
Children's Perspectives on Violence and Discrimination against Girls in Nepal

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Abstract

Violence against girls is a global problem with grave implications for girls and society at large. This paper details findings from field research that employed a child rights-based approach¹ to explore Nepali children's and young people's views about violence and discrimination against girls. This research shows that in Nepal, violence and discrimination against girls encompass a wide range of harmful behaviours and treatment, including physical, sexual and emotional abuse, exploitation, menstrual discrimination, neglect, preferential treatment of boys and exposure to violence in the home. Participants expressed their views about endemic and structural discrimination against Nepali girls, and the prevalence and impact of men's violence toward girls in Nepal, particularly in public places such as the community and on the streets. This research demonstrates children's and young people's comprehensive understandings of violence and discrimination against girls in their community, their knowledge about laws that deem this unlawful and their views about the widespread non-enforcement of these laws. The findings presented in this paper suggest that engaging children and young people in governmental efforts to combat violence and discrimination against girls presents a promising, yet often overlooked, opportunity to enhance girls' citizenship rights.

Introduction

Ending violence and discrimination against women and girls is a key global challenge facing the world today. Violence is one of the most significant barriers to girls' citizenship and the realisation of substantive equality. Violence jeopardises girls' life prospects and health, preventing the realisation of girls' rights under the *Convention on the Rights of the Child* (CRC) and the *Convention on the Elimination of All Forms of Discrimination Against Women*

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¹ Holly Doel-Mackaway, *Indigenous Children's Right to Participate in Law and Policy Development* (Routledge, 2022) 6; Laura Lundy and Lesley McEvoy, 'Children's Rights and Research Processes: Assisting Children to (In)Formed Views' (2012) 19(1) *Childhood* 129.

(CEDAW).² The effect of violence is described as a 'global pandemic' impacting one in three women during their lifetime.³ Violence against females, in all its forms and throughout every aspect of life, creates uneven, unequal and 'gendered citizenship'⁴ and is both a criminal justice problem and a public health threat given its high prevalence and the multiple and severe health consequences.⁵ The Sustainable Development Goals include a specific target to 'eliminate all forms of violence against all women and girls in the public and private spheres'⁶ and the mandate on governments to take steps to eliminate violence against females is being 'increasingly recognised as a priority for the international community'.⁷ Barrow and Chia note that 'gender-based violence occurs in all societies irrespective of the level of development or cultural setting, whether in conflict or peacetime'.⁸ However, they identify that 'the challenges for legal responses to gender-based violence are particularly acute in Asia',⁹ including in Nepal and other post-conflict states, where women and girls experience a 'continuum of violence' during and after armed conflict.¹⁰

Countless legislative and policy measures have been implemented globally to combat violence against women and children with varying degrees of success.¹¹ However, very little attention has been given to how children and young people themselves can collaborate with

² Mary Ellsberg, Diana Arango, Matthew Morton, Floriza Gennari, Sveinung Kiplesund, M Manuel Contreras and Charlotte Watts, 'Prevention of Violence against Women and Girls: What Does the Evidence Say?' (2015) 385(9977) *The Lancet* 1555; *Convention on the Rights of the Child*, 44 UNTS 25 (entered into force 2 September 1990) ('CRC'); *Convention on the Elimination of All Forms of Discrimination Against Women ('CEDAW')*, A/RES/34/180 (entered into force 3 September 1981). Nepal ratified the CRC in 1990 and CEDAW without reservation in 1991.

³ World Bank, 'Gender-Based Violence (Violence Against Women and Girls)', *World Bank* (2019) <https://www.worldbank.org/en/topic/socialsustainability/brief/violence-against-women-and-girls>.

⁴ Natasha Behl, *Gendered Citizenship: Understanding Gendered Violence in Democratic India* (Oxford University Press, 2019).

⁵ Nobuhle Judy Dlamini, 'Gender-Based Violence, Twin Pandemic to COVID-19' (2021) 47(4–5) *Critical Sociology* 583.

⁶ Goal 5: Achieve Gender Equality and Empower all Women and Girls, United Nations, 'United Nations: Gender Equality and Women's Empowerment', *United Nations Sustainable Development Goals* <https://www.un.org/sustainabledevelopment/gender-equality/>.

⁷ Jeni Klugman, *Gender Based Violence and the Law* (World Bank, 2017) 1 <https://openknowledge.worldbank.org/handle/10986/26198>.

⁸ Amy Barrow and Joy L Chia (eds), *Gender, Violence and the State in Asia* (Routledge, 2016) 1.

⁹ Ibid.

¹⁰ Ibid 6.

¹¹ Celeste Montoya, 'International Initiative and Domestic Reforms: European Union Efforts to Combat Violence against Women' (2009) 5(3) *Politics & Gender* 325; UN Women, 'Flagship Programming Initiatives 2015' https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Executive%20Board/2016/1st%20Regular%20Session%202016/flagships_programmes_booklet_final.pdf.

governments in the design of legislative and policy measures to eliminate such violence. Article 1 of the CRC defines a child as any human being below the age of 18 years, and Article 12 requires governments to engage children in decision-making processes that will affect them — this includes involving children in law and policy-making processes to end violence.

This research is concerned with the advancement of children’s rights to participate in decision-making about matters affecting them, particularly children’s rights to freedom from violence and discrimination. The research sought to capture learning from children’s knowledge and insights about violence and discrimination against girls through the engagement of children and young people in participatory research. The insights provided by young participants add to current knowledge about violence against children in Nepal and could inform governmental and civil society law and policy-making about how to end violence against girls in Nepal.

