (disguised name). I am a LGBTIQ+ person. I come from the Rupandehi district and am currently living in Bhairahawa. After I came to be known as an LGBTIQ+ person, my family kicked me out of the house when I was 11 years old. Since then, I have not been in contact with my family. I do not want to even remember them due to the violence they committed against me.

Now I am 27 years old. I have been taking ART services regularly for the past 7 years. I have been encouraging others to also take the service. I work as a stage dancer. I dance in festivals held in Butwal, Rupandehi, and Lumbini. I am paid between 20,000 to 35 rupees. With this earning, I have purchased a housing plot in Bhairahawa for 800,000 rupees. I have a dream of building a house there. However, due to a lack of a citizenship certificate, I have not been able to get a land ownership certificate. My father does not agree to help me get my citizenship certificate. The landlord who sold me the housing plot is known for my status and understands me well. But I am always in fear of losing my hard-earned asset.

### 3.2.3. Rights to Confidentiality

Government agencies, ART Centers, etc., have been found to protect the right to confidentiality of PLHIVs through a database system. In addition, those who want to keep their identity confidential are found to be fully enjoying their right to privacy. The majority of the PLHIVs in the Sudurpaschim Province are aware of their right to privacy, but they are living a normal public social life by revealing their infection status, realizing that keeping it secret has more disadvantages than advantages. However, PLHIVs in Kapilvastu have reported that health workers violate their privacy by writing HIV/AIDS in large letters on the documents accompanying the patients in the hospital. The PLHIVs who came in contact with the NHRC in Kathmandu have also complained about such conduct of the health workers.

It has been reported that a school teacher in Gorkha lost his job due to a breach of confidentiality. Section 14 of the Public Health Service Act, 2018 protects the confidentiality of information, including the health condition, diagnosis, or treatment received by the service recipient. However, one cannot still say that the privacy of PLHIVs is fully protected. The fact that stigma still exists confirms the lack of health promotion programs.

Most of the infected people in Kapilvastu, Rupandehi, and Nawalparasi West have kept their infection identity secret. Two infected women from the Muslim community in Kapilvastu have kept their identity secret even from their husbands due to fear of stigmatization.

### 3.2.4. Right to Health

All the ART centers monitored during the study were found to provide both therapeutic and psychosocial counseling services. The ART centers are also providing medication services even at the locations where the PLHIVs want. It was found that people entering Nepal from India were being tested for HIV/AIDS at the Nepal-India border checkpoint in Dhangadhi in Sudurpaschim Province. Despite the policy to conduct testing at the Belahiya Sunauli checkpoint in Lumbini Province, it was found that it has not materialized due to a lack of management.

The facilitators deployed by the organizations of PLHIVs were found checking on the regular medication intake and updating it regularly. However, it has been reported that the PLHIVs of Achham, Doti, and Dadeldhura are facing problems in getting regular medication due to the geographical distance of ART centers from their permanent residence. All the participants of the interview reported that the PLHIVs were receiving the medicines they needed on time. However, it was found that the PLHIVs were facing problems due to the geographical distance between the location of receiving the medicine and the permanent residence of the PLHIVs. The employees working at the ART Center of the District Public Health Offices shared that due to the poverty of the PLHIVs, the failure to meet the transportation and accommodation costs while traveling from a distance has also created obstacles in the regular consumption of medicine. A PLHIV from Godavari Municipality Ward No. 11, in Kailali District, also reported that lack of transportation expenses has created obstacles in the regular consumption of the medicine. It may be noted that Sustainable Development Goal 1 has set the target of ending all forms of poverty everywhere.

Two married women from Kapilvastu and some sex workers from Rupandehi were found to have missed taking the medicine regularly. In Kapilvastu, the local government hospital and the provincial hospital have refused to perform surgery in the course of medical treatment of the PLHIV, as reported by the organization of PLHIVs in Kapilvastu. It was reported that health workers make various excuses in the case of having to perform surgery during the medical treatment of the PLHIV. Section 160 of the Criminal Code, 2017 prohibits intentional discriminatory treatment of citizens based on health status or any other basis. Hence, the health workers in government service need to be made more responsible and oriented in the implementation of the fundamental right to health under Article 35 of the Constitution of Nepal.

It was found that the transfer (transfer out letter) has made it easier to obtain medicines from other centers as well. However, it was found that Nepali workers going to India with a transfer out letter were not able to easily obtain medicines from Indian health institutions, where the medicines are available. Since medi-

cines were not provided in India based on the certificate of Nepali health institutions, the consumption of medicines became irregular, and they had to return to Nepal to get medicines. It was reported that some people had to purchase them. Nepalis working in India were asked to provide an Aadhaar card, (proof of identity and proof of address for residents of India), PAN number, or ration card. On the contrary, it was found that arrangements were made to provide medicines to Indian citizens in Nepal's health institutions. To protect confidentiality, the staff of the ART Center in Kailali district was also found to have managed medicines for Indian citizens up to the Nepal-India border. The National HIV/AIDS Federation has complained that obstacles had to be faced by the National Centre for AIDS and STD Control at times in sending medicines from Nepal to countries other than India, citing procedural reasons. The officials of the NCASC, however, claim that the procedural delay cannot be called an obstacle.

