



Study on the Impact of COVID-19 Pandemic on Entertainment Sector Workers

2077



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Legal Aid and Consultancy Centre (LACC) is a non-profit organization dedicated to women's legal empowerment and increasing access to justice of survivors/victim of violence against women. It has more than three decades of experience in providing legal aid services, counseling, and advocacy for pro-women friendly legal frameworks.

The COVID-19 pandemic has affected millions of people around the world with more than numerous deaths affecting the entire world. In Nepal alone, the cases spread spiked rapidly pushing many entertainment sector workers into unemployment. As the global pandemic novel coronavirus increased across the world, the already poverty stricken are further trapped in the poverty cycle. It is therefore crucial to study the gaps that lie in our legal framework to ensure effective and prompt justice. Prevention, response, and mitigation measures should also be put in place to ensure that all forms of violence and discrimination are eliminated, especially those against women and girls.

This report sheds light on the ground experiences of the workers who are facing redundancies and work insecurity due to the pandemic. This outcome of this study hopes to suggest gender responsive mechanisms and preparedness to be put in place so as to eliminate violence against the workers.

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Executive Chair
Anita Neupane Thapalia

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Abbreviations

CARE	Cooperative for Assistance and Relief Everywhere
CDO	Chief District Officer
COVID 19	Corona Virus Disease 2019
ESW	Entertainment Sector Workers
GBV	Gender Based Violence
I/NGOs	International/Non-Governmental Organizations
KII	Key Informant Interviews
LACC	Legal Aid and Consultancy Center
MoWCSC	Ministry of Women, Children and Senior Citizens
MSME	Micro, Small and Medium Enterprises
NDWA	Nepal Disabled Women Association
NHRC	National Human Rights Commission
NPR	Nepalese Rupees
RGa	Rapid Gender Analysis
TIP	Trafficking in Persons
UNICEF	United Nations Children's Fund
WOFOWON	Women Forum for Women in Nepal

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Executive Summary

Introduction

With the onset of the pandemic in Nepal, the government enforced lockdown in Nepal from March onwards. The subsequent lifting of the lockdown also only allowed essential businesses to operate which the entertainment sector did not fall under. As a result, the entertainment sector has remained shut for more than 7 months. This has caused massive unemployment in the entertainment sector as restaurants, dance bars and other such entertainment sector establishments remain shut due to the restriction. Women entertainment sector workers (ESW) are among the hardest hit groups as the continued unemployment has halted their income sources. This has led the already poor population of ESWs that work in this sector destitute. This destitution has pushed such women ESWs into accepting riskier jobs and vulnerable to human trafficking and sexual and physical exploitation. During the lockdown, the government brought various action plans, policies and directives into force for addressing vulnerable populations, however none of these have specifically addressed the issues faced by women ESWs.

Objectives and Methodology

To determine the impact of the lockdown on the women ESWs and to devise recommendations to protect their rights, this study was conducted. It derived primary data from 50 sample surveys of women ESWs and 10 KIIs with stakeholders working for ESWs, employing a mixed method model to derive both qualitative and quantitative data. It relied on literature review to extract secondary data. The literature review was used to determine the status of ESWs pre-pandemic and legal rights of women ESWs whereas the sample surveys and KIIs provided insight on the impact and experiences of women ESWs during the lockdown and pandemic. The research was conducted within Kathmandu valley, i.e. Kathmandu, Lalitpur and Bhaktapur District. All KIIs and sample surveys were conducted through online zoom video calls and telephonic interviews to take safety precautions during the pandemic.

Literature and Legal Review

To better understand the situation of women ESWs pre-pandemic and to identify their legal rights, the literature and legal review was conducted. The literature and legal review examined 19 documents in depth to track the pre-pandemic situation of the women ESWs and legal rights of women ESWs. It revealed that even prior to the pandemic and lockdown, women ESWs faced many issues in the workplace such as below minimum wages, arbitrary hire and fire employment, arbitrary decision of wages by employers, physical, mental and sexual exploitation of employees, workplace harassment and many more issues. Much of these problems arose due to lack of institutionalization of the sector and lack of appointment letters and employment contracts. Stigmatization of this sector and hostile authority attitude towards ESWs further compelled women ESWs to remain silent on labour and sexual atrocities at workplace by the employer or customers.

The legal review depicted a more positive picture as it showed the various rights that are applicable to the entertainment sector, including the Constitution of Nepal, the Labour Act, Sexual Harassment at Workplace Act, and the Directives specifically devised for working women in the entertainment

sector. It ensured various rights ranging from job security, minimum wages, decent working environment, prevention against physical and sexual exploitation, speedy resolution of grievances, to monitoring of workplaces, registration of establishments in this sector, prevention against child exploitation, and social security schemes. However, as was witnessed in both the literature review and field findings, these laws were not implemented in the entertainment sector, which worsened the impact of the pandemic and lockdown on the women ESWs as they had no savings and social security funds to rely upon.

In the context of the pandemic, other laws were also reviewed that were applicable to ensure the economic and physical well-being of ESWs such as the Disaster Risk and Management Act, Right to Food Act, Right to Housing Act, and Social Security Act. Certain institutional mechanisms brought in by the government during the pandemic were also reviewed. However, none of these were specifically designed to address the issues ESWs faced.

Findings and Analysis

The findings of the sample survey and KIIs revealed that the situation of the women ESWs were severely concerning.

Demographic Information

- Even though law prohibits minors in entertainment sector, 2/50 respondents were minors.
- Majority women ESWs were from Janjati (18/50) background as was observed in other reports.

Economic Impact

- All 50 sample survey respondents stated to have been unable to work due to the lockdown and hence lost their source of income, as they were not paid any amount during the lockdown.
- KII respondents also stated that women ESWs had lost their jobs and were trapped in web of exploitation owing to desperation for survival.
- Government had mandated payment of salaries even during lockdown however no such provision made for workers in informal sector, nor did most employers in entertainment sector have capacity to pay salary. 95% ESWs had no formal contracts with employers as per available literature.
- Government had previously introduced contributory social security scheme however no employer or worker in this sector had been registered, hence no savings to rely on.

Livelihood during lockdown

- ESWs heavily relied on tips as major source of income with below minimum wage, hence no savings to sustain livelihood.
- KII respondent stated that many returned to native home by walking 8-9 days due to no source of income to continue living in Kathmandu.
- 11 survey respondents also stated to be pressurized by landlords to leave rented room as they were not able to pay rent on time. 11 others also stated that they knew friends who were being tortured by landlords during the lockdown.
- Survey respondents stated that they were borrowing money from friends (72%), taking credits from shop (24%), had used all their savings to buy food (16%), taken loan from employer (18%), taken help from customer (2%), and other means to sustain themselves.
- Government had mandated local governments to prepare data of workers of unorganized sector to provide relief, however, among the 50 survey respondents, only one stated to have received

food relief at the initial phase of lockdown. 4 respondents also stated they knew friends who were not given any relief when approaching ward offices. Many were surviving on the food relief provided by civil society organizations.

- KII respondents stated that government bodies were uninterested in helping the ESWs during the pandemic and otherwise as well.

Social Impact: Stigma and Vulnerability of Sexual Exploitation, Human Trafficking

- Being pushed to extreme poverty forces women ESWs to accept risky jobs. One survey respondent stated to have been asked sexual favours when approaching for help during lockdown. Another wished to go abroad to work.

Access to Justice and Legal Rights

- There is no decent working environment in the entertainment sector. Labour laws and standards are not implemented or met.
- Workers are reluctant and hesitant to file cases against issues at workplace. 70% stated that they had not complained. The remaining 30% who complained did so only at civil society organizations owing to hostile treatment at government authorities.
- As per KII respondents, ESWs were not enlisted in workers list as well and most women ESWs did not hold citizenships. Without formal identification, such ESWs were stated to be met with severe backlash at authorities when approaching them for help. A survey respondent stated to have felt helpless as she did not know where to complain against employer.
- Owing to the lockdown, justice mechanisms have not prioritized cases of GBV and access to justice hence further reducing avenues available to women ESWs for legal recourse.

Health Redressal and Psychosocial Impact

- Directives brought by the government for free testing, management of quarantine and isolation centers have been poor. Among the survey respondents only 3 respondents had gotten themselves and their families tested.
- Many survey respondents stated to face mental and emotional turmoil due to losing jobs and being rendered without income, and struggled to meet daily expenses and pay rent.

Recommendations provided by KII respondents

- The respondents of the KII suggested various recommendations for the government, judiciary, civil society and business owners, such as effective implementation of laws, proper dispensation of relief packages, creating alternative employment opportunity, registration of workers and establishments, speedy hearing of women workers cases, awareness programs, and ensuring safety and labour standards at workplace.

Conclusion

The literature review revealed the pre-pandemic condition of the ESWs which was riddled with poor working conditions, minors in the sector, lesser than minimum wages, more than 8 hours of working time, no holidays, and other exploitative labour practices along with sexual exploitation. The stigma attached with the sector of sex industry prevented workers from complaining against such exploitation and workplace issues. Moreover, the authorities were also reported to be hostile towards complaints from ESWs as they also held stigmatized attitudes. All these factors contributed to continued

exploitation in this sector. The legal review highlighted the legal rights of ESWs that provision for decent working environment, labour standards and protect from labour and sexual exploitation. However, the literature review as well as the KII interview respondents reiterated the lack of implementation of these laws and confusion with regard to its applicability. The understanding of many employers and workers in the sector was that since the entertainment sector was an informal sector, labour laws were not applicable to them. However, the labour law is applicable to all entities regardless of nature of work.

The sample survey and KIIs revealed the condition of the ESWs during and post lockdown. All respondents of the survey were unemployed and many were impoverished and struggling to sustain themselves and their families. With no income and no savings to fall back to, these women ESWs were heavily reliant on loans, financial aid and relief from organizations. The government had not stepped in to provide any kind of relief or support to the workers. Many KII respondents reported that women ESWs were being sexually exploited by landlords and others and women ESWs had no other choice to sustain themselves. They had fallen into debt with no incomes and were accepting risky jobs that exposed them to further vulnerabilities. Respondents from the survey even stated to wish to go abroad to work as they had lost all hope in the nation. Hence the women ESWs have been among the worst affected groups due to the pandemic and lockdown in the nation.

Recommendations

To address the abovementioned issues, various recommendations have been devised for various stakeholders to address. The recommendations devised specifically for the Ministry of Labour and Employment focused on revival of the ESWs with economic packages, alternative livelihood schemes, targeted programs for food security, and expanding and strengthening labour offices to ensure comprehensive legal compliance. For the Federal Government, the recommendations focused on ensuring general adherence to the rule of law, gender responsive COVID response, economic support to most affected communities during crisis, addressing root causes of trafficking and exploitation including gender based discriminations, and review of human trafficking laws and other relevant laws. The recommendations for the provincial government directed to ensure effective oversight mechanism for reviving entertainment sector businesses with economic packages and alternative livelihood schemes for women ESWs. The recommendations for the local government harped on maintaining scientific data records and analysis system, developing livelihood schemes and ensure decent working environment and labour standards, integrated health services, unemployment opportunities, and hotline services to register complaints of ESWs. It also recommends establishing labour offices with required resources and raise awareness on legal and social issues along with impact of COVID on health.

The study also devises recommendations for the civil society organizations to raise awareness and empower ESWs, advocacy to make government and business entities accountable to ESWs, advocacy for implementation of labour laws and other laws to improve working conditions and livelihood and to promote dignity of women ESWs via media, trainings, and empowerment programs. For the National Women Commission and National Human Rights Commission, it recommends for publishing periodical reports, nationwide public hearings on issues of ESWs, strengthening targeted monitoring mechanisms for labour rights violation and provide recommendations to government to take actions. It also provides recommendations to parliament to focus parliamentary oversight on law and policy implementation in context of labour rights as well as COVID response, and to provide support to Federal and Provincial Parliament to carry out their functions in bringing about policy and implementation changes.

Section 1: Introduction and Methodology

1.1 Introduction

Trafficking in persons (TIP) is a complex global problem that Nepal is grappling with as we are a prime source, transit and destination country for human trafficking and transportation.¹ The working condition of the entertainment sector is already poor. As an informal sector, workers are constantly underpaid, and exploited with no contract letters, and are also subject to sexual and physical exploitation. Entertainment sectors include dance bars, *dohori* restaurants, cabin restaurants, massage parlor, spa, *khajaghar*, guest houses. The entertainment sector in Nepal is growing rapidly. The 2014 NHRC report² estimates the number of girls and women in this sector to be approximately 50,000.

Studies have shown that a large proportion of Nepalese are forced into trafficking due to economic hardships, lack of employment, and poverty³. Due to the pandemic and lockdown, the risk of human trafficking increased drastically and the vulnerable population's inequalities has exacerbated⁴. Due to the ongoing pandemic, entertainment sector workers (ESW) are facing increased risks such as redundancies and pay cuts. The unemployment rate has increased significantly as hotels and restaurants have shut down due to the pandemic⁵. Women working in the entertainment sector have been among the most adversely hit groups from the pandemic and lockdown.⁶

As ESWs lose their jobs, they can be lured into the trap of human trafficking. It is especially during disasters and uncertainty that human traffickers find a perfect time to find a potential victim among this sector. A UNICEF blog post suggested that as there is an increase in family deaths, unemployment, stigma, economic inequality, and separation from family, they become established risks for human trafficking. There have been numerous accounts of human trafficking during the lockdown itself. Recently, the Anti-Human Trafficking Bureau of Nepal Police arrested two persons for trafficking six Nepali women to India. They were charged for holding six women hostages in Delhi, India with the pretext of sending them for foreign employment. The women belonged to the districts of Jhapa, Morang and Parbat.⁷ Similarly, the Nepal Police Human Trafficking Bureau rescued 41 women who fell victims to human trafficking and were brought back from Delhi, India. Research

¹ Human Trafficking in Nepal – Relentless Fight for Rights Continues! (n.d.). Retrieved from <https://www.nepalisansar.com/special-stories/human-trafficking-in-nepal-relentless-fight-for-rights-continues/>

² (2012-2013). *Trafficking in persons especially on women and children in Nepal*. . National Human Rights Commission.