Children’s status as full citizens is often contested, and sometimes denied.¹² This study contributes to the body of scholarship that explores ways to advance children’s citizenship rights through participatory processes. Since the CRC was adopted 35 years ago, now with near-universal ratification, there has been a significant increase in global recognition of children’s rights, including a growth in understanding about, and increased efforts to fulfil, the participatory rights it contains. This has contributed to the development of children’s citizenship rights as children’s participation is considered ‘part of democratic development where individuals and groups who have been (and in many respects still are) marginalised on the basis of class, gender, ethnicity, race and age struggle for recognition of their rights to participate as full citizens’.¹³

¹² Hanne Warming, ‘Children’s Citizenship in Globalised Societies’ in Claudio Baraldi and Tom Cockburn (eds), *Theorising Childhood* (Springer, 2018) 29, 30; Zulmir Bečević and Magnus Dahlstedt, ‘On the Margins of Citizenship: Youth Participation and Youth Exclusion in Times of Neoliberal Urbanism’ (2022) 25(3) *Journal of Youth Studies* 362, 363.

¹³ Bečević and Dahlstedt, *ibid* 363 citing Robyn Fitzgerald, Anne Graham, Anne Smith and Nicola Taylor, ‘Children’s Participation as a Struggle Over Recognition: Exploring the Promise of Dialogue’ in Barry Percy-Smith and Nigel Thomas (eds), *A Handbook of Children and Young People’s Participation: Perspectives from Theory and Practice* (Routledge, 2009).

The United Nations Committee on the Rights of the Child (UNCRC) defines child participation as:

ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes.¹⁴

We agree with Bečević and Dahlstedt, who assert that children's participation must be considered a 'citizenship-based' right.¹⁵ Thus, this research is based on concepts of citizenship that extend beyond children's legal status such that children's citizenship is 'conceptualised as rights, political engagement and identity'.¹⁶ We acknowledge the many different conceptualisations and interpretations of children's participation rights globally,¹⁷ and concur with Theis that: 'Children's participation has to be a transformative process that negotiates and changes the relationships between children and adults in their social, cultural, political and economic dimensions.'¹⁸ We also acknowledge 'the varied forms of children's participation that have existed [in Nepal] both before and since the CRC and that are alive' today.¹⁹ Additionally, we recognise the many barriers to the practical implementation of children's participatory rights, particularly the impact of a 'top-down approach to law and policy-making *about* rather than *with*' children and young people.²⁰

We present findings from field research undertaken with a group of children and young people about violence and discrimination against girls and young women in Kathmandu Valley. The broad definition of a child provided by Article 1 of the CRC is adopted to refer to all people under the age of 18 years. However, in this field research and in this paper, we use the term 'child' or 'children' to refer to people under the age of 12 years old, and to avoid

¹⁴ United Nations Committee on the Rights of the Child, *General Comment No. 12 (2009): The Right of the Child to Be Heard* (No CRC/GC/C/9, United Nations, 2009) 5 <https://www.refworld.org/docid/4ae562c52.html>.

¹⁵ Bečević and Dahlstedt (n 12) 364.

¹⁶ Kim Rubenstein and Jacqueline Field, 'Conceptualising Australian Citizenship for Children: A Human Rights Perspective' (2013) 20(20) *Australian International Law Journal* 73, 73.

¹⁷ Tara M Collins, Irene Rizzini and Amanda Mayhew, 'Fostering Global Dialogue: Conceptualisations of Children's Rights to Participation and Protection' (2021) 35(2) *Children & Society* 295, 300.

¹⁸ Joachim Theis, 'Performance, Responsibility and Political Decision-Making: Child and Youth Participation in Southeast Asia, East Asia and the Pacific' (2007) 17(1) *Children, Youth and Environments* 1, 9.

¹⁹ Natasha Blanchet-Cohen, Amy Cooper and Holly Doel-Mackaway, '(Re)Imagining Children's Participatory Rights with Decolonial Learning' (2023) 2(56) *O Social em Questão* 61, 62–63.

²⁰ Doel-Mackaway (n 1) 80.

infantilising participants²¹ we refer to people 12 years or older as ‘young people’ or a ‘young person’.²² Part 2 of this paper contextualises girls’ rights in Nepal, explains why this research was conducted and details the research methodology and qualitative methods used. Part 3 examines the findings of this research and discusses participants’ insights about discrimination and violence toward girls, the barriers to ending these abuses and participants’ ideas for reform.

Violence against girls is widespread throughout the world,²³ and adolescent girls experience ‘elevated risks of gender-based violence in humanitarian settings’²⁴ as well as during war and conflict, as occurred in Nepal during the COVID-19 pandemic, during the 2015 earthquake and as a result of the decade-long armed conflict from 1996-2006 and after.²⁵ This research confirms that discrimination and violence against girls in Nepal are pressing socio-legal concerns that require concerted governmental and political commitment to address. This is despite Article 39 of the Constitution of Nepal (2015) that explicitly enshrines children’s rights, including the right to live free from discrimination, violence and exploitation. This research adds to the body of existing literature that shows Nepali girls’ experience of violence and discrimination in their everyday lives in all settings, including from men in public settings. The research also shows that action is rarely taken against the perpetrators of these offences, thus, most offences against girls are carried out with impunity.²⁶ Related to this, participants

²¹ Nigel Cantwell, ‘Are Children’s Rights Still Human?’ in Antonella Invernizzi and Jane Williams (eds), *Human Rights of Children: From Visions to Implementation* (Ashgate, 2011) 37, 43.

²² Doel-Mackaway (n 1) 49.

²³ Ellsberg et al. (n 2); Bianca Fileborn and Tully O’Neill, ‘From “Ghettoization” to a Field of Its Own: A Comprehensive Review of Street Harassment Research’ (2023) 24(1) *Trauma, Violence, & Abuse* 125.