**CASE STUDY 2**

My name is Ram Bahadur (name changed). I am a person living with HIV/AIDS. I have been advocating for the human rights of PLHIVs for the past 11 to 12 years through the organization of the PLHIVs. When I went for dental surgery at a hospital in Kathmandu, I had to face various excuses being made as a result of my infection. I faced denial of surgery because of my HIV status. I was found to purchase protective gear for the doctors and health workers involved in my surgery.

I am aware of many incidents similar to what I have faced. The PLHIV friends in districts have shared with me about it. They have informed me about problems such as breaching confidentiality by writing down HIV in capital letters on the hospital's patient card, referring for surgery elsewhere, forcing others to buy double protective gear and health equipment, and being removed from the job after the (HIV) status was revealed.

The provision of health insurance was found to have had a positive impact on the PLHIVs and their families. However, the situation of being excluded from the health insurance scheme for the PLHIVs who do not have legal documents such as birth registration and citizenship certificates and who have difficulty in obtaining them was seen in the sample study districts of Kailali, Kapilvastu and Nawalparasi West. The NHRC has received information through various sources that PLHIVs in all provinces are often deprived of the health insurance program due to a lack of legal documents.

It was found that there is a shortage of viral load reagents every year. The testing service was found to have also been halted due to the reagents going out of stock and the lack of updated viral load testing equipment.[16] It was

[16] According to communique made with the ART centre by the National Public Health Laboratory, Teku, Kathmandu, dated 30 April, 2024

reported that PLHIVs living in rural areas face obstacles in medical treatment because surgery, endoscopy, colonoscopy, and PMTCT services are available only in a limited number of hospitals. The problem of this equipment going out of order regularly has also hindered access to timely medical treatment.

Despite the target of ensuring access to basic services for all men and women, especially those living in poverty and in vulnerable situations, by 2030, PLHIVs in Achham and Kailali districts of Sudurpaschim Province will be deprived of regular access to medicines due to poverty. The target of achieving universal access to essential health services according to the Sustainable Development Goals seems challenging. As a result, the fundamental right to social security for economically disadvantaged citizens, as guaranteed by Article 43 of the Constitution of Nepal, cannot be regarded as fully realized.

### 3.2.5. Right to Education

The State has been carrying out various awareness-raising activities through the curriculum to control HIV/AIDS infection. During the study and monitoring, two students in Achham and one student in Kapilvastu reported in the course of the key informant interviews that they were stigmatized by their classmates. The students in Achham shared that the teacher warned the students who had been repeatedly stigmatizing them.

The school textbook for grade 7, Health, Physical and Creative Arts, pages 46 and 47, mentions the causes, symptoms, and prevention measures of the diseases transmitted through infected needles/blood and about HIV/AIDS. In the textbook, the mentioning of reasons for transmission as "when an infected pregnant woman gives birth" and the prevention measures as "an infected mother should not become pregnant" has, as complained by the PLHIVs, contributed to creating a negative perception about the reproductive rights of the PLHIVs.

| Grade | Subject | Misleading Information Reference |
|---|---|---|
| 7 | Health, Physical and Creative Arts (First Edition, 2079) pages 46 and 47 | • HIV/AIDS and AIDS (retrovirus) |
| | | • The patient has a long-term fever and loss of appetite, a chronic cough, and diarrhea. Weight loss, skin rashes, |
| | | • Infected mothers should not be pregnant1.[17] |

[17] http://lib.moecdc.gov.np/elibrary/pages/view.php?ref=9978&k=# Retrieved September 12, 2024.

| Grade | Subject | Misleading Information Reference |
|---|---|---|
| 8 | Health, Physical and Creative Arts (First Edition, 2079) 4 HIV and AIDS pages 29 and 30 | • HIV and AIDS have three stages: asymptomatic, HIV positive and AIDS..... In the end, the disease is incurable and even leads to death.<br>• Mode of transmission ..... (c) If an HIV-infected woman gives birth to a child<br>• Main symptoms<br>(a) Loss of more than 10 percent of body weight in a month<br>(b) Diarrhea that persists for three weeks or more<br>(c) Fever that persists for more than a month<br>(d) Janai Khatira or Shingles<br>• Prevention measures: Infected women should avoid pregnancy as much as possible."[18] |

**CASE STUDY-3**

My name is Sita Budha (name changed). I am 35 years old. For the past 10 years, I have been taking medicines from the ART center. My husband has already passed away. When I married, my husband used to work as a mason in Accham. We had been living in a rented room for the past 12 to 13 years. I heard that my husband was originally from Rolpa. I come from Dadeldhura. I also heard that both my parents have passed away. My husband's first wife has also died. I do not know the reason behind her death. The first wife had two sons. I have two sons and two daughters. All are infected.

I have a daughter with me, who is a Grade 5 student in school. She is also a service recipient of the ART center. I do not have a citizenship certificate. As a result, I have not been able to register the birth of my daughter. My daughter shares about the stigmatization she faces from her classmates in school. She also shares about complaining to the teacher about such students and taking action against them. I struggle to meet my daughters' education costs and room rent and manage two square meals daily. I feel that if I could get my daughter's birth certificate, then she would get a scholarship in school.