³ NHRC. (2018). *Trafficking in Persons in Nepal*. National Report, National Human Right Commission.

⁴ UNODC. (n.d.). *IMPACT OF THE COVID-19 PANDEMIC ON TRAFFICKING IN PERSONS : Preliminary findings and messaging based on rapid stocktaking*. United Nations Office on Drugs and Crime. Retrieved from https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf

⁵ Shrestha, P. M. (2020). *Restaurants and bars in Thamel are looking at staff layoffs and ultimately, a shutdown*. Kathmandu: The Kathmandu Post. Retrieved from <https://kathmandupost.com/national/2020/03/17/restaurants-and-bars-in-thamel-are-looking-at-staff-layoffs-and-ultimately-a-shutdown>

⁶ (2020). *Rapid Gender Analysis Report on Covid-19 Nepal, 2020*. Nepal Research Institute and CARE Nepal.

⁷ Khabarhub. (2020, July 31). *Khabarhub.com*. Retrieved from <https://english.khabarhub.com/2020/31/116447/>

suggests that approximately 12,000 children and 54 girls and women are trafficked every year to India primarily for sexual exploitation, including forced labor and organ removal.⁸ Poverty still remains the primary cause for trafficking but lack of proper human rights protection political instability, conflict, disasters and illiteracy catalyze the phenomenon.

In order to address the pandemic of COVID 19, various Ministries of the Government of Nepal have issued and implemented various response plans, guidelines, and standards.

The Ministry of Women, Children and Senior Citizens has issued various criteria and action plans. One of the action plan's main objective is to address the impacts on women, children with disabilities and senior citizens, and to mobilize national and international social organizations to address violence, abuse, and exploitation of individuals and groups at risk in the context of the current global pandemic.⁹ However, no such directives, guidelines or policies are issued by the government to address the problems faced by women workers from the entertainment sector.

Even under the Disaster Risk Reduction and Management Act, 2074, several committees have been formed in order to combat COVID -19. However, none of these address the problems faced by the women workers of the entertainment sectors.

In this context, LACC conducted ***Study on Impact of COVID-19 Pandemic on Entertainment Sector Workers*** with the support of lead consultant.

1.2 Rationale of the Study

At the time of the ongoing Covid-19 crisis, the whole world has been under scrutiny. Similarly, Nepal has faced a multitude of humanitarian crises during its three month long government-imposed lockdown. With mobility restricted and unemployment, the marginalized population are undoubtedly the hardest hit. It is women in these sectors who are most prone to fall victim to trafficking and transportation within territory and across border as their economic and social conditions continue to worsen during the pandemic. These include women who rely on daily income (wages) to sustain their livelihood. The entertainment sector women workers, who are already at risk of low payment, sexual and labor exploitation due to the proper implementation of laws and regulation, are hugely impacted by this pandemic. Under harsh labor conditions and minimal protection, women workers go months without receiving their pay, and often risk their own lives at the expense of earning a living. During this pandemic, some women workers face layoffs while some are further pushed into poverty. Some underprivileged population may be compelled to take up low paying jobs with no health protection which further exacerbate labor exploitation. This study aims to look at the socioeconomic impact of the pandemic on entertainment sector women workers. The outcome of this study will be to suggest gender responsive mechanisms and preparedness to put in place so that there is improved justice response to the pandemic and violence against these women workers is eliminated.

The study aims to devise gender responsive mechanisms and preparedness to put in place so that there is improved response to the pandemic and reduce vulnerabilities of entertainment sector women workers. The recommendations of this study will be presented to the concerned stakeholders to reduce internal human trafficking and make sure that the pandemic does not put the women workers at an

⁸Moura, V. S. (2020). *Spirit Me Away: The women and girls lost to trafficking in Nepal*. Aljarzeera.

⁹ Action plan to improve and address the effects of Corona Virus infection on women, children, persons with disabilities and senior citizens and to mobilize social organizations, 2077

increased risk for exploitation. This study can be used as evidence by concerned stakeholders like private sector employers, government officials and civil society organizations to address the problems of at-risk population i.e. entertainment sector women workers.

The recommendations of this study will be presented to the Nepal government to enhance the right of entertainment sectors' women workers so that they are fully equipped, should there be another pandemic/conflict/disaster/insurgency in the future. This study report will be the guiding document for GoN and line ministries to protect the right of entertainment sector women workers.

1.3 Study Objectives

The major objective of the study was to contribute in protecting the rights of the entertainment sector women workers during pandemic by understanding their experiences and impact of lockdown and pandemic on entertainment sector workers. The specific objectives were:

- To explore the socioeconomic impact of pandemic on entertainment sector women workers which includes livelihood, access to health, well-being and so forth
- To explore the rights of entertainment sector women workers and assess whether they are protected during the time of pandemic
- To provide recommendation to the Department and Ministry of Labour, Employment and Social Security (MoLESS) along with other responsible sectorial ministries and government agencies. Recommendations will be devised based on the current situation, needs, and challenges of entertainment sector women workers during pandemic and would focus on strengthening the state institution and mechanism to make them more accountable.

1.4 Methodology

Following research framework was adopted in order to conduct the research:

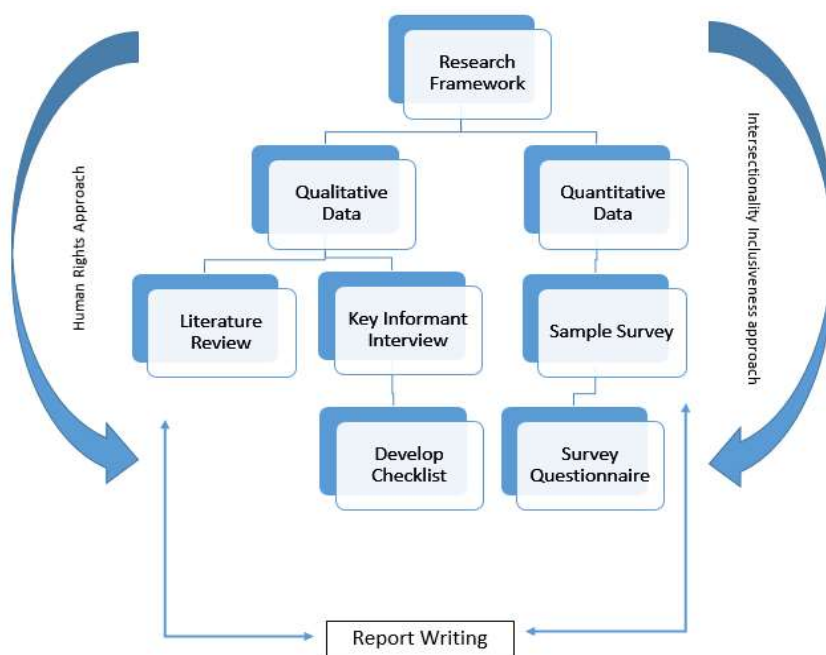


Figure 1: Research Framework

The study comprised of a mixed method model of quantitative and qualitative methods using primary data collected via primary source, i.e. surveys with entertainment sector workers and Key Informant Interviews (KII) with relevant stakeholders to reflect the direct voices of women workers from entertainment sectors as well as concerned stakeholders. Secondary data was derived from the literature review. The literature review had been chosen to understand the context of the entertainment sector and status of women workers in the sector. It also helped to triangulate the information during analysis of the findings. The research was conducted within Kathmandu valley in Kathmandu, Lalitpur and Bhaktapur District.

The study method adopted multiple approaches mainly using:

- Literature review
- KII with stakeholders
- Sample survey

1.4.1 Literature and Legal Review

A literature and legal review was conducted for understanding the relevant documents, including the 2015 Constitution of Nepal, international instruments, the Labour Act, 2074 (2017) and Rules 2075 (2018), Infectious Disease Act, 2020 (1964) and other relevant laws and policies related to rights of women, women's economic development, labour rights including recent research reports from the Freedom Fund, Terre des homes Foundation, Chhori, Swatantrata Abhiyan Nepal. Directives issued by the Ministry of Women, Children and Senior Citizens were also taken from the Ministry's website. A total of 19 documents were reviewed in depth which included 8 reports and 11 laws and directives.

1.4.2 Guiding Checklist and Survey Questionnaire

Two sets of guiding checklist and questionnaire were prepared for conducting the KIIs among the relevant stakeholders: a) guiding checklist for government stakeholders and b) guiding checklist for civil society actors.

The sample survey of entertainment sector workers was also prepared. The guiding checklist and questionnaire were semi structured employing both open ended and close ended questions to gather quantitative as well as qualitative data. The guiding checklist can be found in Annex 1 and the questionnaire can be found in Annex 2.

1.4.3 Key Informant Interviews

KIIs were conducted adopting an inclusive approach with 10 relevant stakeholders working to uplift the status of entertainment sector workers, and officials from respective departments/units of government of Nepal to identify the prevalent issues in the sector and institutional developments. The selected organizations and government agencies were purposively selected on the basis of their role as key stakeholders in the entertainment sector working for the betterment of entertainment sector workers and supervision of the entertainment sector. Online zoom video calls were primarily used to conduct the KIIs among relevant stakeholders. Other communication portals such as telephone conversation were also alternatively used on a situational basis. Additionally, 2 workshops on impact of COVID-19 lockdown on ESWs, were attended by the lead consultant to gather information from experts on the current situation of women ESWs.

The list of KII participants is attached in Annex-3.

1.4.4 Sample Survey

A sample survey was conducted among 50 entertainment sector workers to identify the problems faced by them during the pandemic and to gather their opinions. 50 Entertainment sector workers

were purposively surveyed to ensure diversity within the small sample size to derive a holistic picture of the issues. Workers working in Kathmandu valley from different backgrounds based on age, ethnic groups, caste, women with children, and workers from outside the valley, were selected, where possible. To identify and reach out to the workers, help was sought from Biswas Nepal and other networks working in this field. To conduct the survey during the pandemic, telephonic interviews were used to conduct the survey using the questionnaire.

1.4.5 Data Analysis

All qualitative and quantitative data gathered from survey were synthesized using KOBO software to prepare the data reports. KoBo Toolbox is an open source package of tools explicitly used for data collection in challenging environments of developing countries. Data is collected using mobile devices such as mobile phones or tablets even without the internet, as well as with paper or computers.

KOBO tool box has been used during the research because data can be collected online as well as offline which serves both the respondents and user's purpose. Along with that it safeguards against data loss even on very long interviews. Further, data is immediately available right after it's collected. Kobo analyzes and manages data by creating summary reports with graphs and tables. This was accomplished by entering raw data manually from telephone and zoom calls with respondents of the survey into the KOBO software. Subsequently, a systematic and thematic analysis for identifying patterns in the data was conducted. The narrative passages were used to interpret and determine the meaning of themes and patterns that conveyed the findings of the analysis.

The consultant recorded all key informant interviews in writing, with electronic recording of the conversation available for backup reference as needed. Consultant reviewed written detailed notes and made corrections to the notes where appropriate. The team subsequently compiled the data from these detailed notes. The consultant use human right based and GESI approach have used while reviewed the notes for developing findings, conclusions and recommendations from this study. The consultant shared preliminary results with LACC staff has incorporated or accommodated comments received at these sessions into this report.

During the analysis following framework was considered: demographics analysis, employer treatment and working days during lockdown, impact on livelihood, health, external behavior during lockdown and support and complaint redressal.

1.5 Limitation of the Study

The limitation of the study is its small sample size (50 entertainment sector workers + 10 KIIs) representing the entertainment sector as well as its geographical restriction to the Kathmandu Valley of Nepal, owing to time and resource constraints. This prevents the study to generalize its outcomes and findings over a larger population. Despite these limitations, the study will help highlight the issues faced by entertainment sector women workers during the pandemic which can be indicative to initiate policy debates and reform around addressing their issues. As a precautionary measure against the pandemic, the research was conducted via online communication portals which could have affected our efforts in extracting minute information that we would have otherwise extracted on a face to face communication. The study cannot reach out further to various other micro-sections (apart from those stipulated above) within the entertainment sector owing to time constraints of the study and health safety constraints of the ongoing pandemic.

1.6 Ethical Consideration

The study team ensured that all the sampled and selected respondents were prior informed about the purpose of the study. The study team adhered to the principles of inclusion, human rights, women's rights and do no harm during the entire study. As a process to ensure these principles, the study team

sought out informed consent from all the respondents ensuring their anonymity, privacy and confidentiality during the sample surveys and key informant interviews. Furthermore, consent was also sought from the respondents to take their interviews and discussions for reporting purposes. The survey was voluntary, and participants were free to withdraw from the survey for any given reason.

1.7 Structure of the Report

The report has been divided into 4 sections. Section 1 as prescribed above breaks down the introduction and methodology of the study. Section 2 delves into the available literature and legal review of the current plight of entertainment sector workers and the legal provisions that should govern the entertainment sector. Section 3 explores the findings and analysis of field data and its triangulation with the objectives of the study. Section 4 concludes with the conclusions of the study and the recommendations for addressing the issues faced by entertainment sector workers during emergencies and the legal and policy recourse that should be made available to them.