²⁴ Lindsay Stark, Ilana Seff and Chen Reis, ‘Gender-Based Violence against Adolescent Girls in Humanitarian Settings: A Review of the Evidence’ (2021) 5(3) *The Lancet Child & Adolescent Health* 210, 210.

²⁵ Minakshi Dahal Pratik, Khanal, Sajana Maharjan, Bindu Panthi and Sushil Nepal, ‘Mitigating Violence against Women and Young Girls during COVID-19 Induced Lockdown in Nepal: A Wake-up Call’ (2020) 16(1) *Globalization and Health* 1; Sapana Basnet Bista and Shaurabh Sharma, ‘Violence against Women and Girls with Disabilities During and After the 2015 Nepal Earthquake: Thematic Analysis of Qualitative Data’ (2019) 7 *The Lancet Global Health* 45; Kay Standing, Sara Parker and Sapana Bista, ‘Grassroots Responses to Violence against Women and Girls in Post-Earthquake Nepal: Lessons from the Field’ (2016) 24(2) *Gender and Development* 187; Amrita Gurung and Lily Thapa, ‘Violence, Women and Conflict in Nepal’ in Barrow and Chia (eds) (n 8).

²⁶ Alok Atreya and Samata Nepal, ‘Untouchables: Women and Girls in Nepal’ (2020) 136(1) *Obstetrics and Gynecology* 3; Prabisha Amatya, Saruna Ghimire, Karen E Callahan, Binaya Kumar Baral and Krishna C Poudel, ‘Practice and Lived Experience of Menstrual Exiles (Chhaupadi) among Adolescent Girls in Far-Western Nepal’ (2018) 13(12) *PLoS ONE* 1; Basnet Bista and Sharma, *ibid*; Janak Rai, *Harmful Practices in Nepal: Report on Community Perceptions* (United Nations Nepal, 2020); Krista Billingsley, ‘Intersectionality as Locality: Children and Transitional Justice in Nepal’ (2018) 12(1) *International Journal of Transitional Justice* 64.

reported pronounced political apathy about addressing violence against girls in Nepal. All participants demonstrated knowledge about legislation criminalising violence against girls. However, they reported that these laws are not enforced. Further, all participants said they have never been asked to be involved in any initiatives to end violence against girls and expressed their desire for the government to 'listen'²⁷ to their experiences and respond by incorporating and acting on their ideas for law and policy reform.

Further research about the participation of children and young people in the design of laws and policies to end violence against girls in Nepal should be undertaken. This study suggests children's perspectives may offer new and underutilised ways to address these pressing concerns in Nepal.

Research Overview and Methodology

This project sought to fill a gap in the literature regarding the role children and young people could play, if afforded the opportunity, in the design of legislative measures to address violence against girls in the Asia-Pacific region. Doel-Mackaway's background working on children's rights implementation in the Asia-Pacific region with numerous children's rights agencies led to two separate and interconnected collaborations with Save the Children Nepal and Save the Children Fiji. The project was originally envisaged as a pilot study to take place in both Nepal and Fiji, with a view to presenting some initial lessons about the participation of young people in the development of law and policy to end violence against girls in the Asia-Pacific region. It was anticipated that the findings of this pilot study would provide justification for a larger-scale study across the Asia-Pacific region. The research was funded by a grant from Macquarie University with in-kind support from Save the Children Nepal.

The research was due to be carried out in two phases in two countries, Nepal and Fiji. Phase one focussed on consolidating the research partnership between Macquarie University and Save the Children in both countries, building relationships in the communities where the research was to take place, conducting information sessions with caregivers and potential participants, seeking consent, equipping children to participate by providing them with an understanding of the legal and policy context for the research and then undertaking the first

²⁷ Female 9 years old, Focus Group Discussion with participants aged 9-11 years old, Kathmandu, 2019.

set of discussion groups. Phase two included focussing on conducting the remaining focus group discussions, analysing the data, reporting the findings back to the communities and documenting the research in academic journals.

Unfortunately, the field research in Fiji and phase two of the research in Nepal could not proceed due to the global lockdowns and border closures that occurred in the wake of the COVID-19 pandemic. This meant that the two-country study could not take place and only the first phase of field research in Nepal occurred. Thus, the findings from the field research in Nepal were less comprehensive than anticipated because the series of focus group discussions planned for phase two of the research were not conducted.

Two objectives guided the research:

- a) to seek children's views about the prevalence and nature of violence against girls in Nepal and whether laws and non-legal measures to address this are effective. If not, what were the barriers to stopping violence against girls in Nepal?
- b) to seek children's views about ways to improve anti-violence measures and how they could participate in the design of laws and policies to end violence against girls.

Due to the COVID-19 lockdowns it was not possible to achieve the second objective of the research because there was limited opportunity to seek participants' views about how they could participate in shaping anti-violence measures.

Ethics approval to conduct the field research was granted by the Macquarie University Human Research Ethics Committee. Holly Doel-Mackaway initially developed the research proposal and later she and Lachindra Maharjan designed the field research collaboratively. Participants were engaged in research in an age-appropriate manner that was respectful and aware of the fact that some participants may have experienced violence directly or indirectly. Participants were not asked to discuss any personal experiences of violence.