[18] http://lib.moecdc.gov.np/elibrary/pages/view.php?ref=824&k=# retrieved September 12, 2024.

The programs run by NGOs to provide monthly cash support to children living with HIV/AIDS were found to be encouraging. However, since the cash support is stopped after they complete the age of 18, they were found to be facing difficulty in continuing higher education. In addition, they also face obstacles in going abroad for studies. The role of NGOs working in the HIV sector was found to be effective in providing formal and informal education in areas such as prevention of infection and precautions to be taken in case of infection.

### 3.2.6. Right to Employment

The network of PLHIVs shared that a PLHIV working in a hotel in Dhangadhi, Kailali, faced this problem. However, the PLHIV did not wish to come in contact with the NHRC due to confidentiality concerns. It has been reported that employers are dismissing them from work after coming to know about their HIV/AIDS infection status. It was also found that employers are not hiring them after knowing the status of their infection. A teacher in Gorkha lost her job after the school management committee found out that she was a PLHIV. In this case, the NHRC tried to contact the victim, but she was reluctant, citing confidentiality reasons. In this case, the fundamental right to employment under Article 33 of the Constitution of Nepal has been violated. It was found that people who go to India for employment have also lost their jobs and returned to Nepal after their infection became evident or after their employers found out.

### 3.2.7. Rights of Women

A total of 10,871 women in Nepal are found receiving ART services. It was found during the monitoring that women are often infected by their husbands who have returned from employment in India. It was found that 6,639 women were infected by returnee migrant workers.[19] Women were found to have faced more stigma and discrimination due to social norms and values. Infected single women face additional complications in earning a living, seeking medical treatment, and raising their children. Women who have been deprived of citizenship due to a lack of legal evidence are facing more complications. In Achham and Kailali districts, infected women whose husbands died due to the infection have not been able to obtain citizenship. As a result, their children are also unable to obtain birth registration and citizenship certificates.

In Nawalparasi West, some women living with HIV/AIDS reported to have faced discrimination, stigma, and domestic violence from their family mem-

[19] According to information received from the National Centre for AIDS and STD Control on 2 August, 2024

bers. The trend of health institutions referring infected pregnant women for childbirth has been found to cause additional problems. The Taulihawa Hospital, Lumbini Provincial Hospital, and Bhairahawa Medical College were reported to have refused to provide a cesarean section to pregnant women and made excuses to refer them for delivery to a private hospital. The situation of women having to face such discrimination due to their health status and pregnancy shows that the fundamental right to equality under Article 18 of the Constitution of Nepal has not been effective. The aforementioned government hospitals cannot be considered to have been responsible for implementing the fundamental right to equal access to health services for every citizen under Article 35 (3) of the Constitution of Nepal. The government needs to play a more special and effective role in further guaranteeing the fundamental right of every woman to safe motherhood and reproductive health as per Article 38 (2) of the Constitution of Nepal for women living with HIV/AIDS.

## 3.3. Discriminatory provisions in the law

### 3.3.1. Transmission of infection from an HIV-infected person

Section 105 of the Civil Criminal Code, 2017, prohibits a person, knowing that he or she carries the human immunodeficiency virus (HIV) or hepatitis B virus or that of another person, from giving his or her blood or causing such a person to give blood or have sexual intercourse with anyone without taking any precautions or in any way transfer his or her or such person's blood, semen, saliva, spit or any human organ into the body of another person and stares that such an act shall be considered an offense if committed. In addition, it also provides that if such an offense is found to have been committed intentionally, the person concerned shall be liable to imprisonment for ten years and a fine up to one hundred thousand rupees, and if the transmission is due to negligence or carelessness, the person concerned shall be imprisoned for three years and fined up to 30,000 rupees. In addition, the proviso of this section provides that if the victim has knowingly had sexual contact with a person who has the immune deficiency virus or the hepatitis B virus, then the person who is carrying the virus shall not considered to have committed the offense under this section.

However, Section 104 of the same Code also states that if anyone commits an act to spread or is likely to spread infectious disease, the person who commits or causes to commit the offense shall be punished with imprisonment for up to ten years and a fine of one hundred thousand rupees if the act is committed intentionally or knowingly, imprisonment for five years and a fine of up to fifty thousand rupees if the act is committed carelessly, and imprisonment for three years and a fine of up to thirty thousand rupees if committed negligently.

Similarly, the provisions of Section 104 relating to infectious diseases also cover the subject of Section 105. Therefore, it is discriminatory to codify any specific disease or infection in the law. In such a sensitive matter like HIV, the provision that further stigmatizes and discriminates against the infected is unjust.

### 3.3.2. HIV-infected pregnant women allowed to get an abortion

Section 189 of the Civil Criminal Code, 2017, under the provisions related to abortion, provides that an abortion can be done with the consent of a woman who carries the immune-deficiency virus (HIV) or other incurable diseases of a similar nature.[20] But here, there is no need to make a particular mention of HIV as the purpose of the subsection could have been fulfilled only if it was mentioned in case of the presence of an incurable disease or infection in the body.