Section 2 Literature and Legal Review

The purpose of the literature review in the context of this study is to understand the situation of ESWs prior to the pandemic and lockdown and triangulate the findings of the literature review with the field findings. This would enable us to track the change in circumstances and environment pre and post pandemic.

Towards conducting the literature review, a two part review of documents was conducted. Firstly, major reports by organizations working on trafficking and with ESW were reviewed. Subsequently, a legal review of the relevant legal provisions that are applicable to ESWs in the context of our study was conducted.

2.1 Literature Review

Majority of the literature reviewed in this study had been conducted prior to the pandemic. There was no literature available that was conducted specifically on ESWs during the lockdown in Nepal. Hence the literature review was primarily used to track the situation of ESWs pre-pandemic whereas the survey and KII enabled us to gather their data post pandemic.

The following list of documents were reviewed:

1. Trafficking and Exploitation in the Entertainment and Sex Industries in Nepal: A Handbook for Decision-Makers. Kathmandu, Nepal: Terre des homes Foundation. Frederick, J., Basnyat M., Aguetant J. L. (2010).
2. Study on Access to Justice and Labour Rights among the Entertainment Workers by Swatantrata Abhiyan Nepal 2017.
3. Dancing Under the Neon Lights: The Study of Resilience among Entertainment Sector Women and Girls Workers, Swatantrata Abhiyan Nepal, (2017-2018).
4. Report on a study “Life of Girls and Women in Adult Entertainment Sectors” A study of Kathmandu Metropolitan City, Ward 32, Chorri Research Book, Chhori, January 2019.
5. 2019 Annual Impact Report (Freedom Fund) [Impact in 2020, Plans for 2020, The Freedom Fund, 2019.
6. Study on the New and Emerging Trends of Human Trafficking in Entertainment Sectors in Nepal, Forum for Protection of People’s Rights (PPR-Nepal), March 2020.
7. Evaluation of the Central Nepal hotspot project using the process tracing methodology, Summary Report, The Freedom Fund, April 2020.
8. Rapid Gender Analysis Report on Covid-19 Nepal, 2020, Nepal Research Institute and CARE Nepal, 2020.

The Trafficking and Exploitation in the Entertainment and Sex Industries in Nepal: A Handbook for Decision-Makers. Kathmandu, Nepal, Terre des homes Foundation, 2010: It is a comprehensive handbook that provides various insights on the different types of ESWs in Nepal, how such establishments are run, the nature of employers, employees and customers that frequent such establishments. The handbook primarily approaches the issues of trafficking and sex work within the entertainment sector and exploitative practices of the establishments. The handbook serves as a strong foundational document to understand the nature of entertainment sector work in Nepal. The handbook also provides multitudinous recommendations to address the root causes of trafficking and exploitation focusing on addressing the activating causes of girls and women entering the entertainment sector such as early and forced marriage, violence, separation and dysfunctional families, non-supporting partners, and family economic crisis. The root causes are identified as poverty, lack of education, limited employment options, lack of awareness and gender inequality. Though the handbook has been published 10 years ago, the problems and challenges identified in this handbook remain largely unchanged ten years later.

Study on Access to Justice and Labour Rights among the Entertainment Workers by Swatantrata Abhiyan Nepal, 2017: This study conducted an in depth interview with 504 ESWs to identify various issues in the entertainment sector. The study unveiled the link with young age and physical appearance as figures for high recruitment as majority of workers belonged to the 18-25 years category. This age group was also found to be most exploited. The study also found that 95% of the ESW did not have appointment letters and could resultantly be replaced or their employment terminated upon the will of the employer. 90% workers also reported to have not received any leave and 48% were paid below NPR 8000. Working overtime without payment, working in fear of employer, and bound to work to repay loan was also reported highly by the respondents of this study. The respondents also stated that entertainment sector paid better than other sectors but 63% stated that they did not consider it a livelihood option owing to the social taboos attached to the sector. With regard to access to justice, none of the respondents sought legal help on labour disputes owing to lack of strong documentation, fear of stigma, absence of strong solid evidence, and lack of trust in the state agencies. This study provides ample insight of the labour issues that plagued the entertainment sector pre-pandemic which exacerbated further during the pandemic.

Dancing Under the Neon Lights: The Study of Resilience among Entertainment Sector Women and Girls Workers, Swatantrata Abhiyan Nepal, 2017-2018: This study takes on a different approach to existing literature as it doesn't approach women and girls in the entertainment sector as victims but rather works towards exploring the causes for resilience in working in the entertainment sector. In doing so, it provides various valuable insights on the reasons women opt for this sector and the factors that motivate them to sustain themselves. The study ascertains that the stigma and problems attached to this sector can be reduced and eliminated if the sector is made to enforce decent work policies. The stigma and euphemisms of the sex industry attached to this sector cause immense difficulties for workers who face difficulties to report their problems with authorities and are left trapped in the sector. This study also noted the various forms of labour exploitation workers face in this sector owing to lack of job contracts, appointment letters or any such document to establish a formal relationship. The study recognized the job opportunity the sector provides to persons who would otherwise remain unemployed and states that the best route to address exploitation within this sector is to bring the sector under the ambit of labour rights.

Report on a study "Life of Girls and Women in Adult Entertainment Sectors" A study of Kathmandu Metropolitan City, Ward 32, Chorri Research Book, Chhori, January 2019: This report delves not only into the issues the workers face but also explored the justification and statements provided by employers to different issues as it also interviewed them. A total of 109 respondents were interviewed in this study. The report states that employers tried to portray themselves in good light as providing

food and shelter when the workers had nothing. The study also found that some establishments were not registered while the establishments that were registered were registered under different offices such as some at the municipality/ward offices, some under the cottage and small industry and some in company registered offices. There was thus no uniformity in registration and legal provisions related to entertainment sector workers were not implemented thoroughly. The monitoring and action committee as per the Supreme Court directives were also found to be functioning ineffectively in the field.

2019 Annual Impact Report (Freedom Fund) Impact in 2020, Plans for 2020, The Freedom Fund, 2019: This annual impact report highlights the effectiveness of certain programmatic and policy interventions carried out by the Freedom Fund that has resulted in a reduction of the number of children engaged in the entertainment sector. Their programs equip minors with skills, services and knowledge to avoid or exit such jobs while also working with employers and customers to reduce demand for minors in the sector. Their efforts have been focused on long term systems for change with intensive technical support that has caused a change in law, monitoring mechanisms, and awareness raising programs with employers, police and local government which has conjointly caused a marked reduction in the number of children in the entertainment sector

Study on the New and Emerging Trends of Human Trafficking in Entertainment Sectors in Nepal, Forum for Protection of People's Rights (PPR-Nepal), March 2020: This study focuses heavily on implying human trafficking as the driving force of the entertainment sector. Elements of forced labour and prostitution, coercion, enticement and exploitation bring the study to draw this link. The study identified the major risk factors as poverty, lack of education, skills, and awareness. The study mapped out agencies and shelter homes working against human trafficking and which were not functional. The study examines numerous legislation that should prevent human trafficking and commercial sexual exploitation and govern the entertainment sector workers to ensure dignity of work and removal of social stigma. It draws a comparative analysis of current domestic law with ratified international laws and calls for amendment of the narrow domestic legislation as well as calling for regulation of specific workplaces under the entertainment sector. It also recommends enacting specific law for the entertainment sector to ensure safety and protection of workers and mandatory registration and monitoring of all establishments in the entertainment sector at the provincial government. For the employers it recommends mandatory registration of business and compliance with labour standards, and to ensure that no action of reprisal is taken against complainant.

Evaluation of the Central Nepal hotspot project using the process tracing methodology, Summary Report, The Freedom Fund, April 2020: This evaluation project assessed the impact of its hotspot program in reduction of minors in the entertainment sector. To do so, the project highlighted the importance of applying pressure on employers of this sector with legal provisions from the Labour Act, 2074 (2017) and the Children's Act, 2075 (2018), especially conducting research on hidden and underground venues. The project further stressed on the importance of supporting ESWs by increasing their knowledge on legal mechanisms and collective bargaining, while also providing skills training on jobs as per market demand to increase their economic strength. The project also harped on addressing the root causes of risky migration by changing patriarchal norms and ensuring continued education of girls, while also raising awareness on safer migration among adults on a national scale.

Rapid Gender Analysis Report on Covid-19 Nepal, 2020, Nepal Research Institute and CARE Nepal, 2020: Following the onset of the pandemic, CARE Nepal conducted a Rapid Gender Analysis (RGA) under the leadership of MoWCSC together with UN Women Nepal and Save the Children. The RGA spanned across all 7 provinces through 12 districts with 465 community members, government and non-governmental stakeholders interviewed. It revealed that women working in the entertainment sector were among the most affected groups of COVID-19. The number of women not engaged in paid work had increased by 337%. The study also noted that 83% of women had lost their jobs and women ESWs were among the hardest hit. This has begun to push them into the destitution trap in

accepting risky jobs. Women in the entertainment sector faced increased instances of Intimate Partner Violence, domestic violence and gender based violence. The mechanisms to respond to such violence had also been halted in the wake of the lockdown thus worsening their plight

Summary: There is a lack of literature such as research reports and other relevant documents that reveals the impact of the COVID-19 crisis, lockdown and post lock-down on the entertainment sector. With the lockdown having come into effect more than 7 months ago, there still is a dearth of focus on the entertainment sector.

Existing literature review pre-pandemic¹⁰ has indicated that women working as entertainment sectors continued to face many issues within the workplace, such as below minimum wages, arbitrary hire and fire employment, arbitrary decision of wages by employers, physical, mental and sexual exploitation of employees, workplace harassment and many more issues. The CARE RGA Report has showed that lockdown has caused massive unemployment for women in the entertainment sector and pushed them into desperation to accept riskier jobs as they have no income to sustain themselves, which subsequently paves a path for higher vulnerability as they attempt to survive. The entertainment sector had been both a boon and curse for the workers as on the one hand it provided them with employment and income when no other sector did, and on the other hand, subjected them to informal conditions of work with no job security and lower than government stipulated minimum wages along with the above mentioned issues.

The lack of institutionalization of this sector has led to exponentially larger problems during the pandemic. The lack of institutionalization of this sector has left thousands of entertainment sector workers jobs immediately terminated without notice since such workers did not have formal employment contracts with the establishments. It has left the workers with little to no savings since they were mostly paid below minimum wage to begin with. The lack of identification by the government for entertainment sector workers and its informal sector classification has contributed to much of these problems. The non-consideration of the effects of the lockdown by the government on such workers has further displayed institutional failure on the part of the government to execute the Labor Act, 2073 and meet the objective of the Act. The lack of targeted welfare schemes and policies for entertainment sector workers due to the effects of the lockdown has struck the final blow.

2.2 Rights of Women ESWs in Existing Laws

To better understand the scope of violations of human rights and labour rights by the entertainment sector, specifically relevant towards the lockdown, this section delves into the legal jurisprudence in Nepal that require the entertainment sector employers to work and operate under the ambit of various laws, mainly the Labour Act, 2074 (2017). In doing so, the legal review mainly examines the Constitution of Nepal, 2072 (2015), the Labour Act, 2074 (2017) the Sexual Harassment in the Workplace (Prevention) Act, (2015) and the Directives to Control Sexual Harassment towards Working Women in Workplaces such as Dance Restaurants, Dance Bars, 2065. Along with that brief overview of Corona Virus-COVID-19 related directives, action plan that introduced by government of Nepal.

¹⁰ Prior to 24th March 2020 when the government imposed a country wide lockdown.

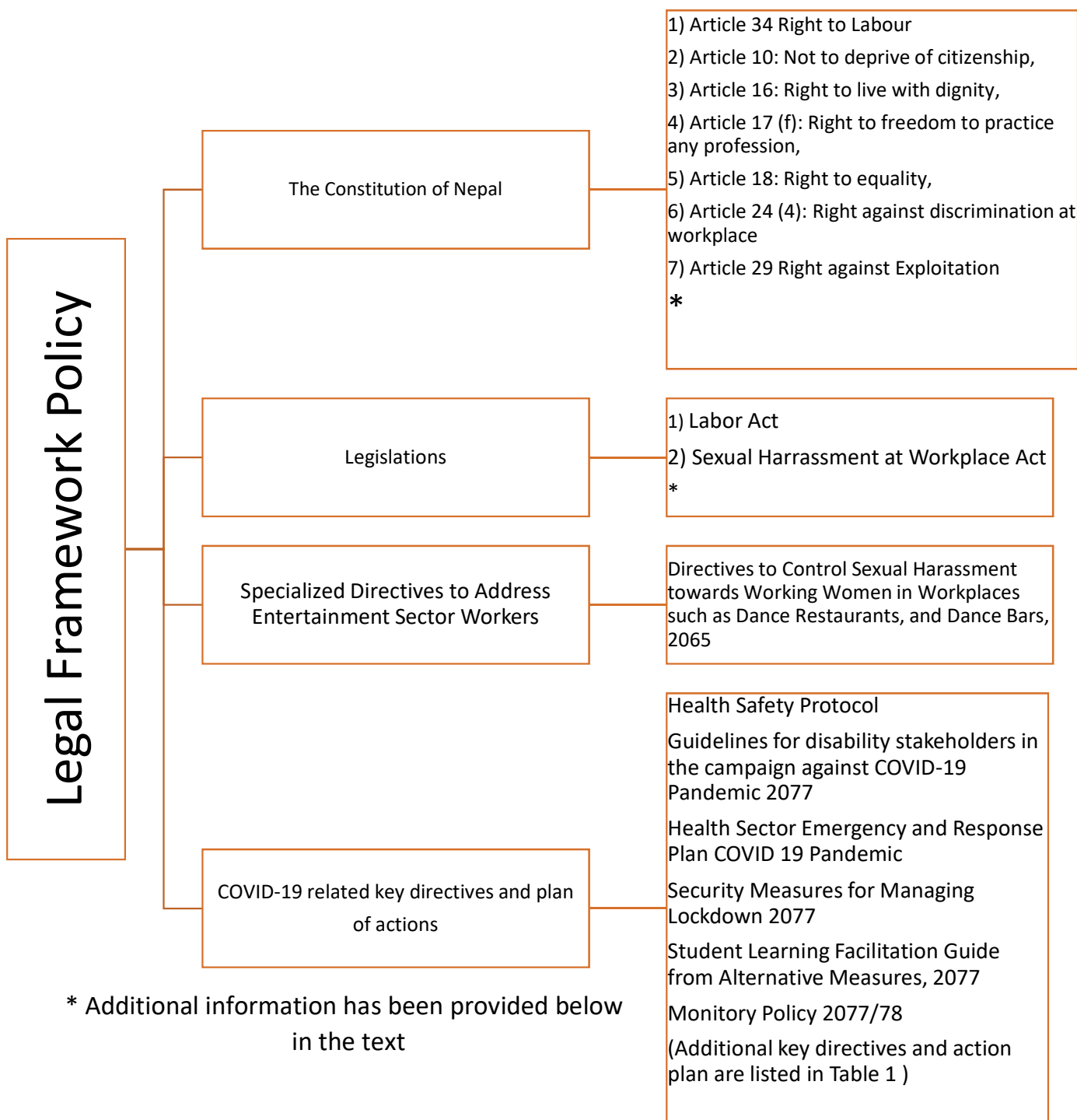


Figure 2: Legal Framework Policy

Constitution of Nepal, 2072 (2015)