The following three groups of children and young people participated in the research:

- 1 x mixed gender group aged 9-11 years old (13 participants, 7 girls, 6 boys)

- 1 x group of 12-16 year-old females (8 participants) and
- 1 x group of 12-16 years-old males (8 participants)

The inclusion of boys as participants in the field research, along with girls, was deemed appropriate and necessary by the Nepal Save the Children country office after Maharjan conducted consultations with colleagues. The rationale for this centred on the importance of presenting the issue of ending violence against girls as a shared community interest, one that is relevant to all young people and community members, irrespective of gender. The inclusion of boys in the research also sought to leverage the existing role boys play in the community as key allies in efforts to end violence against girls and support behavioural and attitudinal change about gendered violence among boys and men. It was considered appropriate to separate older boys and girls (those aged 12-16 years-old) in the focus group discussions because of the probability that both girls and boys in this age group would feel more comfortable talking about violence related issues in single-sex groups, whereas this was not considered a concern for the younger cohort. In the older cohort participants spent some of the research time in a larger mixed-sex group when the research was being explained before breaking off into sex-disaggregated focus group discussions.

Throughout the research older participants were able to articulate their perspectives more fully than children in the younger group. The younger group appeared very shy; many said this was the first time they had participated in research and said they sometimes did not feel confident speaking. Young people in the older groups also said they had never been a part of a research project before; however, they appeared to be more able to participate in the research process without being overly constrained by shyness or nervousness. Notably, the boys in the older groups were demonstrably more confident than the girls of the same age in the older group, including when the girls and boys were engaged in the focus group discussions in separate sex groups.

This is an important finding from the research that highlights the importance of researchers being aware that young children and young females face age and gender related barriers that can hinder their ability to participate in research processes. Researchers must take specific measures to mitigate these barriers to facilitate the full and meaningful participation of young

children and young females in research. This could involve, for example, conducting additional age and gender-sensitive pre-research preparatory workshops, and offering supplementary support during the research, such as 'check in sessions', for the youngest participants as well as female participants.

We conducted preparatory information sessions with carers and potential participants, where consent to participate in the study from children, young people and carers was sought. We then undertook semi-structured focus group discussions with all groups. We were not aware of any participants who identified as LGBTIQ+.

The research took place at a community centre on the outskirts of Kathmandu Valley. Maharjan recruited participants by drawing on Save the Children's existing connections and relationship with local communities. All participants were from the same school in an area of high socio-economic disadvantage. Maharjan and another Nepali staff member from Save the Children took the lead in facilitating the field research, with some input from Doel-Mackaway. Most research interactions with children and young people were carried out in Nepali, with occasional use of English.

A child rights-based approach to research underpinned the project. This approach acknowledges children's and young people's agency and capacity to express informed views in research processes.²⁸ A central tenet of a child rights-based approach is the identification and positioning of children and young people as 'rights-holders' in relation to the State, and the State as the primary 'duty-bearer' responsible for the fulfilment of children's and young people's rights.²⁹ A child rights-based approach 'emphasises the importance not only of listening to children, but of using their perspectives in making decisions on matters affecting them'.³⁰ Importantly, a child rights-based approach to research engages *with* children, and

²⁸ Laura Lundy and Lesley McEvoy, 'Childhood, the United Nations Convention on the Rights of the Child and Research: What Constitutes a "Rights-Based" Approach?' in Michael Freeman (ed), *Law and Childhood Studies: Current Legal Issues* (Oxford University Press, 2012); Laura Lundy, "'Voice" Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33(6) *British Educational Research Journal* 927.

²⁹ Lundy and McEvoy, *ibid* 77.

³⁰ Jennifer Skattebol, Peter Saunders, Gerry Redmond, Megan Bedford and Bettina Casset, *Making a Difference: Building on Young People's Experiences of Economic Adversity* (Social Policy Research Centre, UNSW, 2012) 3.

does not do research *on* children.³¹ This research informs Save the Children's advocacy, programming and collaboration with government in Nepal with the view to providing an evidence base to government for their engagement of children in legislative and policy measures to end gendered violence.

Doel-Mackaway's model for engaging children and young people in culturally sensitive and age-appropriate research was employed.³² This model is based on the premise that seeking, listening to and responding to young people's views about matters affecting them 'is a vital component of proper democratic decision-making processes and required under international law'.³³ This model for children's participation employs a child rights-based approach to research,³⁴ using two child-friendly research methods: yarning³⁵ and peer-to-peer interviewing.³⁶ Participants used a set of mobile phones provided by the researchers to record peer-to-peer interviews in response to the research topics and questions. The mobile phones were not internet-enabled and were used exclusively for this research. Other creative mediums were also used to facilitate building rapport with participants, as well as to function as tools for participants to better understand the research. For example, the younger cohort used play-based research materials such as modelling clay and poster making to respond to the research questions.³⁷

Children's Views about Violence and Discrimination against Girls in Nepal

A feature of global discourse about addressing violence against women and girls is the absence of children's voices within these debates. There is, however, a growing body of research about children's experiences of violence in the home.³⁸ The lack of literature

³¹ John Barker and Susie Weller, "Is It Fun?" Developing Children Centred Research Methods' (2003) 23(1/2) *International Journal of Sociology and Social Policy* 33, 33.

³² Doel-Mackaway (n 1) Chapter 6.

³³ Ibid 179.

³⁴ Lundy (n 28).

³⁵ Dawn Bessarab and Bridget Ng'andu, 'Yarning About Yarning as a Legitimate Method in Indigenous Research' (2010) 3(1) *Journal of Critical Indigenous Studies* 37.

³⁶ Inge Kral, *Plugged In: Remote Australian Indigenous Youth and Digital Culture* (Working Paper No 69/2010, Centre for Aboriginal Economic Policy Research, May 2010).

³⁷ Doel-Mackaway (n 1) Chapter 6.