A similar provision is also found in Section 15 of the Safe Motherhood and Reproductive Health Rights Act, 2018. Under clause (d), there is a provision that says that an abortion can be performed up to twenty-eight weeks with the consent of a woman who carries an immune deficiency virus (HIV) or other incurable diseases of a similar nature.[21]

The special mention of the immune deficiency virus (HIV) is to increase the stigma against HIV-infected women. If the phrase immune deficiency virus (HIV) or other incurable diseases of a similar nature is removed and replaced with 'an abortion carried out with the consent of a woman who has an incurable disease or infection in her body,' then all diseases or infections will be covered.

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[20] Subsection (d) of section 189 of the Civil Criminal Code, 2017, provides that under provisions related to abortion that an abortion can be carried out with the consent of a woman who is carrying the immune deficiency virus (HIV) or other incurable diseases of a similar nature.

[21] Section 15 of the Safe Motherhood and Reproductive Health Rights Act 2018 ensures the right to a safe abortion: A pregnant woman has the right to a safe abortion in the following conditions: (a) Pregnancy up to twelve weeks with the consent of the pregnant woman, (b) Pregnancy up to twenty-eight weeks with the consent of the pregnant woman whose life would be at risk if the abortion is not performed, or could lead to physical and mental health impairment or could give birth to a child with disabilities, following receiving such opinion from a licensed doctor. (c) Pregnancy up to twenty-eight weeks with the consent of the pregnant woman who is pregnant after being raped or incest rape. (d) Pregnancy up to twenty-eight weeks, with the consent of a woman suffering from immune deficiency virus (HIV) or other incurable disease of a similar nature (e) Pregnancy up to twenty-eight weeks with the consent of the pregnant woman, as per the opinion of the medical personnel involved in the treatment that the fetus could be damaged inside the womb due to weaknesses, or would not survive even after birth, could lead to deformity in the fetus due to genetic complications or due to other reasons.

### 3.3.3. Rape committed by an HIV-infected person

Sub-section (6) of Section 219 of the Criminal Code contains the phrase "HIV positive." It is provided that if a person commits rape knowing that he/she is HIV-positive or has a sexually transmitted disease (STD), then such an offender will be liable to additional punishment, and that punishment discriminates between an HIV-infected and those with other sexually transmitted diseases.

- If the rape is committed knowing that he/she is HIV-positive, the punishment as per Section 105,

- If the rape is committed knowing that he/she has a sexually transmitted disease, the punishment is up to three years imprisonment and a fine of up to thirty thousand rupees.

Although there is no dispute over the fact that a person infected with HIV should be brought under the purview of criminal law if s/he intentionally transmits HIV to others, as there are hundreds of other infections or diseases that can also be transmitted to humans, it is not necessary to specifically target the infection as HIV positive and particularly target the human immunodeficiency virus (HIV positive) that has stigmatizes the community itself. This section can be amended as a general law to implement the same provision in cases where the infection is transmitted from a person who has any incurable chronic infection or disease.

Similarly, according to the provisions of this section, if another sexually transmitted disease turns out to be an incurable disease that leads to the death of the victim, then imprisonment for up to three years and a fine of up to thirty thousand rupees will be imposed.

### 3.3.4. HIV-specific stigmatizing provision related to marriage

Section 71 of the Civil Code 2017 provides that marriages should not be arranged by deception. Sub-section (2) of this provision of the section targets the HIV-infected and hepatitis-B-infected persons by stating that marriages should not be arranged by deception even after knowing that the person carries HIV or hepatitis B virus or a serious disease of a similar nature that is incurable[22] Sub-section (c) of this section also mentions leprosy patients. As

[22] Section 71: Not to marry, cause to marry: (1) Nobody should marry or solemnize a marriage with a man or women who is not in a condition to get married as per section 70. (2) Nobody should marry a person by tricking a person with any of the following conditions: (a) Carrying the Human immunodeficiency virus (HIV) or hepatitis B or incurable disease of similar nature (b) With no sexual organs, impotent or having been proven to be incapable of reproduction (c) Unable to completely speak or hear, totally blind or a leprosy patient, (d) not in a state of consciousness (e) already married (f) pregnant (g) Convicted and sentenced by the court for a crime of moral turpitude.

discussed, and analyzed above, when a law is made targeting a specific infection or disease, it creates a situation where the law itself discriminates against such a person or community. As a result, society and family also discriminate a community by specifically targeting infections, including HIV.

### 3.3.5. Named as fatal disease

The provision of Section 128 of the Civil Code 2017 is extremely objectionable in the current context. Sub-section (1) of the section provides that if one's children are infected with a life-threatening disease such as human immunodeficiency virus (HIV) or hepatitis B, the parents shall provide special supervision and protection to such children.[23]

Although the spirit of this law is to provide proper care to children infected or suffering from the disease, including HIV infection, which is now becoming more normal, in the law, as a fatal disease does not have a positive effect. It has stigmatized the community by calling HIV a disease and even a fatal disease. It has already been mentioned in the above examples regarding disease or infection, while even the reference to fatal disease has been refuted by current scientific facts.