The Constitution of Nepal envisages various fundamental rights that guarantee the equality, dignity and freedom. It is the duty of the State to ensure that the fundamental rights of any person is not violated. The Constitution is the foundational legal document upon which all other laws are devised. It provides for various rights that are applicable for women working in the entertainment sector as well. These are, Article 10: Not to deprive of citizenship, Article 16: Right to live with dignity, Article 17 (f): Right to freedom to practice any profession, Article 18: Right to equality, Article 24 (4): Right against discrimination at workplace, Article 29: Right against exploitation, Article 33: Right to employment, Article 34: Right to labour, Article 38: Rights of women, Article 39: Rights of child, and Article 43: Right to social security.

During the lockdown, the following fundamental rights are also relevant for the protection of women ESWs: Article 35: Right relating to health, Article 36: Right relating to food, Article 37: Right to housing, and Article 42: Right to social justice. Additionally the Directive Principles and State Policies also provide certain advisory provisions under Article 51 (i): Policies relating to labour and employment and Article (51) (j): Policies relating to social justice and inclusion.

In the context of our study, particular attention needs to be brought to these provisions:

Article 29 (3) Right against exploitation states that “no one shall be subjected to trafficking nor shall one be held in slavery or servitude.” Article 29 (4) additionally states that “no one shall be forced to work against his or her will.”

Article 34 Right to labour states that “every labourer shall have the right to fair labour practice.” Article 34 (2) also states that “labourers shall have right to appropriate remuneration, facilities and contributory social security.” Article 34 (3) additionally provides for the right to form and join trade unions and engage in collective bargaining. From what has been derived from the literature review, these provisions have been heavily contravened as women ESWs were not provided with minimum wages, made to work in unhealthy environments and at odd hours and were not provided any form of social security. The importance of social security has particularly been highlighted in the lockdown as majority of the workers’ employment has been terminated and many are left without any source of income and savings. Collective bargaining is also crucial as exploitation of women in this sector is rampant.

Though the Constitution guarantees various fundamental rights to women ESWs, the laws and directives in place have not been implemented effectively to ensure these fundamental rights to these workers. The entertainment sector has constantly been excluded in the application of these fundamental rights.

Labour Act, 2074 (2017)

One of the most important legislation for ESWs while one also that most eludes them, is the Labour Act. This Act has done away with the previous Labour Act, 1992 (2048) and the minimum head count requirement for applicability. The Act thus is applicable to all establishments including the establishments in the entertainment sector. However, the literature review shows that there is little to no awareness on the applicability of legal provisions that ensure labour rights and workplace safety.

The following provisions from the Labour Act are relevant in our context to protect the rights of ESWs. They are Section 4: Prohibition against forced labour, Section 8: Right to form trade unions, Section 9: Right to remedy, Section 11: Prohibition on employment without employment contract,

Section 12: Formation of employment relationship, Section 15: Continuity of employment relationship during lay off period, Section 19: Part time employment, Section 28, 29, 30, 31: Working hours, No compulsion to work overtime, Provisions relating to overtime, Remuneration for overtime, Section 33: Arrangement for transportation, Section 34: Right of workers to receive remuneration, Section 39: Remuneration for layoff period, Section 40,41,42,44: Weekly holiday, Public holiday, Substitute leave, Sick leave, and Section 57: Social security scheme shall be applicable.

The Act also provisions for certain regulations in place for employers to ensure they comply with the Act and ensure a decent working environment. They are Section 68: Formulation of safety and health policy, Section 69: Duties of employers towards workers, Section 74: Formation of safety and health committee (for establishments having 20 or more workers), Section 80: Provisions relating to prevention of contagious diseases, Section 91: Compliance of fair labour practice, and Section 132: Sexual harassment is prohibited.

Sexual Harassment at Workplace (Prevention) Act, 2071 (2015)

The Act has been enacted to ensure every person enjoys the right to work in a safe environment. The Act is neutral and not limited to female workers only. Section 4 expressly prohibits the following acts as sexual harassment at workplace: i) physical contact and advances, ii) displaying sexual intent by written, verbal and non-verbal cues, iii) demanding and proposing sexual favours, iv) flirting and harassing with sexual motive, v) display of pornographic material. However, the Act only appears to apply to the organized sector while remaining ambiguous about its applicability to the informal sector. With a clear delineation of its applicability to the informal sector, the sexual harassment at workplace act could be effectively used to ensure a safe space for the entertainment sector as well.

The Act imposes certain responsibilities and duties on the employer to prevent and address sexual harassment at the workplace. Section 12 of the Act provisions for punishment up to 6 months imprisonment and/or NPR. 50,000 for those who commit sexual harassment at workplace. It also provides punishment for the employer if he fails to carry out his responsibilities and duties. The fine imposed on the employer can be up to NPR 25,000 with double punishment for repeated offences.

Directives to Control Sexual Harassment towards Working Women in Workplaces such as Dance Restaurants, and Dance Bars, 2065

This directive came to pass over the writ petition filed in the case of Pro Public v. Government of Nepal¹¹. The directive was passed in a bid to curb sexual harassment of women in the entertainment sector. It prohibits sexual exploitation of women workers in the entertainment sector. Rule 6 stipulates that the worker must not be paid lower than the minimum wage determined by the government. Rule 8 and 9 lay down the acts that qualify as sexual harassment and sexual exploitation respectively. Sexual harassment includes proposing or demanding sexual intercourse, forcing women workers to use sexually provocative language, dance and sing, display physical, verbal and sexual conduct, and displaying pornographic material for women workers. Sexual exploitation includes proposing or forcing women workers to have sexual intercourse with or without financial incentive and forcing women workers to touch their bodies with sexual connotation. Rule 10 further lays down certain restrictions that women workers should not be subjected to such as smoking, consuming alcohol, and other intoxicants with customers, to use sexually derogative jokes and language to address them, and to expose any body part.

¹¹ Writ No. 2822 of 2065

Rule 11 lays down the rights and duties of the employer such as providing protection and ensuring a decent working environment without physical, psychological and mental harm, and to ensure speedy resolution of grievances of the women workers. It also stipulates that the employer must abide by the labour laws and other legal requirements. Rule 12 lays down the duties of the customers to treat the women workers with respect and dignity. The directive also provisions for a complaint mechanism to the police or to the Monitoring and Action Committee formed under this Directive. The Monitoring and Action Committee should be established in each district.

Though the Directives are in place to address issues prevalent in the entertainment sector, implementation is heavily lacking the directive and relevant laws, leaving the entertainment sector still devoid of effective regulation.

Other Laws

Apart from the abovementioned laws, there are many other laws that can apply to women ESWs. For example, the Contributory Based Social Security Act, 2074 (2017), is applicable to all entities as prescribed by the government. Hence government notification in the Nepal gazette is required to bring all establishments under the entertainment sector into its ambit. Additionally, the employer must then list their establishment and employers into the Social Security Fund. The effective implementation of this Act in the entertainment sector would have provided workers with savings to fall back to during such times of emergency.

The Disaster Risk and Management Act, 2074 (2017), is applicable during the lockdown as pandemics are also covered under it. Under Section 8 (m) of the Act, the executive committee for disaster management is mandated to bring about special plans and programs for women, children and marginalized communities who are at the risk of disaster. Section 8 (v) further mandates the executive committee to re-establish economical activities, create employment opportunities and income generation for livelihood in disaster affected areas. The roles of the authority established for disaster management under the Ministry of Home Affairs is prescribed under Section 11. They are: Section 11 (l): To temporarily rehabilitate people in disaster affected areas, Section 11 (q): To provide relief packages, Section 11 (w): To provide psychological counselling to victims. Section 21 (d) also mandates security agencies and other agencies to facilitate distribution of relief packages.

The National Penal Code, 2074 (2017), also prohibits the promotion of prostitution under Section 119. The punishment prescribed for the same is up to 3 years imprisonment and NPR. 30,000. Section 162 prohibits forced labour, Section 163 prohibits slavery, servitude or slavery like practices, Section 164 prohibits debt bonded labour, Section 224 prohibits sexual harassment, and Section 225 prohibits child sexual abuse. Additionally, sexual intercourse with a minor even with her consent amounts to rape under Section 219. Any person who abets or order or attempts or conspires or is accomplice will also be punished under Section 215. Hence, these provisions apply to employers as well as customers and other who knowingly abet the commission of these crimes in the entertainment sector.

The Right to Food and Food Sovereignty Act, 2075 (2018), is another relevant legislation for ESWs during the pandemic. The Act makes legal provisions for the fundamental right to food under Article 36 of the Constitution to ensure food security and food sovereignty of the citizens. It also covers populations that are affected by disasters under Section 5: Identification of targeted household, Section 7: To provide food for free or concessional price, and Section 9: Emergency food and nutrition security.

Another relevant legislation during times of financial difficulty of ESWs wherein they are unable to pay rent, is the Right to Housing Act, 2075 (2018) which provides as legislation to the fundamental

right to housing under Article 37 of the Constitution. Under Section 7 the Government of Nepal shall provide housing facilities to those having no house or unable to decide for housing from their income generation and those who are displaced permanently due to a natural disaster. Section 13 also states that the government shall provide temporary housing to those displaced from disasters.

The Social Security Act, 2075 (2018), under Section 7 provides for the helpless single woman allowance. However, such allowance shall only be provided to widows, legally separated and divorcees who have not had second marriage, who have no source of income to make a living and have income less than that fixed by the Government of Nepal. This allowance would not be available for unmarried or married women ESWs. However, Section 5 provides for destitute citizen allowance which ESWs during times of such financial hardship may be able to claim.

The Infectious Disease Act, 2020 (1964), was enacted to root out or prevent any infectious disease from spreading to ensure that such disease does not reach its climax. As per the Act, the Government of Nepal has the power to take necessary action to root out the cause or prevent the disease from spreading and can issue necessary orders including controlling transportation and movement by any means, with applicability to the general public or group of persons. The Government of Nepal can designate any official and confer the necessary powers to them to carry out the prevention and control of the infectious disease. The CDO has the power to try and settle cases on offences committed under the Act. Though this Act has enforced the lockdown, it is not comprehensive to address the issues that arise from such infectious diseases such as the issues of the lockdown and pandemic on various communities.