³⁸ Ericka Kimball, 'Edleson Revisited: Reviewing Children's Witnessing of Domestic Violence 15 Years Later' (2016) 31 *Journal of Family Violence* 625; Katie Lamb, Cathy Humphreys and Kelsey Hegarty, "'Your Behaviour Has Consequences': Children and Young People's Perspectives on Reparation With Their Fathers After Domestic Violence' (2018) 88 *Children and Youth Services Review* 164; Maria Eriksson, 'Children's Voices, Children's Agency and the Development of Knowledge about Children Exposed to Intimate Partner Violence' in

representing children's perspectives on violence and experiences of it is notable, especially given increased investment in building knowledge about women's lived experience of violence, in particular women's experiences of men's violence.³⁹ Despite very high rates of violence against children, particularly against girls and especially in relation to sexual offences, children's perspectives are rarely sought and taken into consideration in public decision-making processes aimed at ending such violence.

Further, rarely does public discourse name and identify the primary perpetrators of violence against girls. Instead, broad terms such as 'domestic violence', 'gender-based violence' and 'violence against women and girls' dominate public discourse and obfuscate those who perpetrate violence.⁴⁰ Girls in this study emphasised that men are the primary perpetrators of violence and discrimination against them in public settings, such as harassment on the street.

Before presenting findings from this research, it is important to contextualise the child rights context for girls in Nepal. The constitutional context is noteworthy given that in 2015, with Article 39 of its new Constitution, Nepal joined the growing list of countries that provide for children's rights in their national constitutions.⁴¹ Article 39, titled 'Rights of the Child', embeds children's rights into Nepal's domestic legislation and in doing so incorporates many of the provisions contained in the CRC into Nepal's apex legislation. Article 39 of Nepal's Constitution mandates the State to protect and fulfil a comprehensive body of children's

Marita Husso, Tuija Virkki, Marianne Notko, Helena Hirvonen and Jari Eilola (eds), *Interpersonal Violence: Differences and Connections* (Routledge, 2016) 160.

³⁹ Katrin Hohl and Elizabeth A Stanko, 'Five Pillars: A Framework for Transforming the Police Response to Rape and Sexual Assault' (2022) 2(3) *International Criminology* 222; Andrew Gibbs, Kristin Dunkle, Leane Ramsoomar, Samantha Willan, Nwabisa Jama Shai, Sangeeta Chatterji, Ruchira Naved and Rachel Jewkes, 'New Learnings on Drivers of Men's Physical and/or Sexual Violence against Their Female Partners, and Women's Experiences of This, and the Implications for Prevention Interventions' (2020) 13(1) *Global Health Action* 1.

⁴⁰ Michael Flood, Chay Brown, Lula Dembele and Kirsti Mills, *Who Uses Domestic, Family, and Sexual Violence, How, and Why? The State of Knowledge Report on Violence Perpetration* (Queensland University of Technology, 2022); Emma Fulu, Xian Warner, Stephanie Miedema, Rachel Jewkes, Tim Roselli and James Lang, *Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-Country Study on Men and Violence in Asia and the Pacific* (UNDP, UNFPA, UN Women and UNV, 2013); RaeAnn E Anderson, Kristin Silver and Douglas Delahanty 'The Frequency of Sexual Perpetration in College Men: A Systematic Review of Reported Prevalence Rates From 2000 to 2017' (2021) 22(3) *Trauma, Violence, & Abuse* 481.

⁴¹ Conor O'Mahony, 'Constitutional Protection of Children's Rights: Visibility, Agency and Enforceability' (2019) 19(3) *Human Rights Law Review* 401; Trude Haugli, Anna Nylund, Randi Sigurdson and Lena Bendiksen (eds), *Children's Constitutional Rights in the Nordic Countries* (Brill Nijhoff, 2020).

rights, including every child's rights to: birth registration (Article 39(1)); education, health, play and proper care (Article 39(2)); education till high school and the right to participation (Article 39(3)); freedom from hazardous work (Article 39(4)); freedom from child marriage and child trafficking (Article 39(5)); freedom from recruitment into the armed forces (Article 39(6)); freedom from all forms of abuse in all settings (Article 39(7)) and child-friendly justice (Article 39(8)). The Constitution also provides the right to 'special protection and facilities from the State' for any child living without parental care, and any child with a disability or who is displaced, including due to conflict (Article 39(9)). Additionally, Article 39(10) provides that children are entitled to compensation from those responsible for breaches under Clauses 4, 5, 6 and 7 of Article 39. These provisions mirror many of the provisions in the CRC.

It appears that the advancement of children's rights was at the forefront of lawmakers' minds when drafting Nepal's new Constitution. However, the child rights provisions afforded by the Constitution contrast with the lived reality of many girls in Nepal. Nepal is a patriarchal society and discrimination against girls, including harmful gender-based practices, is prevalent.⁴² Some examples of these practices include menstruation-related discrimination, social exclusion, child marriage and many forms of abuse including corporal punishment. A comprehensive analysis of each of these is not undertaken here, only a brief discussion below to contextualise some of the challenges associated with the fulfilment of girls' rights in Nepal.

A harmful gender-based practice known as 'chhaupadi' is where menstruating women and girls are considered to be 'impure'⁴³ and forced to isolate, are not permitted to touch some people or objects and are not allowed to attend school.⁴⁴ Chhaupadi means '*untouchable being*' and is the most extreme form of menstrual discrimination, practiced mainly in the Far Western region of Nepal.⁴⁵ It is a Hindu tradition where 'women and girls are made to sleep in small huts (chhaugoth) or animal sheds during menstruation and immediately after child birth' (including sometimes with their new-born child) and are often exposed to dangerous

⁴² Atreya and Nepal (n 26) 3.

⁴³ Rai (n 26) 21.