The target of Sustainable Development Goals no. 10 is to ensure equal opportunities and reduce inequalities in outcomes by ending discriminatory laws, policies, and practices, and through the promotion of appropriate laws, policies, and practices, does seem to have been effectively realized for the people living with HIV/AIDS. As discriminatory language and terms in various laws are humiliating for them, they are found advocating for the need for a separate integrated law concerning them. There is a need for the state to carry out necessary amendments to the law through a review of discriminatory language and terminology in various laws or decide about the formulation of new laws concerning them with their participation and consultation.

## 3.4. Role of Local and Provincial Governments

Though the local level and provincial government bodies concerned, where the NHRC conducted on-site monitoring during the study, were found to allocate a general budget for people living with HIV/AIDS, their performance was not significant in terms of updating their data, treatment, raising public awareness, ensuring livelihood, etc. The role of both local and provincial

[23] Section 128: Special care should be taken: (1) If any child is physically or mentally challenged or disabled or if he/she is infected with a deadly disease such as Humanimmune Deficiency Virus (HIV) or hepatitis B, the parents should keep a special monitoring over such children and provide them with special facilities and protection.

Explanation: For the purpose of this paragraph, "Physically or mentally challenged" means a person who is physically or mentally unable or incapable to perform daily routines by him/herself.

governments in controlling the rate of HIV/AIDS infection was found to be weak. Some local-level health units did not have any data on the PLHIVs at their local level. There has been no effective coordination between the federal, provincial, and local governments in the national and international measures to control HIV/AIDS.

There have been initiatives by provincial governments to formulate policies and laws regarding health services, and some local needs have been reflected in the policies and laws at the provincial level. Accordingly, while formulating health policies, almost all provinces have included the provisions in the federal health policy as well as the specific needs of their provinces.

## 3.5. Initiatives of Stakeholder Organizations

The people living with HIV/AIDS are found to be taking their initiatives to protect and promote their human rights. They have been organized at the local level and are taking initiatives for collective interest. With the support of development partner organizations such as Save the Children and FHI 360, therapeutic, prevention, and promotional programs targeting people living with HIV/AIDS were found to be effective.

National HIV and AIDS Federation Nepal, the National Federation of HIV-infected Women, and other stakeholder organizations are contributing to the protection and promotion of the human rights of citizens living with HIV/AIDS. These organizations are advocating for raising awareness for the human rights of PLHIVs, amendment of laws with discriminatory language and provisions, and dedicated legal provisions for them.

# Chapter-Four
# Conclusion and Recommendation

## 4.1. Conclusion

There are currently 27,745 people living with HIV/AIDS in Nepal. According to the data received from the Department of Prison Management, 111 prisoners with HIV/AIDS infected, including 97 men and 14 women, are serving sentences in Nepal's 29 prisons. A total of 23,276 people living with HIV/AIDS, including 12,065 men, 10,871 women, and 340 LQBTIQ+, are receiving Anti-Retroviral Therapy (ART) services. Among those receiving ART services, 500 are boy children and 416 girls' children. A total of 753 HIV/AIDS-infected people, including 586 men, 350 women, and 17 others, have been transferred from Nepal to India for ART services.[24] The Government of Nepal's strategic plan is to identify 95 percent of the estimated PLHIVs by 2026, provide treatment to 95 percent of those confirmed HIV positive, achieve viral load suppression in 95 percent of those receiving ART services and reduce new HIV infections by 90 percent is under its goals.

ART centers are providing both therapeutic and counseling services. The ART centers also provide medication services even at the desired location of the infected. All the people who took part in the interview have shared that PLHIVs receive the medication they need on time. Regarding regular medication intake, the facilitators deployed by organizations of PLHIVs are regularly updated about it. People entering Nepal from India are being tested for HIV at the Nepal-India border points. People who go for employment in India are found to be the most vulnerable to HIV/AIDS. The wives of those who have returned from employment in India, their family members, and people involved in sex work as a profession are also highly vulnerable.

Government agencies, ART Centers, etc., are found to be protecting the right to confidentiality of the PLHIVs through a database system. Community-based organizations have taken significant positive initiatives in controlling and reducing discrimination and stigmatization.

National HIV and AIDS Federation Nepal, the National Federation of Women Living with HIV/AIDS, and related stakeholder organizations are contributing to the protection and promotion of the human rights of PLHIVs. The state should make necessary amendments to the law following a review of discriminatory language and terminology in various laws or formulate new laws concerning the PLHIVs with their participation and consultation.

[24] According to information received from the National Centre for AIDS and STD Control on 2 August, 2024

Despite the aforementioned positive aspects mentioned, the human rights of PLHIVs are not found to have been fully guaranteed. Government data shows that 3,716 PLHIVs still do not have access to ART services. The goal of eliminating HIV / AIDS infection by 2030 looks challenging. The majority of the citizens living with HIV/AIDS are found to be poor. It was found in the districts of the Sudurpaschim Province that health workers were making various excuses to avoid surgery on the PLHIVs, and many were unable to continue regular medication due to poverty. This situation shows that the final target of ensuring access to basic services for all men and women, especially those living in poverty and vulnerable situations, by 2030 has not been effectively implemented. Therefore, in the case of citizens living with HIV/AIDS, the fundamental right to social security for economically disadvantaged citizens, as ensured by Article 43 of the Constitution of Nepal, is yet to be fully guaranteed.