In particular, the government of Nepal has brought various directives, guidelines and action plans to combat with the Coronavirus, (COVID-19) as following:

Table 1: COVID-19 related Key Directives and Plan of Actions

S. No	Ministry	Documents
1.	Ministry of Women, Children and Senior Citizens	<ul style="list-style-type: none"> i. Ministry of Women and Senior Citizens' Guidelines for Stakeholders to Provide Support and Assistance to Senior Citizens in Crisis Due to Corona Virus Infection, 2077 ii. Health Safety Protocol iii. Guidelines for Disability Stakeholders in the Campaign Against Covid-19 Pandemic 2077 iv. Improve and address the effects of Corona virus infection on women, children, and senior citizens with disabilities and to mobilize social organizations. v. Action plan to improve and address the effects of Corona Virus infection on women, children, persons with disabilities and senior citizens and to mobilize social organizations, 2077
2.	Ministry of Health and Population	<ul style="list-style-type: none"> i. Health Sector Emergency and Response Plan COVID 19 Pandemic ii. Health sector response to Covid 19 iii. Corona virus Disease (Covid 19) Interim Guidelines for Reproductive, Maternal, Newborn and

		<p>Child Health Care in the Time of the World Pandemic, 2077</p> <p>iv. Health Care arrangements for person staying in quarantine</p>
3.	Ministry of Federal Affairs and General Administration	<ul style="list-style-type: none"> Letter sent to the local level Government on 2076-12-09 regarding the implementation of the action plan related to Covid-19.
4.	Ministry of Finance	<ul style="list-style-type: none"> Criteria for providing relief to working class and helpless working in unorganized sector, 2076
5.	Ministry of Education	<ul style="list-style-type: none"> Student Learning Facilitation Guide from Alternative Measures, 2077 Covid-19 Educational Cluster Contingency Plan, 2020
6.	Ministry of Home Affairs	<ul style="list-style-type: none"> Security Measures for Managing Lockdown, 2077
7.	Nepal Rastra Bank	<ul style="list-style-type: none"> Monitory Policy 2077/78
8.	Government of Nepal	<ul style="list-style-type: none"> Relief package
9.	Supreme Court key Decisions on COVID-19 related cases	<ul style="list-style-type: none"> Advocate Mina Khadka Basnet and others v. Office of Prime Ministers and Council of Ministers et.al, Writ Petition (076-WO-0932), Advocate Manish Kumar Shrestha vs. Office of Prime Minister and Council of Ministers, Writ Petition (076 WO-0935) Advocate Bishnu Luitel vs. Office of Prime Minister and Council of Ministers, Writ Petition (076-WO-0933) Prakash Mani Sharma (on behalf of forum for Protection of Public Interest) and others vs. Office of Prime Ministers and Council of Ministers et. al. Writ Petition (076-WO-0938) Advocate Shom Prasad Luitel vs. Office of Prime Minister and Council of Ministers et al. Writ Petition (076-WO-0940) Advocate Shailendra Prasad Harijan and others vs. Office of Prime Minister and Council of Ministers et.al, Writ Petition (076-WO-0941) Roshani Paudel and Others vs. Office of Prime Minister and Council of Ministers et. al., Writ Petition (076-WH-0962) Advocate Bishnu Luitel vs. Office of Prime Minister and Council of Ministers, Writ Petition (076-WO-0933), Advocate Pushpa Raj Paudel (On Behalf of Supreme Court Bar Association vs. Office of Prime Minister and Council of Ministers et. al. Writ Petition (076-WO-2936)

Summary

In context of our study, the above laws, though applicable to varying degrees, are not sufficiently implemented in the entertainment sector. Literature review after the enactment of these legal frameworks continue to show exploitation of women in the entertainment sector by the employers and with no observation of the minimum labour standards in the workplaces, as well as violating sexual harassment and exploitation laws. The working conditions in these establishment do not meet the criteria laid out in the legal provisions. Employment of workers is solely based on the will of the employers with no employment contracts to protect the workers. Even in the absence of an employment contract, employment relationship is deemed to have been formed.

There is a general misunderstanding that the Labour Act, 2074, only applies to the formal sector and that the entertainment sector as an informal sector, is exempt from it. Due to the lack of legal awareness and implementation of these provisions, women workers feel helpless and are pushed to enter the vicious circle of exploitation. The literature review has also found that police and executive bodies continue to further victimize, stigmatize and mistreat women ESWs when they approach these bodies and this has left them feeling helpless against the labour malpractices of the entertainment sector as they have no redressal mechanism to resort to.

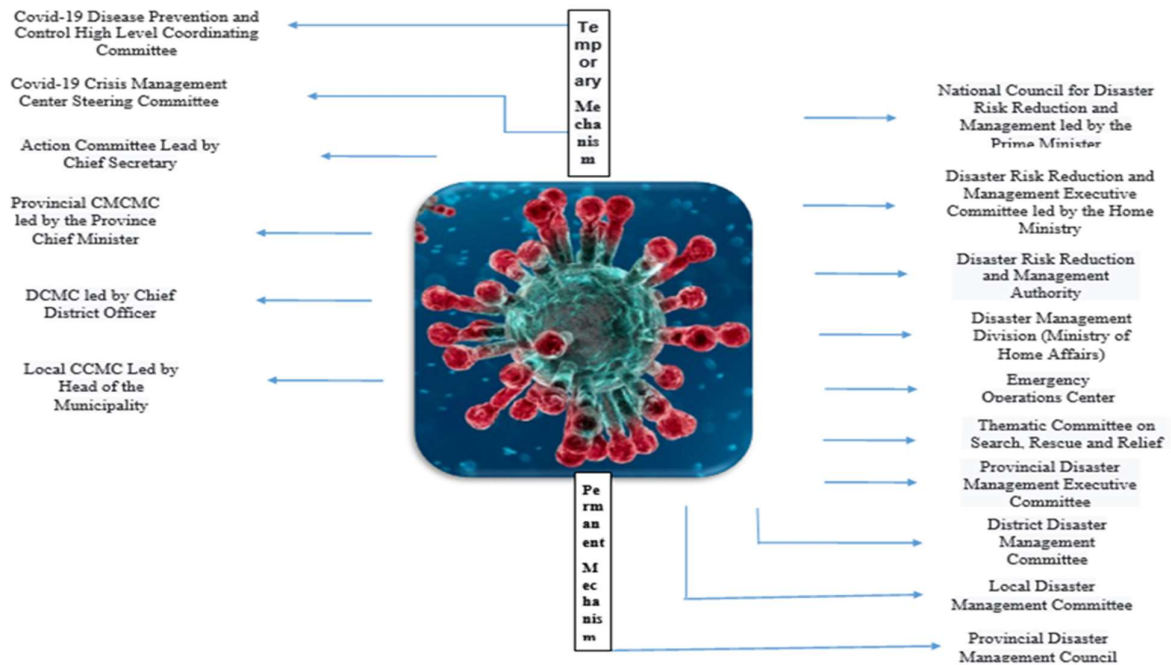
In the context of the lockdown, the observance of legal provisions towards social security through social security schemes would have mitigated the blow to the women ESWs to a certain extent, as they would have savings to resort to in times of emergency, however, this provision was also not observed by the employers of the entertainment sector. Furthermore, the Labour Act also provisions for remuneration during lay off period which has also not been observed. Though the Act contains various legal mechanisms in place to protect workers during the emergency, the lack of implementation of the Act has left thousands of ESWs in peril during the lockdown.

2.3 Institutional Mechanism to prevent and Respond COVID-19 Impact

With the view to contain the worldwide pandemic COVID 19; Government of Nepal, and the three tiers of the Government has formed a specialized temporary mechanism in order to contain COVID-19 only. These mechanisms are: COVID-19 Disease Prevention and Control High Level Coordinating Committee, COVID-19 Crisis Management Center Steering Committee, Action Committee Lead by Chief Secretary, Local CCMC led by Head of Municipality, CCMC Secretariat led by Secretary, DCMC led by CDO, and Provincial CCMC led by Province Chief Minister. However, there are existing permanent mechanisms in place within the government to handle disasters including pandemics. They are: National Council for Disaster Risk Reduction and Management led by Prime Minister, Disaster Risk Reduction and Management Executive Committee led by Home Ministry, Disaster Risk Reduction and Management Authority, Disaster Management Division (Ministry of Home Affairs). Emergency Operations Center, Thematic Committee on Search, Rescue and Relief, Provincial Disaster Management Committee, District Disaster Management Committee, Local Disaster Management Committee, and Provincial Disaster Management Council.

At the initial stage of the pandemic in Nepal, there was confusion among the Government agencies as to the implementation and coordination between the permanent and temporary mechanisms. The resulting effects have been the ineffective response from the government to address the issues arising out of the lockdown and pandemic. Moreover, these mechanisms were overwhelmingly dominated by male, and all the decisions were led and done by them. The composition of these mechanisms, hence were not inclusive as there was no even “representation” of women, marginalized and disadvantage groups in high level structures.

The details of this structure has been given in the figure below:

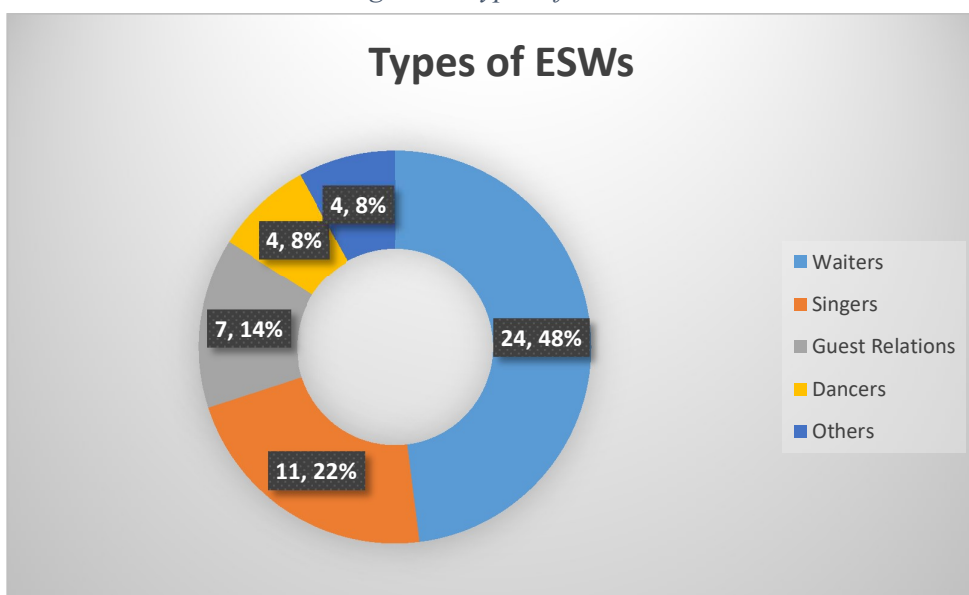


Section 3: Findings and Analysis

This section triangulates the data assimilated from the literature review, legal review, survey findings, and KII findings to determine the socio-economic impact of the lockdown on women ESWs. This section also includes the findings extracted from the survey and are presented in form of tables and charts. The literature review mostly provides us with data pre-pandemic while the KII and survey findings are used to assess data comparatively, during and post pandemic.

3.1 Demographic Information

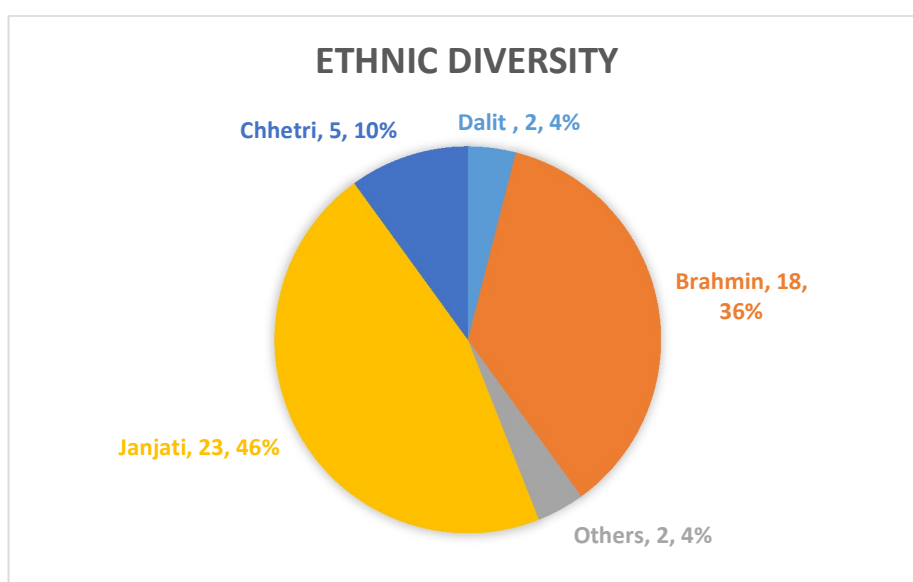
Figure 3: Types of ESWs



The literature review has unveiled the high number of women and children working in the entertainment sector. Many of the reports also focus on the prevalence of minors in the entertainment sector. The Children's Act 2018 also prescribes a minimum age limit of 18 to enter the entertainment sector. The Child Labour (Prohibition and Regulation) Act, 2000, under Section 3 (2) also criminalizes the entry of child in hazardous business (which also include businesses related to tourism, motel, hotel, casino, restaurants, bars, pubs, resorts and so forth). Even among the 50 respondents surveyed in our study, 2 were minors between the ages of 14 to 18. One of them worked as a waiter whereas the other worked as a dancer. Even the Labour Act under Section 5 prohibits the employment of children under the prevailing laws. It also mandates the Labour Office under Section 94 (1) (g) to inspect areas and rescue children and take action against the employer employing such children. However, as stated by KII respondents, employers work around this by making false claims over the age of minors which cannot be verified as most of the women are undocumented workers.

Most literature review has also observed that majority of women ESWs in this sector are from Janjati background. Our survey findings also reiterate this trend. 23 (46%) of respondent of the survey were Janjatis, 18 (36%) were Brahmins, 5 (10%) were Chhetris, 2 (4%) were Dalits and 2 (4%) were others.

Figure 4: Ethnic Diversity



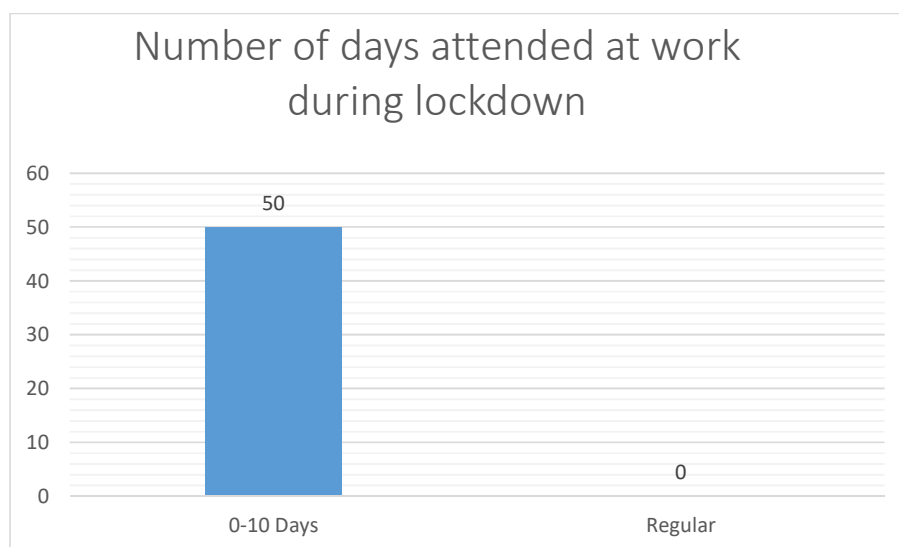
3.2 Economic Impact

3.2.1 Loss of Employment Opportunity

The nationwide lockdown in Nepal began from 24 March 2020. All services except for medical and essential foodstuff services were prohibited. The lockdown was lifted on July 22nd with the hotels and restaurants permitted to open from July 30, but with certain restrictions on party's and gatherings. The government resumed operation of essential services after lifting the lockdown, with the entertainment sector being termed under non-essential services and prohibited from resuming operations. Hence the entertainment sector has remained shut for more than 7 months. This has subsequently led to loss of jobs.