⁴⁴ Amatya et al (n 26); Dipendra S Thakuri, Roshan K Thapa, Samikshya Singh, Geha N Khanal and Resham B Khatri, 'A Harmful Religio-Cultural Practice (Chhaupadi) during Menstruation among Adolescent Girls in Nepal: Prevalence and Policies for Eradication' (2021) 16(9) *PLoS ONE* 1; Hannah Robinson, 'Chhaupadi: The Affliction of Menses in Nepal' (2015) 1(4) *International Journal of Women's Dermatology* 193.

⁴⁵ Rai (n 26) 14.

weather conditions such as extreme cold and given limited food while in the chhaugoth.⁴⁶ Menstrual discrimination, including chhaupadi, has been illegal in Nepal since 2005, but it is still practised.⁴⁷

Child marriage is another harmful practice with grave implications for girls. Nepal has one of the highest rates of child marriage globally,⁴⁸ despite its Constitution providing in Article 39(5) that: 'No child shall be subjected to child marriage.' The minimum age for marriage for males and females is 20 years-old, however, the UNCRC notes that 'child marriage, especially of girls, remains prevalent in the State party'.⁴⁹ The UNCRC urged the Government of Nepal to take urgent action to 'eradicate all traditional practices harmful to the physical and psychological well-being of children' through awareness-raising programmes and law reform and that in doing so the government should 'prioritise girls, particularly girls with disabilities, [and] girls living in rural areas'.⁵⁰

Other forms of child abuse are also problematic in Nepal, including the use of corporal punishment. Corporal punishment is prohibited under Article 39(7) of the Constitution; however, the UNCRC states that 'corporal punishment is not explicitly prohibited in all legislation relating to children's rights, and that it remains prevalent at home, in schools and in other institutions and forms of childcare'.⁵¹ The UNCRC has expressed concern about the prevalence of child abuse and neglect in Nepal, noting 'the lack of laws addressing this situation, as well as the absence of effective and child-friendly reporting mechanisms for cases of abuse and/or neglect'.⁵² In line with the data gathered during this research, the UNCRC has expressed 'grave concern' about the severity of the food shortages in Nepal,

⁴⁶ Ibid 21.

⁴⁷ Ibid 14.

⁴⁸ Fiona Samuels and Anita Ghimire, 'Small but Persistent Steps on the Road to Gender Equality: Marriage Patterns in Far West Nepal' in Caroline Harper, Nicola Jones, Anita Ghimire, Rachel Marcus and Grace Kyomuhendo Bantebya (eds), *Empowering Adolescent Girls in Developing Countries: Gender Justice and Norm Change* (Routledge, 2018) 161.

⁴⁹ United Nations Committee on the Rights of the Child, *Concluding Observations on the Combined Third to Fifth Periodic Reports of Nepal*, UN Doc CRC/C/NPL/CO/3-5 (8 July 2016) [39].

⁵⁰ Ibid [38].

⁵¹ Ibid [30].

⁵² Ibid [32].

including that 'almost 40 per cent of children below the age of 5 are suffering from malnourishment'.⁵³

There are many children's rights concerns in Nepal, only some of which are discussed in this paper. Menstruation-related discrimination, child marriage, child abuse (including corporal punishment), neglect and malnutrition are key children's rights concerns identified by participants in this research. The UNCRC has identified these rights breaches as critical children's rights concerns and has called on the Government of Nepal to urgently address the non-fulfillment of these rights.⁵⁴ The remainder of this section examines children's and young people's views about these significant children's rights concerns as expressed during the field research. Participants' views about the following three focus areas of the research are outlined below:

- i. The nature and prevalence of girls' experiences of violence and discrimination;
- ii. Definitions of violence, knowledge about laws and policies, and enforcement; and
- iii. Barriers to ending violence and discrimination against girls and ideas for reform.

Nature and Prevalence of Girls' Experiences of Violence and Discrimination

Children and young people involved in this study shared their views about the nature and prevalence of girls' experiences of violence and discrimination in Nepal. All participants said that violence and discrimination against girls occur in all settings (home, street, school, community and online) and that this is a significant and endemic problem in Nepal. The younger cohort in this study (children aged 9–11 years-old) defined violence and discrimination against girls primarily in relation to harassment, neglect, and inequality of access to food and education in comparison to boys. The younger children rarely referred to sexualised violence and abuse of girls, however, they did speak about pervasive street harassment of girls, yet not in ways that indicated they were referring to *sexualised* street harassment. This could be because the younger group of participants did not feel comfortable expressing these ideas and/or did not know how to do so. It could also indicate that young girls experience sexualised street harassment to a lesser degree than adolescent girls. This

⁵³ Ibid [55].

⁵⁴ See, for instance, ibid [28], [34] and [39].

conclusion accords with scholarship that suggests that men and adolescent boys sexually harass adolescent girls on the street more than they do pre-pubescent girls.⁵⁵ In contrast, adolescent males and females in the older cohort spoke frequently about the widespread and sexualised nature of violence and discrimination against girls in Nepal. Like the younger cohort, older participants also characterised violence and discrimination against girls as encompassing preferential treatment of boys over girls in relation to access to food in the home and access to education when compared to boys, but also detailed how girls regularly experience sexualised harassment on the street. Some participants, in both cohorts, also referred to girls experiencing harassment when visitors came to their homes.