Since it has been that the wives of men who return from employment in India are more infected, the health condition of the wives of the men who come back infected is not secured. The instances of having to lose employment due to breach of confidentiality and health workers themselves showing insensitivity towards confidentiality show that the provision protected in the law, such as Section 14 of the Public Health Service Act, 2018, which requires the health status, diagnosis, or treatment received by the service recipient to be kept confidential, has not been effectively implemented. The fact that people are still being stigmatized because of their infection indicates that there is still a lack of health promotion programs.

The PLHIVs who have lost their husbands and parents to HIV/AIDS infection are facing practical problems in acquiring citizenship, due to which they are deprived of citizenship certificate and are hence being deprived of minimum enjoyment of human rights such as birth registration, running business, employment, health insurance, and purchase of real estate. As a result, Article 10 of the Constitution of Nepal, which ensures that no Nepali citizen shall be deprived of the right to acquire citizenship, has not been guaranteed.

The role of both local and provincial levels in controlling the rate of HIV/AIDS infection is found to be weak. It is reasonable for provincial and local governments to work by formulating their integrated strategies to achieve the target by 2030 per the Sustainable Development Goals. There is a need for effective coordination between the federal government, provincial governments, and local levels through methods or mechanisms in the national and international measures to control HIV/AIDS.

## 4.2. Recommendations

### (a) Federal Government

1. Update and cause to be updated regularly on the availability and adequacy of HIV testing kits, reagents, viral load testing equipment/technology, etc.

2. Update the data of Nepali workers going for employment in India and make the work of HIV testing at the Nepal-India border checkpoint more effective. In addition, take diplomatic initiatives to provide free treatment, including medicines, to Nepali migrant workers living with HIV/AIDS in India.

3. Review and amend federal laws that are inconsistence with the human rights standards in consultation with the PLHIVs themselves or to introduce new laws as required.

4. Formulate an integrated policy in coordination with the local level and provincial governments to work to put an end to the situation of dependence on development partners for the human rights of PLHIVs, to update the data, and for treatment, livelihood, social security, employment, etc.

5. Update the intersectional disaggregated data of PLHIVs, including vulnerable groups based on gender, caste, community, province, district, and local level.

6. Maintain confidentiality in ART centers based in hospitals under the federal government, provide for safety, hygiene, adequate permanent human resources and incentives, adequate medicines, etc.

### (b) Provincial Government

1. Implement programs for the human rights of PLHIVs (treatment, public awareness, livelihood, income generation, employment, etc.) in the policies, plans, budget, and programs of the provincial government.

2. Maintain confidentiality in ART centers in hospitals under the provincial government, provide for safety, clean hygiene, adequate permanent human resources and incentives, adequate medicines, etc.

### (c) Local level

1. Implement programs related to the human rights of PLHIVs, including increasing public awareness, livelihood, income generation, employment, counseling, etc., in the local government's policy, plans, budget, and program.

2. Update the inter-sectional disaggregated data of PLHIVs at their local level.

3. Review the reading materials of textbooks and avoid the use of discriminatory language related to HIV/AIDS.

**(d) Federal government, provincial government, and local level**

1. Orient subordinate health workers on human rights-based approach and human rights due diligence.

2. Immediately identify PLHIVs who are out of reach of the ART services and ensure their access to the services.

**(e) Civil society organizations and development partners**

1. Support the government at all three levels in identifying the PLHIVs and ensuring their access to health services.

2. Give continuity and expand the support in participation of PLHIVs in helping fulfill the national and international commitments of the governments at all three levels.

# Annex 1: Study and Monitoring Checklist

**National Human Rights Commission of Nepal**
**Pulchowk, Lalitpur, Nepal**

## (a) Introductory Section

**1. Your Name**

**2. Nationality**

**3. Your Age**

**4. Occupation:**

Number of members in the family

| Female | Male | Other |
|---|---|---|
| | | |

**5. Sex**

☐ Female

☐ Male

☐ Others

**6. Caste**

☐ Brahmin

☐ Kshetri

☐ Indigenous

☐ Tharu

☐ Madheshi

☐ Muslim

☐ Dalit

☐ Others

**7. Permanent residence**

Province:.....

District: .....

Rural Municipality/Municipality:.....

Ward No.:..... .....

**8. Temporary/current residence**

Province: .....

District: .....

Rural Municipality/Municipality: .....

Ward No.:.....

**9. Academic Qualification**

☐ Able to read and write

☐ General ability to read and write

☐ Basic level

☐ Secondary level

☐ Graduate level

☐ Postgraduate level

### (b) Knowledge Section

**10. Have you received sensitization and information related to HIV/AIDS?**

☐ Yes ☐ No

**11. Do you know how HIV/AIDS infection is transmitted?**

☐ Yes ☐ No

**12. Have you ever been confirmed positive for the infection?**

**13. Do you know how you were infected?**

**14. How long have you been on medication?**

**15. Who else in your family is on medication?**

**16. Do you have easy access to the medicine for a (PLHIV)?**

☐ Yes ☐ No

**17. Do you receive the medicine (for PLHIV) on time?**

☐ Yes ☐ No

**18. Do you have sufficient medicine?**

☐ Yes ☐ No

**19. In which country did you get infected?**

☐ Nepal ☐ India ☐ Other countries

**20. Has any of your relatives (PLHIV) gone abroad for employment or any other work?**

☐ Yes ☐ No

**20. (a) If yes, then how do they get the medicine?**

☐ They take it from Nepal.