All 50 respondents of the survey stated to have been unable to work at all. 13 respondents stated that their friends had been fired from service during lockdown.

Figure 5: Number of days attended at work during lockdown



All the key informants also stated that women workers from entertainment sector have lost their job. Without any recourse, workers are trapped in the web of exploitation. Due to the absence of job contracts and appointment letters they could not formally claim any income during the lockdown and even post lock down period as entertainment sectors are not permitted to open. As per one of KII informants who is the Chairperson of the LokDohori Pratisthan, entertainment sector business in Kathmandu valley is not only targeted to domestic customers but targeted to tourists as well. Since international cross boarder travelling is restricted, the business has completely collapsed. Hence, they were not able to pay the salary to work. KII informants who represent the Civil Society also reinforces that women workers who were associated with their network also stated that women workers lose the job during and post lock down period.

3.2.2 Status of Income



Among the 50 respondents, only 1 respondent (a singer), received payment (half) that was due salary amount of before the lockdown.

The key informants also revealed that during the lockdown not only the women entertainment workers, but majority of workers from entertainment sectors were not paid by their employers.

Figure 6: Payment made by employer during lockdown

This shows that during the lockdown and post lockdown period, workers that include women workers largely lost their source of income.

During the lockdown, the Government of Nepal issued the relief package¹² that includes the payment of salary to employees by their employers. The government issued the directives as following:

- Employers (industrialists and businessperson) in the formal sector shall pay salaries to their workers even during the lockdown
- Employers can access the organization-level welfare funds to make payments to their employees until the resumption of businesses
- Tourism organizations shall pay daily or monthly wages to their workers until Chaitra (last month of Nepali calendar)
- The Nepal government shall deposit the amount contributed by workers and employers of organizations affiliated to the Social Security Fund for the month of Chaitra
- The workers shall be listed at the local level-based Employment Service Center and Employment Opportunities shall be created through the Prime Minister Employment Program.

The government released relief packages during the initial phase of lockdown. The relief packages mandated the payment of salaries by employers in the formal sector during the lockdown. No provision was made for such salary for workers in the informal sector.

In practice the data shows that the not only the directives related to relief package during the lockdown were not respected by employers, but, labor rights related legislations and regulations were also disregarded.

Moreover, large number of women workers had no formal contract and most of the entertainment sector business entities like restaurants, parlors, hotel, *dohori saanjh* were also not formally operated as they were not registered as required by law. The KII findings have also corroborated that many workers' salaries even prior to the lockdown was not fully paid. As noted in the literature review, 95% workers in this sector were engaged in employment without job contracts and appointment letters.

The government had introduced the contributory social security scheme and stated in relief package that the Nepal government shall deposit the amount contributed by workers and employers of organizations affiliated to the Social Security Fund for the month of Chaitra. However, in practice according to the KII informants, most of the entertainment sectors, workers and employees were not registered under this scheme. Consequently, employers have taken undue benefit of the situation and have not shown accountability towards their employees. The directive was only valid to Chaitra, and entertainment sector business entities have not gotten permission to reopen their business even post lockdown period.

3.3 Livelihood during lockdown

3.3.1. Financial Hardship

Respondents from the survey conveyed the numerous hardships they faced during the lockdown. With the shutdown of the entertainment sector for more than 7 months, many ESWs are left unemployed without jobs and any source of income as revealed by data mentioned above. The women workers have gone through multidimensional hardship: loss of job has heavily impacted their regular income. As analyzed above, though employers were responsible towards their workers, they have not taken

¹² (2020). *These are the relief packages introduced by the government following extension of lockdown for another week*. Kathmandu: The Kathmandu Post. Retrieved from <https://kathmandupost.com/national/2020/03/30/these-are-the-relief-packages-introduced-by-the-government-following-extension-of-lockdown-for-another-week>

legal responsibilities to pay the minimum salary during the lockdown and post lockdown as business has remained shut down.

The KII respondents also stated that ESWs depend on tips as their major source of income with their salary being well below minimum wage, hence they can't accumulate any savings. As per the same respondent, many such workers also walked 8-9 days during the lockdown back home as they had no source of income to continue living in the Kathmandu valley. The key informants stated that the government has not brought any tangible plans that measure to facilitate for opening of business, hence, not only employees, but employers are also facing financial hardship. This data indicates that women workers from the entertainment sectors may suffer economic hardship in long term, if the government does not adopt corrective measures to revive the business or ensure other alternative jobs to both employees and employers.

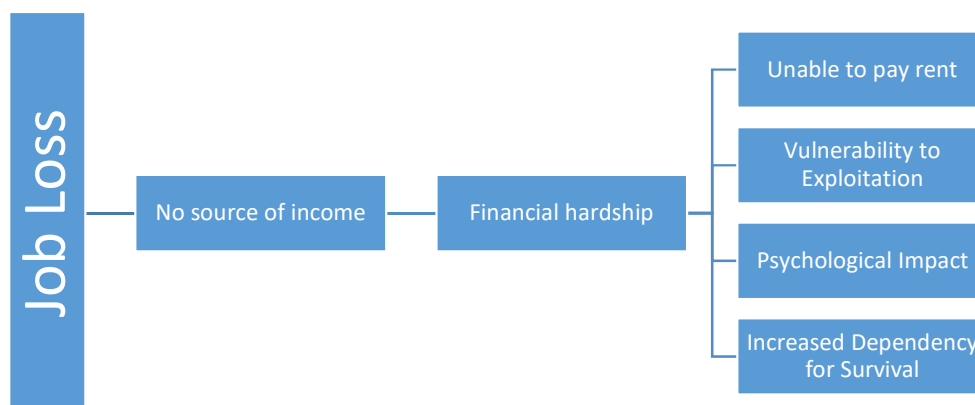


Figure 7: Impact of COVID-19 on Entertainment Sector Workers

3.3.2. Attitude of Landlord towards Women Workers from Entertainment Business

Many of them still owed rent to the landlords and were several months due. Out of 50 survey respondents, 48% of the respondents said that their landlord behaved well and were helpful towards them during the lockdown, 22% of the respondents stated to have been pressurized to leave the rented room because they could not pay the rent on time. 11 respondents also stated that they knew friends who were being tortured by landlords during the lockdown.

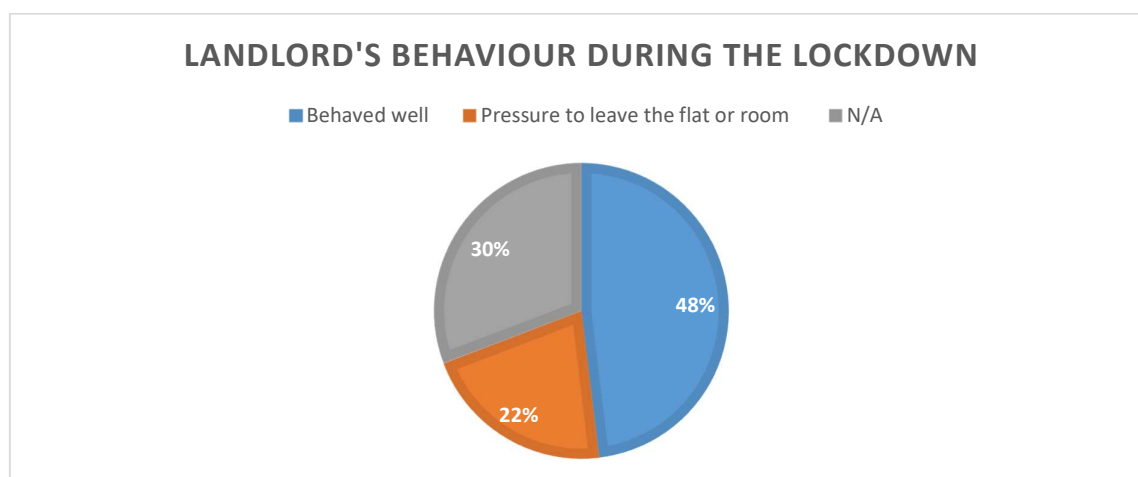


Figure 8 Landlord's Behaviour During the Lockdown

During the research period, the lead consultant also participated in two online workshops organized by BISWAS Nepal and NDWA on the date of 28 September, 2020 and 5 November, 2020 respectively and drew information from there. The workshops were focused on the Impact of COVID-19 and Lockdown on Entertainment Sector Workers. In the workshop, the presenter also highlighted the issues of women workers who were forced to leave the rented room or pay for the rent. KIIs also stated that women workers faced challenges to pay the rent during the lockdown and even post lockdown period as they had no job and no income.

Women ESWs were sexually exploited due to involvement in such profession and pressurized by the house owner to sleep with them due to un-cleared rent.

Shrijana Pun, WOFOWON

Female workers are compelled to sleep with other men to pay rent and to buy the fundamental food for them.

Narbada Magar, Shakti Samhuha

As part of the relief package, the government had urged landlords of those working in various unorganized sectors to exempt such workers from one month's rent. Homeowners complying with the request would not have to pay the tax on the exempted amount, but in practice, this urge was not well implemented. In the wake of 7 months of unemployment, these packages were inadequate to alleviate the suffering of these workers leaving workers despondent. Overall, the data and information collected during the research period demonstrate the hardship faced by women workers from entertainment sectors.

3.3.3. Increase Dependency for Livelihood

When asked how they were sustaining themselves, many respondents (31, 62%) stated to have been relying on food and other relief from various organizations as they previously were surviving on daily wages and had no savings to fall back to. 36 (72%) respondents stated that they had borrowed money from friends, 12 (24%) said they had taken credit from shops, 8 (16%) had used all their savings to buy food. 2 (4%) had used all their savings to buy food.

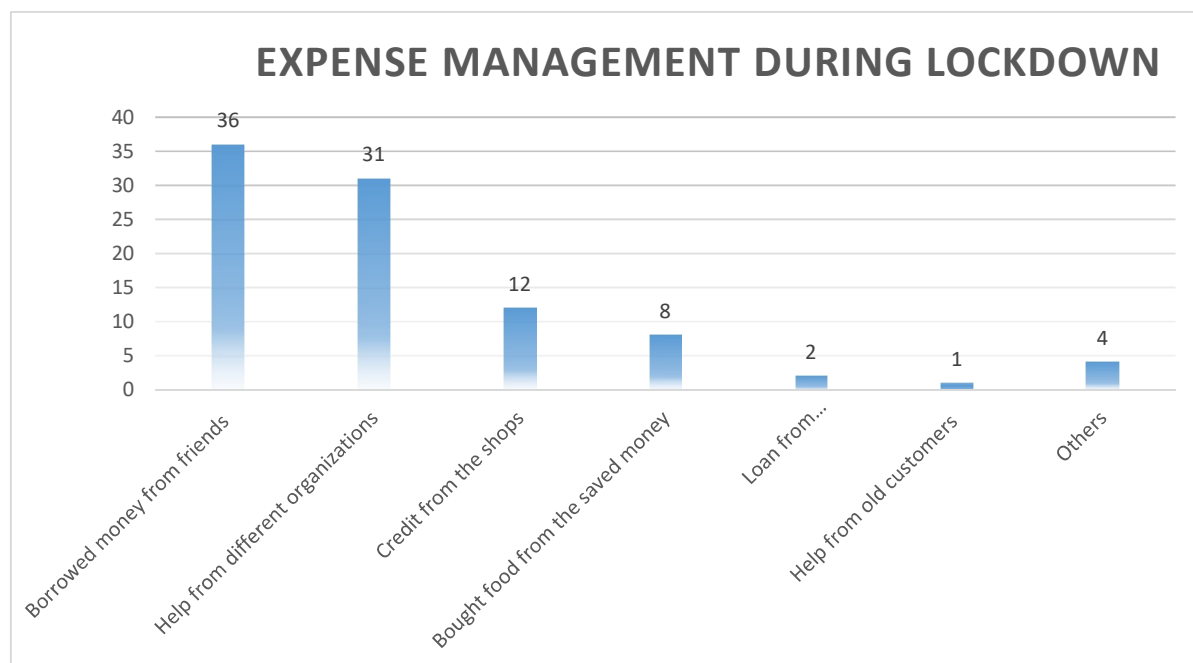


Figure 9: Expense Management During Lockdown

9 (18%) respondents also stated to have taken loan from their employer. 1 respondent among them stated that she had to repay the loan back with more than 10% interest. 2 others stated to have taken loans from financial institutions whereas 1 had taken help from old customers. 4 (8%) respondents stated to have used other means to get by during the lockdown.