All participants said girls experience verbal harassment daily and repeatedly in public places, and adolescent participants reported this can also include physical and sexual assault on the streets. All participants said the perpetrators of violence and harassment of girls in public places are men, and that this often occurs when girls are walking or travelling on public transport to and from school. Adolescent male participants said they regularly witness adolescent girls being sexually harassed verbally by men in public. Several participants used the term 'Eve teasing' to describe such harassment. This is a commonly used term to describe sexualised street harassment of girls and women by men and adolescent boys.⁵⁶ The use of this term, however, is considered inappropriate as it trivialises and minimises the impact of these offences⁵⁷ and perpetuates commonly held notions that street harassment is a 'harmless occurrence' when in fact it is 'one of the most pervasive forms of sexual violence'.⁵⁸ Talboys et al. describe 'Eve teasing' as a 'common euphemism in South Asia for sexual harassment of women in public areas by men' and examples of this include 'making or passing obscene gestures, whistling, stalking, staring, pinching, fondling, and rubbing against' women or girls.⁵⁹ Talboys et al.'s study about the prevalence of sexualised street harassment in South

⁵⁵ Usha Rana, 'Are We Safe? An Investigation on "Eve-Teasing" (or Public Sexual Harassment) in India' (2023) 25(7)*Journal of International Women's Studies* 1; Sharon L Talboys, Manmeet Kaur, James VanDerslice, Lisa Gren, Haimanti Bhattacharya and Stephen Alder, 'What Is Eve Teasing? A Mixed Methods Study of Sexual Harassment of Young Women in the Rural Indian Context' (2017) 7(1) *SAGE Open* 1; see also Fileborn and O'Neill (n 23) 131.

⁵⁶ Talboys et al., *ibid* 2; Rana, *ibid* 8.

⁵⁷ Talboys et al., *ibid* 1; see also Rana, *ibid* 1.

⁵⁸ Fileborn and O'Neill (n 23) 125.

⁵⁹ Talboys et al (n 55) 1.

Asia concludes that the impacts of 'Eve teasing' are 'significant enough to curb women and girls' participation in public, including school and work, resulting in untold opportunity costs for women and society'.⁶⁰ This finding was also reflected in this study, as many participants said girls and young women often do not want to travel to school unaccompanied as they fear being harassed by men on the street.

Definitions of Violence, Knowledge about Laws and Policies, and Enforcement

Participants across all ages knew about a range of domestic laws that prohibit violence and discrimination against children and reported that very little implementation of these laws, and other measures, are taken to address this and bring perpetrators to account. Participants in both age cohorts defined violence against girls to include neglect and differential treatment within the home and society. Nearly all participants spoke about girls experiencing less access to nutritious food in comparison to boys. Younger participants (9-11 years-old) defined violence against girls to include poor health care, a lack of access to education, food insecurity, the impact of men's alcohol abuse on girls both in the home and in the community, and a lack of enforcement of laws to protect girls from abuse. Younger participants reported high rates of discrimination against girls, and familial and social resources being directed toward boys to the detriment of girls. This was demonstrated in participants' descriptions of what violence and discrimination against girls meant to them, which included neglect. For example, an 11-year-old girl said:

Violence means ... not sending daughters to school, not giving them clothes to wear.

Two boys aged 9-11 commented that children, especially girls, frequently experience food insecurity and neglect, and do not have their rights to play and education fulfilled. One of these boys said:

Children should get to play, eat and study. Children shouldn't be neglected and shouldn't be discriminated against. Children should be fed nutritious food. Boys shouldn't be the only ones who get fed good food, and girls shouldn't be the only ones who don't get fed nutritious food.

⁶⁰ Ibid 2.

Two girls aged 9-11 also defined lack of access to food and education as forms of violence. In a peer-to-peer video recording they said violence against girls is:

Not giving good food, not letting them study. These things fall under violence.

Further, a girl aged 9-11 said violence against girls includes:

Taking care of sons properly but not taking good care of daughters.

This was confirmed by two other young female participants in a peer-to-peer video interview when they said:

Violence means not letting sons and daughters do anything such as not letting daughters eat proper food, not giving them clothes to wear, giving them rotten food to eat, not letting them go out, not letting them study properly, fighting, and teasing.

A boy aged 9-11 also spoke about unequal and gendered access to food and recreation, he said:

Violence means daughters don't get to eat well, wear well, not letting them go out. These things are violence. When there is violence, other people go around drinking, smoking weed.

In the older cohort of participants, those aged 12-16, a 12-year-old female expressed her ideas for what non-discrimination against girls in the home should be. She said this would be:

Not discriminating between sons and daughters.

Another 12-year-old girl spoke about her understanding of violence, and the effects of adults' abuse of alcohol and the non-enforcement of child protection laws. She said:

Violence means not neglecting others, not fighting, not beating others and not giving trouble to others by drinking. Laws are not being followed in our country. No one has followed the rules the government has made.

Participants in the older cohort spoke about violence against girls in terms of rape, teasing, hitting, abuse on the streets, and girls' unequal and inadequate access to education, food and

nutrition in comparison to boys. As mentioned, the younger cohort did not speak about sexual violence toward girls.

Most participants in both cohorts said that children should be consulted about the development of laws to stop violence against them, emphasising that children's lived experiences provide valuable insights that would assist law and policy makers in designing child related laws and policies. All participants said that violence against children is a problem but that there is very little enforcement and very little investment in anti-violence awareness raising campaigns, other than those conducted by non-government organisations.

Boys in the older group emphasised the importance of enforcing laws that aim to uphold children's rights and the importance of making new laws related to children's and girls' protection. The older boys also spoke frequently about children's rights to adequate nutrition and good food, signalling that food insecurity for many children, irrespective of gender, is a widespread problem in Kathmandu Valley. Girls in the older group emphasised the need for more community policing to protect girls on the street, and the need to raise awareness about violence against girls in the community. The older girls also spoke frequently about child protection concerns and the need for elders and custodians to, for instance, accompany girls when travelling to and from school because this is when girls experience the most sexual harassment on the street.