☐ They get it in the destination country.

**21. Have you lost your job after getting infected?**

☐ Yes ☐ No

22. Are you aware of your right to confidentiality?

☐ Yes ☐ No

23. If yes, then has your right to confidentiality been violated?

☐ Yes ☐ No

24. Have you faced or witnessed any kind of discrimination?

☐ Yes ☐ No

25. If "Yes," what kind of discrimination have you faced or witnessed?

☐ For being a person living with HIV/AIDS

☐ For being a family member of a person living with HIV/AIDS

☐ Gender-based discrimination

☐ Caste-based discrimination

☐ For being a neighbor/relative/friend of a PLHIV

☐ Discrimination on any other grounds

☐ Hatred/disrespect

**26. Have you faced any discrimination within your family for being infected?**

☐ Yes ☐ No

**27. Have the PLHIVs, children, or families faced any discrimination in academic institutions?**

☐ Yes ☐ No

**28. If yes, what kind of discrimination? Where? Please provide details.**

**29. Have you encountered any discriminatory language or presentation in HIV/AIDS awareness information?**

☐ Yes ☐ No

**30. If yes, what medium was it?**

**31. Did you register a complaint after you were discriminated against or after you came to know about it?**

☐ Did not do anything

☐ Local level

☐ Police

☐ Non-governmental organization

☐ National Human Rights Commission

☐ Judicial body

☐ Other

**32. Did you exercise your right to vote in local, provincial, and federal elections?**

☐ Yes ☐ No

**33. Are you affiliated with any political party or social organization?**

☐ Yes ☐ No

**34. Do you know if the local level government where you live has been running any programs or given priority to people living with HIV/AIDS?**

☐ Yes ☐ No

**35. If yes, please provide information about the program.**

**36. Have you received social security?**

☐ Social security allowance

☐ Health insurance

**37. What are the agencies and organizations working for the welfare of PLHIVs and their families in your location?**

**38. Do you have any suggestions that need to be made for the welfare and interest of people living with HIV/AIDS and their families?**

### Questionnaire for Health-Related Offices/Local Levels/Local Administration

1. Your Name

……

2. Name of your office

……

3. Location of office

……

Province:... .....

District:.. .....

Rural Municipality/Municipality:.....

Ward No:..... ..... ...

**4. What is the data of PLHIVs in your office/municipality?**

| Male | Female | Children | Others | Total |
|---|---|---|---|---|
| | | | | |

**5. How many HIV/AIDS-infected people are using medicine in your office/municipality?**

| Male | Female | Children | Others | Total |
|---|---|---|---|---|
| | | | | |

**6. What are the activities that have been carried out by your office/municipality related to PLHIVs?**

**7. What plans/programs/budgets are there for PLHIVs and their families in your office/municipality?**

**8. What are the agencies and organizations active for the welfare of PLHIVs and their families in your office/municipality?**

**9. Have the PLHIVs filed any complaint, appeal, or application for their welfare and interest in your office/municipality. If yes, how have you addressed them?**

**10. What are the problems that you are facing at the policy level to work in the interest of people living with AIDS and their families? What are the possible solutions to those problems?**

## Annex 2: Study/Monitoring Team

| S.N. | Districts | Date | Monitoring Team | Remarks |
|---|---|---|---|---|
| 1 | Achham, Doti, Dadeldhura and Kailali | 29 March to 2 April, 2023 | Secretary Murari Prasad Kharel, Under Secretary Buddha Narayan Sahni Kewat, Under Secretary Hari Prasad Gyawali, Human Rights Officer Kiran Kumar Baram and SPSP Program Officer Poonam Thapaliya | Monitoring |
| 2 | Kailali | 26 – 27 September, 2023 | H'ble Manoj Duwadi, Under Secretary Jhankar Bahadur Rawal, Human Rights Officer Runa Maharjan and SPSP Program Officer Poonam Thapaliya | Consultation |
| 3 | Surkhet | 29 – 30 September, 2023 | H'ble Manoj Dawadi, Under-Secretary Jhankar Bahadur Rawal, Human Rights Officer Runa Maharjan and SPSP Program Officer Poonam Thapaliya | Consultation |

| | | | | |
|---|---|---|---|---|
| 4 | Kapilvastu, Rupandehi and Nawalparasi West | 5 – 8 April, 2023 | Acting Secretary Murari Prasad Kharel, Under-Secretary Buddha Narayan Sahni Kewat, Human Rights Officer Kiran Kumar Baram and SPSP Program Officer Poonam Thapaliya | Monitoring |
| 5 | Banke | 2 October, 2023 | H'ble Manoj Dawadi, Under-Secretary Jhankar Bahadur Rawal, Human Rights Officer Runa Maharjan and SPSP Program Officer Poonam Thapaliya | Consultation |
| 6 | Kavrepalanchok, Makawanpur and Chitwan | 6-10 June, 2023 | Joint Secretary Yagya Prasad Adhikari, Under-Secretary Buddha Narayan Sahni Kewat and SPSP Program Officer Poonam Thapaliya | Monitoring |