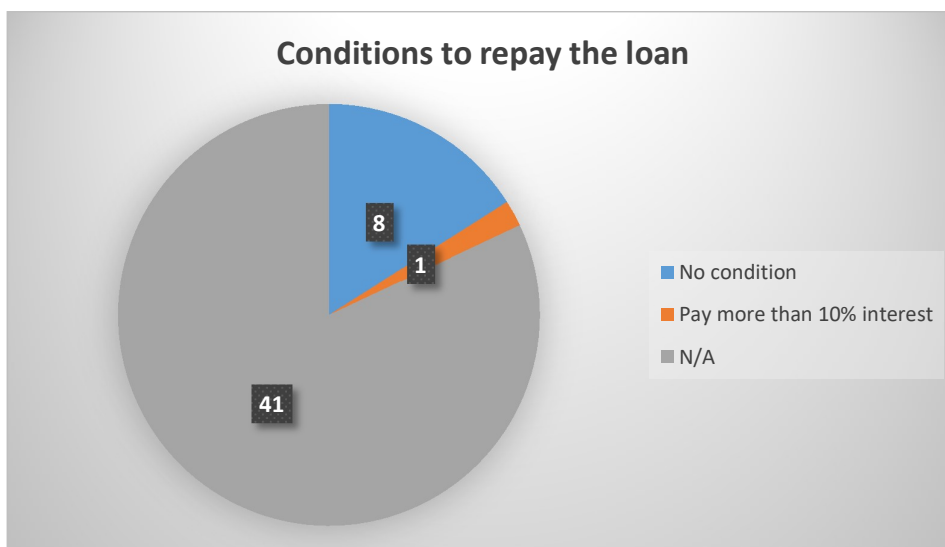


Figure 10: Conditions to Repay the Loan

This data reveals that due to the job loss and income loss; they had to rely on other means for their livelihood such as reliefs, credit from friends, shop and financial institutions. The majority of them were dependent on the borrowed money from friends, credit from shops and relief provided by non-governmental organizations who were working for the rights and welfare of women workers of entertainment sectors.

Only 9 (18%) out of 50 respondents stated that they took credits from employer. This data also reiterates that employers have not taken legal responsibility to protect their employees during crisis of pandemic.

Though the Government has introduced the Presidential Employment Program for providing jobs to informal sector workers, there were no targeted programs for women workers from entertainment sectors.

3.3.4. Response of Local Government to address the issues related to livelihood

Article 11 (2) of the Local Government Operation Act, 2074 BS has specified the local policy, laws, standards, implementation of plans, monitoring and regulation, infrastructure development related to disaster management, and other functions at the local level. Similarly, the right to health of the local government under Article 11 (4b) also includes the right to determine the goals and quality of health at the local level in accordance with the federal and state level goals and standards, as well as the rights related to public health, emergency health and epidemic control planning and implementation at the local level.

Local bodies don't care about the relief fund to be given during COVID-19. Only some Provinces are granting the relief fund but for short period or for only once or twice.

Workshop quote, NDWA Nepal

Government wants to close the sector for some time. Many people are jobless in the entertainment sector including male and female; 4 lakh people are jobless but there is no response on this by the local government.

Binod Shrestha, Chairperson of Lokdohori
Pratisthan Nepal

The Government of Nepal has also brought certain schemes and plans for addressing COVID-19 with important roles delineated to the local government. As per the Campaign against COVID-19 Pandemic Guidelines for Disability Stakeholders 2077, the local government is responsible to create service facilities accessible to women and people living with disabled persons and to provide immediate free treatment and psychosocial counselling services to women and girls who are victims of gender based violence. It also makes the local government responsible for the short term and long-term rehabilitation and rescue of women affected by gender-based violence and continuous human trafficking during lockdown. The scheme for Improving and Addressing the Impact of COVID-19 Infection on Women, Children, and Persons with Disabilities and Senior Citizens and to Mobilize Social Organizations also provides for measuring the impact of the lockdown on the most deprived and backward communities living on wages and women at risk of violence and to suggest rapid gender analysis to address the problem. It also provisions for coordination with the thematic sector and media to make arrangements for regular communication and dissemination of public awareness information and decisions in different languages for the reduction of various types of sexual violence including sexual exploitation and abuse.

The government in the relief packages had also mandated local governments to prepare data of workers in the unorganized sector and for the provincial and local units to establish a fund to provide relief to families and daily food needs as per the collected data. However, among the 50 respondents, only 1 stated to have received food relief from the government, that too only at the initial phase of lockdown. 4 respondents stated that they knew friends who were not given any relief from ward offices when they approached them.

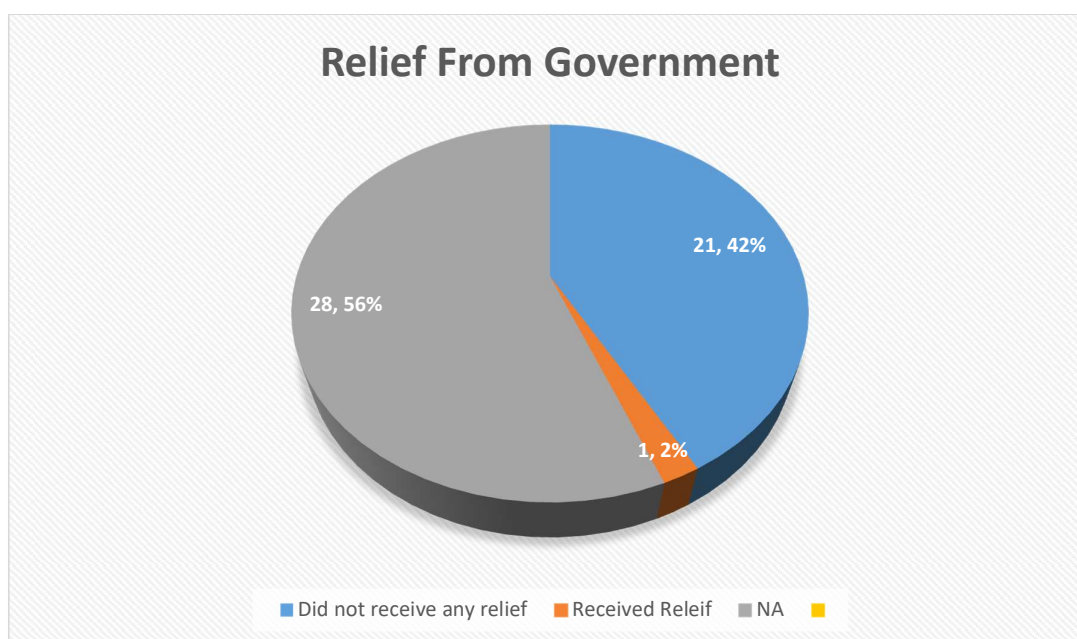


Figure 11: Relief from Government

KII respondents had also stated that there was a lack of support from government as the government was not conscious towards ESWs during the pandemic. Workers faced heavy financial difficulty as they were left unemployed and without any income to sustain themselves. Paying rent, managing food and supporting their young children were the major difficulties they faced, which is described in below section.

3.4 Social Impact: Stigma and Vulnerability of Sexual Exploitation, Human Trafficking

As iterated in the literature review, there is a stigma attached to the entertainment sector where parallels are drawn with the sex industry in the society. This causes many workers in this sector to hide their identity, and work discreetly in this sector and face repercussions of the social stigma. Being pushed to rock bottom forces them to accept risky options in the entertainment sector which would result in unwanted pregnancy/diseases, harassment/blackmailing and rise in human trafficking and modern slavery and suicidal attempts¹³.

During the KII, representative of Shakti Samuha stated that there were incidents reported wherein women workers from entertainment sectors had become a victim of trafficking and sexual exploitation. One survey respondent stated that she was asked for sexual favours when she sought help from acquaintances. Another respondent stated that she had lost all hope in the country and wished to go abroad.

There is a lack of adequate data which gives evidence of sexual exploitation faced by women workers during the lockdown and increasing trend of human trafficking and vulnerability. However, data indicates the fueling grounds that have increased vulnerability. All levels of government and private sectors need to come up with a tangible strategic plan of action to address the impact of COVID-19 as well as to improve exploitative working environment that lies in the entertainment sector.

"Many women approached the organization during the time of pandemic. There was also a recent case of 3 sisters who were detained in a case of Human Trafficking."

Narbada Magar, Shakti Samuha

3.5 Access to Justice and Legal Rights

Above findings and analysis shows that is no decent working environment in the entertainment sector. Though the existing laws are equally applicable to formal and informal sectors, the same are not implemented in the entertainment sector. The business entities of the entertainment sector are registered in scattered government agencies such as ward office of municipalities, office of small cottage industry, company registrar's offices, and some such business entities are not registered in any of such agency to formalize the business. Though the labour law explicitly stipulates that both formal and informal sectors must respect the labour law and meet the compliance, the laws are not implemented as such in the entertainment sector. Resultantly, there is no equal pay, no job security, no safety at work, sexual and labour exploitation and no safety against unemployment.

In such context, nonetheless, access to justice is one of the major issues in the country. Workers seem reluctant or hesitant to file the complaint against such cases. 35 (70%) out of 50 respondent stated that they have not complained about being fired, being harassed by employer, or being forced to do guest service, whereas 15 (30%) respondent stated that they reported their grievances. Among the 30% who reported, stated to have reported to civil society organizations. However, none of them filed

¹³ Malla, S. (2020, October 9). *Clarissa Global*. Retrieved from Clarissa: COVID-19 CLOSED THE ADULT ENTERTAINMENT SECTOR, AND NOW IT MUST OPEN: <https://clarissa.global/covid19-closed-the-adult-entertainment-sector-and-now-it-must-open/>

the cases in formal government agencies like labor court, ward office, police station, journalists, Labor Offices and other institution.

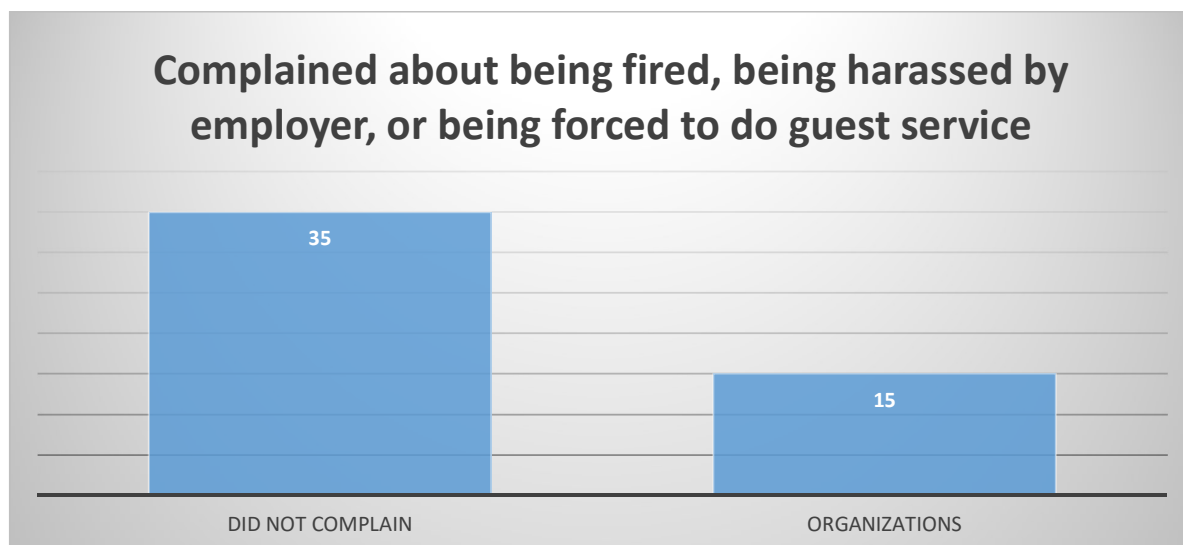


Figure 12: Complained about being fired, being harassed by employer, or being forced to do guest service

According to the KII informants, most of the women working in the entertainment sector are not enlisted in the workers list. They are not offered any contract at work. Most of these women also don't hold proper identity document such as citizenship, birth certificate other such identity even though it is their fundamental right to obtain citizenship as per law. In the absence of such documents, workers are left with no proof to prove their claims against exploitative employers, and are met with severe backlash when they approach authorities such as police and CDOs seeking help.

One of the survey respondents stated that she felt helpless as she did not know where to complain against the employer. She also stated that she was planning to look for another job after all the difficulties she faced during the lockdown.

Moreover, in order to respond to the impact of COVID-19, government had issued various directives and guidelines. In this context, the action plan, guidelines, orders and decisions to address COVID 19 and its measures issued by various bodies of the Government of Nepal including Nepal Police, Supreme Court, Noble Corona Disease Prevention and Control High Level Coordinating Committee have not enlisted ensuring access to justice in the essential services list. As a result, there has been lack of hearings for the violations of workers right during the lockdown. The Supreme Court, in Roshani Poudyal v. Government of Nepal¹⁴ writ petition of the (above mentioned), has ordered not to halt any investigation of domestic violence due to the lockdown. But it has not yet been implemented by the Government of Nepal. As a result, women, children, adolescents, sexual and gender minorities,

"Most of the restaurant, parlours, hotel, dohori sajh were not registered and workers cannot seek legal remedy in labour court and in CDO office as their claim might not be valid since workers are not registered. As a result, the employer was not made accountable and salaries remained unpaid. Labour courts and courts were not accessible during time of COVID"

Narbada Magar, Shakti Samuha

¹⁴ Writ Petition (076-WH-0962).

persons with disabilities, senior citizens, victims of domestic violence and other forms of sexual violence (mental, sexual, economic and physical violence) have been deprived of access to justice.

From the survey, it was found out that after the respondents complained about their situation to non-governmental organizations 6% of the respondents stated that they heard the problem was solved whereas 2 % of them said that the concerned authorities to whom they had complained only listened to their grievances but later the issue was not addressed.