Barriers to Ending Violence and Discrimination Against Girls and Ideas for Reform

Participants identified three main barriers to stopping violence and discrimination against girls in Nepal. First, many participants spoke about the fact that laws designed to protect girls from abuse are not enforced by police, and because of this, perpetrators act with impunity. All children said they knew about the Constitution of Nepal and its provisions for children's rights through their involvement in local child clubs.⁶¹ However, all children agreed that this

⁶¹ Richard C Mitchell and Nabin Maharjan, 'UN Convention on the Rights of the Child and Global Childhoods: Transdisciplinary Reflections from Nepal' (2020) 76(1) *World Futures* 62, 71–72; 'Child Rights Governance', *Save the Children Nepal* <https://nepal.savethechildren.net/what-we-do/child-rights-governance>. Child Clubs are prolific throughout Nepal and are typically run by children themselves, with support from local communities, schools, non-governmental organisations and local government bodies. It is estimated that tens of thousands of children are involved in these clubs. The clubs are platforms that empower children and young people to participate in their communities by discussing and examining issues such as education, children's rights and child protection.

provision has little to no impact in the lives of children because it is 'on paper only' (female participant, 13 years old) meaning that it is codified in law, but it has minimal bearing on the implementation of children's rights in practice. Second, children and young people said that discrimination against girls is an endemic part of the social structure in Nepal and crimes against girls are not taken seriously. Finally, participants said there is a lack of trusted adults in positions of power to report incidents of abuse and violence to, and even if there were such people to report to, secrecy and taboo restrict children's and young people's ability to discuss these matters openly.

Children and young people suggested a range of measures the government could implement to address and stop violence and discrimination against girls. Many children in the 9-11 years old cohort suggested that the first step to stopping violence against girls is to ensure equal and open access to education for all girls and address the nation's serious food insecurity problem for children. A boy aged 10 said the government should:

Develop the country, build schools for children, give nutritious food to children, and give them their rights.

Many other young children reiterated this suggestion, including a 9-year-old girl who said:

It would be nice if the government could build schools for the children, if the government could build schools in the villages.

Another participant, a 10-year-old boy, correlated lack of access to education and clean water with conflict in communities. He said:

I wish the government would support poor people to go to school and provide water for poor people because this would stop others from fighting.

Many children across both cohorts mentioned lack of access to adequate healthcare. A 9-year-old girl said the government should:

Make hospitals for children, make big, big hospitals for children.

An 11-year-old girl summed up the sentiment expressed by all participants in relation to her vision for how to improve outcomes for children in Nepal when she said:

I wish the government would come to our school and listen to us, that they would build schools for the children in the village, provide support to the poor, make hospitals, and provide nutritious food.

Other than expressing their enthusiasm about being asked about, and involved in, law and policy making to address and end violence against girls, the participants did not have the opportunity to elaborate on their ideas about how this could take place. This was because, as mentioned above, follow-up focus group discussions could not be undertaken because of COVID lockdowns and global border closures, which meant that phase two of the field research could not be completed. However, participants suggested that they have experienced participating in governance and decision-making processes in their child clubs and that perhaps the Government of Nepal and districts could involve them, and seek their views, by connecting with the extensive child club networks across Nepal.

Conclusion

All children everywhere have the right to freedom from violence and discrimination in accordance with the provisions of the CRC and CEDAW. Despite Nepal's ratification of these treaties and the codification of children's rights in Article 39 of Nepal's Constitution and other domestic legislation, the status of girls' rights in Nepal remains a matter of profound concern. The non-fulfilment of girls' rights to live free from violence in Nepal (and elsewhere) negatively impacts girls' lives, creating 'gendered citizenship'⁶² preventing their full participation as citizens.

Children and young people in this study described violence and discrimination against girls in Nepal as ubiquitous and a pressing social problem. Participants demonstrated awareness of laws prohibiting violence and discrimination against girls, including many being aware of the children's rights provisions contained in Article 39 of Nepal's Constitution, but said that these laws are not enforced because the implementation of girls' rights is not a governmental

⁶² Behl (n 4).

priority. Consequently, said the participants, most perpetrators of offences against girls rarely face any legal consequences. Participants said governmental efforts to enforce girls' rights to freedom from violence, abuse and discrimination are inadequate and greater governmental investment in anti-violence awareness raising campaigns is urgently needed.

Children and young people said that violence and discrimination against girls occurs in the home, on the street, in the community, in schools and online. The definitions of violence and discrimination provided by participants were broad and included physical, sexual and emotional abuse, neglect, exposure to violence in the home, preferential treatment of boys in the home in relation to access to food and education, sexualised street harassment and harmful practices such as menstrual discrimination. A notable example of governmental inaction to address violence against girls emerged in this study in relation to the harassment of adolescent girls on the street by men. Most children and young people spoke about this, and older participants spoke about this as sexualised harassment on the street. All participants said that girls in Nepal experience systemic discrimination on a regular basis, especially in relation to inequitable access to food and education, and that girls are afforded few protections from violence. Participants identified several interconnected barriers to ending violence and discrimination against girls, including that perpetrators of abuse do so with impunity, that such behaviour against girls is ignored or in some contexts socially accepted and there is a lack of political will to combat this.

This paper adds to the body of literature about grave children's rights breaches in Nepal and it is hoped that it will stimulate discussion and promote reform about how to address these serious breaches of girls' rights. Through field research with Nepali children and young people, this study sought to elicit, document and privilege the voices of children about serious matters affecting them and, in doing so, highlight the importance of seeking young people's views and involvement as vital contributors to assist states in meeting their duties to children under the CRC.