## Annex 3: Press Statement

राष्ट्रिय मानव अधिकार आयोग
National Human Rights Commission, Nepal
केन्द्रीय कार्यालय Central Office
हरिहर भवन, पुल्चोक, ललितपुर, Harihar Bhawan, Pulchowk, Lalitpur, Nepal

**1 December, 2023**
**Ensure Protection of Human Rights of People Living with HIV/AIDS**
**Context: International AIDs Day (December 1)**

December 1 has been observed every year since 1988 as International AIDS Day since HIV infection was diagnosed in the world in 1981, and this year, the Day was also observed in Nepal under the slogan 'Let Communities Lead.' On this occasion, the National Human Rights Commission of Nepal (NHRCN) would like to extend its best wishes to all.

The NHRCN has been continuously monitoring the situation of human rights of People Living with HIV/AIDS (PLHIV). In the course of the latest monitoring, the NHRCN acquired information from the PLHIVs and the stakeholders in Sudurpaschim, Karnali, Lumbini, and Bagmati provinces. The major groups vulnerable to HIV in Nepal are injecting drug users, men having sex with men, transgender persons, male sex workers, female sex workers, migrant male workers, and their families. According to the UN AIDS Report, 2022 and the National Centre for AIDS and STD Control, the number of People Living with HIV/AIDS in Nepal was 30,000 by the end of 2022. This includes 1200 children below the age of 14, 13,000 women, and 16,000 men above 15 years. The rate of HIV infection in the adult population is 0.11 percent. There are a total of 111 inmates, including 97 men and 14 women, in 29 prisons across Nepal that are living with HIV/AIDS. The AIDS-induced annual mortality rate is less than 500, with an annual mortality of less than 100 in women and less than 500 in men.

The National HIV/AIDS Strategic Plan has adopted a 95/95/95 policy until 2026, which targets to achieve by 2022 the first 95 percent target in the progress of those who would have known about their infection, the second 95 percent target of the 23,362 who are taking regular treatment service at the ART centers, i.e., 75 percent, and third 95 percent target of viral load suppresses in 22,627 persons, i.e., 75 percent. Though the progress seen in the first 95 is satisfactory, the progress percentage of the second and third 95 does not give any reliable ground to be assured of the target being achieved in the remaining four years. The PLHIVs have been facing social discrimination, stigmatization, and degrading treatment; some ART centers are set up in inappropriate locations, there is a lack of easy access due to geographical distance, the right to confidentiality has not been fully guaranteed, some PLHIVs under ART treatment service are not regular in the treatment, the PLHIVs often face stigmatization from the health workers, referrals are made without adequate ground. In this context, the Federal Government, Provincial Government, and Local Governments are found lacking effective coordination among themselves.

As a result, to achieve the target of eliminating AIDS by 2030 as per the UN Declaration on HIV/AIDS, 2001, the political declarations, Global HIV/AIDS Strategy 2021-26, Sustainable Development Goals, National Policy and Strategy, and realizing the need for moving ahead in a fast-track manner in order to effectively respect, protection and promote human rights of the PLHIVs, the NHRCN requests all concerned to work for their identity, testing, treatment, data updating, public awareness, linking those outside of ART treatment to regular service, make the treatment service effective, the federal government as well as the province and local level to effective raise public awareness, all tiers ensure representative participation while developing their plans and programmes, provide for employment to the PLHIVs, implement skills oriented and income-generating programme, and to the private and business sector, and civil society as well to play the role for the protection of the rights of PLHIVs.

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Joint Secretary/Spokesperson

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## Annex 4 : Photos

Consultation program on the situation of human rights of PLHIVs organized by the National Human Rights Commission of Nepal. Hon. Chairperson and Members of the National Women's Commission and the National Dalit Commission, Honorable Members of the NHRCN, Employees and Stakeholders.

Consultation program on the situation of human rights of PLHIVs organized by the National Human Rights Commission of Nepal.

Participants of the consultation program held in Surkhet, the capital of Karnali Province, organized by the National Human Rights Commission of Nepal, on the situation of human rights of PLHIVs

Participants of the consultation program held in Kavrepalanchok district, organized by the National Human Rights Commission of Nepal, on the situation of human rights of PLHIVs

Focus group discussion held in Achham district on the situation of human rights of PLHIVs

Key Informant Interview on the situation of human rights of PLHIVs


Monitoring of ART center of Kapilvastu on the situation of human rights of PLHIVs

Discussion with the Chief District Officer of Kapilvastu District on the situation of human rights of PLHIVs

Monitoring of Health Institutions in the Nepal-India Border Area on the situation of human rights of PLHIVs

NHRCN monitoring team at the Health Directorate of the Government of Sudurpaschim on the situation of human rights of PLHIVs

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Nepal's Fifteenth Plan
National HIV Strategic Plan (2021-2026)
Nepal Health Sector Strategic Plan (FY 2079/80–FY 2087/88)

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