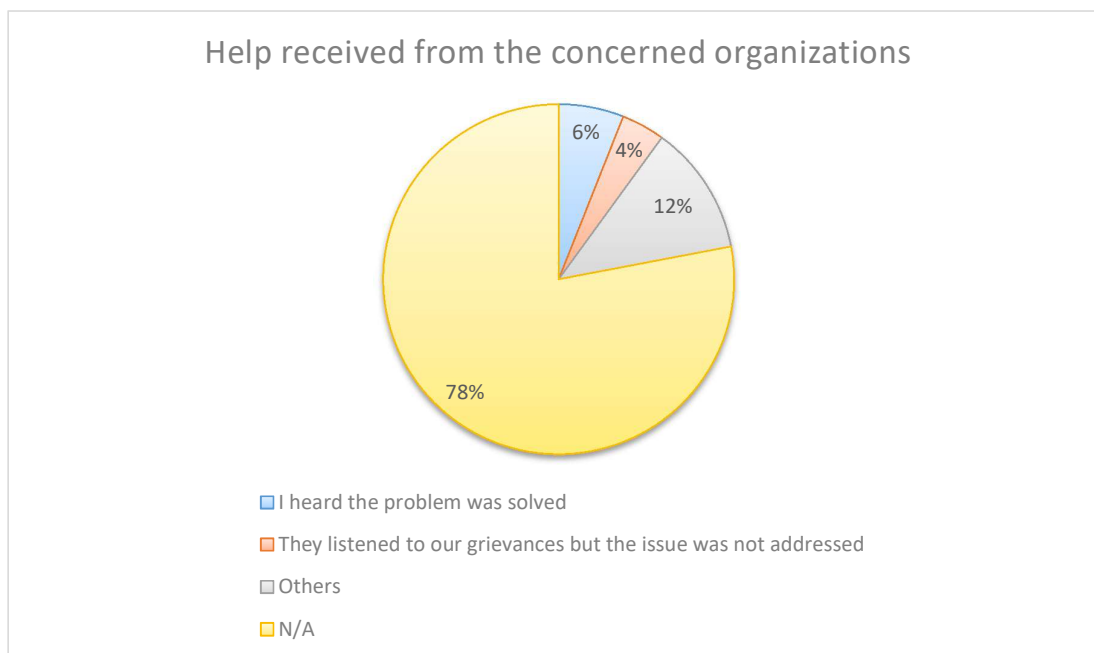


Figure 13: Help received from the concerned organizations

During the time of COVID-19 pandemic, the Government of Nepal seems to have limited interventions to operating hotlines provision as alternative measures to register, hear, date and reconcile cases of gender-based violence and other forms of violence to ensure access to justice on important issues such as domestic violence, child care and property rights. In addition, there is no clear provision on how to manage incidents, internal communication related to gender based violence, etc. No specific targeted plan was in place to ensure the justice to women workers of entertainment sectors if their labor rights were violated.

3.6 Health and Compliance Redressal

The Government of Nepal has introduced the following health directives and action plan:

1. Health Sector Emergency and Response Plan COVID 19 Pandemic
2. Health sector response to Covid- 19
3. Corona virus Disease (Covid 19) Interim Guidelines for Reproductive, Maternal, New-born and Child Health Care in the Time of the World Pandemic, 2077
4. Health Care arrangements for person staying in quarantine

Nonetheless, while implementing those directives and action plan, the Ministry of Health have shown policy inconsistency through their administrative decision, particularly to implement the plan of free PCR test, contact tracing, and providing authority to private hospital for PCR test. Additionally, there were challenges to access the health services of COVID-19 health victim from hospitals as there were

limited services. Likewise there were several concerns raised in quarantine and isolation centers management.

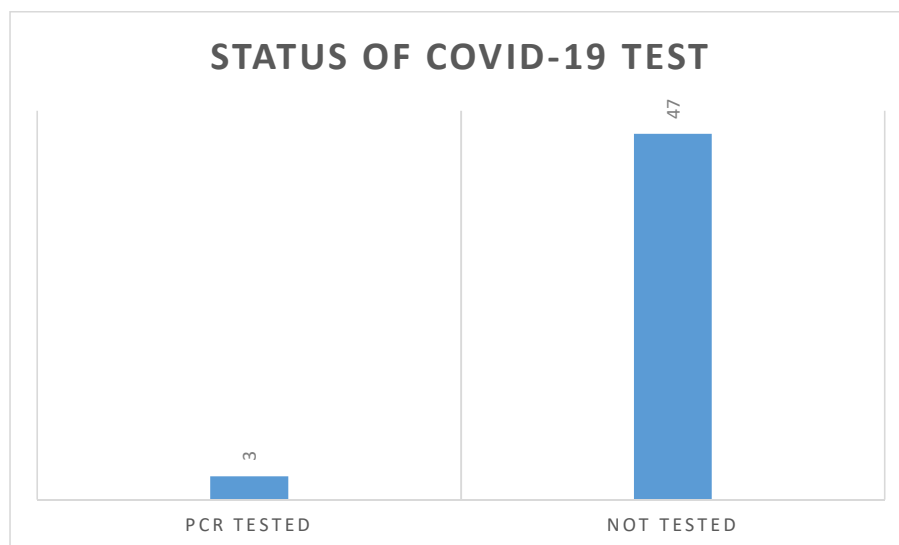


Figure 14: Status of COVID-19 Test

In this context, at the time of writing this report, Nepal had conducted a total of 16,81,299 tests¹⁵. Majority of these tests were conducted within the Kathmandu valley. The government of Nepal had also committed to testing vulnerable populations. However, as per the survey of the women ESWs, only 3 (6%) had stated to have gotten themselves and their families tested. Among them 2 were done free from ward and 1 stated to have done it for free owing to contacts with relatives. The remaining 94% had not gotten tested. Though this is a small sample group, it still to some extent depicts the lack of wider outreach of COVID-19 testing in Nepal.

3.7 Psychosocial Impact

Many also stated to face mental turmoil from the financial difficulties as well as from staying home all day. The literature review also shows that there was huge psychosocial impact on both women and men due to loss of income, increment in household work and expenses, and depletion of savings which has resulted in increased mental health issues like anxiety, depression and stress.

The survey respondents and KII respondents also reiterated the same issues. Following are some of the key evident statements from survey respondents:

“I cannot pay rent; I have not been able to pay rent for several months now. I am mentally disturbed. I feel like I want to go abroad. I feel like there is no hope here in this country for me.”

“I have been very affected by it. I lost my job as I relied on daily wage. My father passed away during lockdown, so I went into depression.”

“It was a difficult time, even today I am having hard time adjusting because I have lost my job. The lockdown affected me in every way, from financial to my mental and emotional state.”

“The lock down made me disturbed mentally. This has been my life’s most difficult phase. I do not have job and it is difficult even to meet my daily expenses.”

3.8 Recommendations Provided by KII Respondents

The respondents from the KII provided various recommendations to improve the working condition of the women in the entertainment sector in order to address the problems and taboos they have been facing. These recommendations were more focused on increasing government accountability towards the workers from entertainment business sectors along with business owners and engagement of civil society organization. Their recommendations can be divided as following:

Table 2: Recommendations provided by respondents to various stakeholders

Government	<ul style="list-style-type: none">• Proactive intervention for effective implementation of laws and policies for the entertainment sector.• Should introduce tax concessions scheme on entertainment sector establishments and rent concessions for ESWs• Proper dispensation of funds from local bodies to ensure relief packages• Strengthening monitoring and oversights• Create alternative employment opportunity• Maintain data of women workers• Separate targeted program for women ESWs.• Ensure registration of unregistered establishments and act against non-registration.
Judiciary	<ul style="list-style-type: none">• Ensure speedy hearing of women workers cases
Civil Society	<ul style="list-style-type: none">• Introduce psychosocial counseling programs for ESWs.• Awareness program to ESWs and other people such as employers, police and CDOs as well.• Orientation on heinous crime, human trafficking, migrant workers, safety related information, sexual harassment, labour rights, and job security to law enforcement agencies
Business Owners	<ul style="list-style-type: none">• Implement Labour Act 2074 in practice and register business,• Ensure safety at work, minimum wage, equal pay, maintain list of workers list, job contracts, appointment letters,

Section 4: Conclusion and Recommendations

4.1 Conclusion

Since March 2020, the country had entered a nationwide lockdown. The lockdown had lifted a few months later. However, the entertainment sector was not allowed to open with the lifting of the lockdown. With the continued shut down of the entertainment sector, many ESWs lost their jobs. With no jobs, their monthly income had also halted. With no income, they were unable to send any money to their family's dependent on them. The little savings they relied on also quickly diminished within the early months of the 7 month and continuing long hiatus.

Many relied on debt support and other mechanisms to sustain themselves in the face of financial crisis. These support mechanisms also did not last long as friends and family who they sought financial help from were also struggling. Subsequently, such ESWs were no longer able to afford food or rent. Many landlords harassed and exploited the workers for the unpaid rent. The financial crisis, coupled with other aggravating factors such as this, consequently inflicted immense social, economic, mental and psychological suffering on women in the entertainment sector. Under such immense pressure and to devise survival strategies for themselves, women ESWs are forced to accept risky employment options which lead to greater vulnerabilities causing increased instances of human trafficking, modern slavery, violence and labour and sexual exploitation.

At this stage various factors can be blamed for putting women in the entertainment sector at such risk. The non-registration of entertainment sector establishments at government agencies, the non-implementation of the Labour Act and labour standards and other acts that ensure safe working environment and job security, and the lack of identity documents of many workers in this sector are all to blame.

The social stigma and euphemism of sex industry has also further prevented workers in this sector from raising their voice against abuse and exploitation. The lack of attention and proactivity by the government towards the entertainment sector, especially during the time of the pandemic crisis, has ultimately left the women workers in the entertainment sector destitute and highly vulnerable.

The response during lockdown by the local government has been weak, there have been gaps in the implementation of policy, laws and directives by the federal government, with no focus on targeted policies for the entertainment sector, and relief packages that had been announced by the government have not reached marginalized communities and most affected populations such as the daily wage earners of the entertainment sector. There has also been a lack of intersectional and GESI analysis of vulnerable groups and policies thereof.

Measures need to be taken to reverse the damage so that the effects of this crisis do not stay long term. The government must pay attention to the various issues such sectors are facing owing to their non-classification as essential service. Thousands of lives are affected by this decision and the government has taken no steps to address such sectors. The entertainment sector provided employment opportunities to thousands of workers who were otherwise not qualified for other jobs. Keeping such a sector shutdown continually must be met with adequate plans for accommodating the massive fall-out of this decision.

4.2 Recommendations

To ensure that the entertainment sector is brought back into functioning, for the socio-economic well-being of the workers in the entertainment sector, while keeping in mind the issues related to health and safety during the ongoing pandemic cases, the following recommendations have been provided for various level of governments in the federal state and for other stakeholders as well.

Ministry of Labor and Employment, Nepal Government

- Should bring the targeted strategic plan of action and economic package to open and revive the entertainment sectors business with appropriate prevention mechanism,
- Should bring alternative livelihood scheme for women workers and other workers from entertainment sectors to prevent them further falling into the trap of destitution trap, which forces them to accept the jobs which leads to more vulnerable situations,
- Ensure targeted program of food security for women workers of entertainment sector and her family members through unconditional cash transfer and in-kind assistance by adjusting social security allowances, livelihood and relief support provisions to address their needs,
- Strengthen and expanding labor offices to all 77 districts to regulate and monitor the work environment to create a safe space for women to work, ensure decent work, fair wage, and also stress on the importance of creating a culture of collectivism for the workers to form unions/workers' and ensure gender units within the labour office with adequate trained human resources and other required infrastructure
- Strengthening the monitoring mechanism in district labour office to ensure mandatory compliance and implementation of labour related laws, policies and directives
- Institutionalize labour audit from human and labour rights periodically within the entertainment sector to ensure workplace safety and decent working environment.

- Enforce a targeted Regulation for the entertainment sector based on existing Labour Act and other relevant laws.

Recommendation for Federal Government

- Mainstream gender responsive COVID -19 directive, guidelines and plan of actions,
- The government should strengthen overall rule of law, governance and mechanism for ensuring gender responsive budgeting across health, protection, education, agriculture, service and manufacturing sectors to address economic and social needs of the most marginalized and vulnerable women, especially during humanitarian crisis response and recovery to ensure substantive equality to address the cause of vulnerability and violence.
- Amendment and enforcement of legal provisions effectively, for specific legal provisions to address the entertainment sector, coupled with monitoring and complaint redressal mechanisms at the local level.
- Address the root causes of trafficking and exploitation focusing on addressing the activating causes of girls and women entering the entertainment sector such as early and forced marriage, violence, separation and dysfunctional families, non-supporting partners, and family economic crisis.
- Federal government in coordination and collaboration of provincial and local level government should revisit the national plan of action combating Human Trafficking and Transportation, along with respective laws and policies in federal context.

Provincial Government

- Ensure the effective oversight mechanism in order to implement the strategic plan of action and economic package to open and revive the entertainment sectors business with appropriate prevention mechanism, and alternative livelihood scheme for women workers and other workers from entertainment sector.

Local Governments

- Collect the inclusive data (sex, age, diversity and disability data etc.) of formal and informal sectors' workers and keep scientific data record and analysis system,
- Develop local level strategic plan of action with alternative livelihood scheme to respond the issues related to workers that must include targeted program to workers of entertainment sector particularly regulate the work environment to create a safe space for women to work, ensure decent work, fair wage, and also stressed on the importance of creating a culture of collectivism for the workers to form unions/workers ,
- Introduce integrated services including psychosocial counseling program, health services, security, unemployment allowances, employment opportunities, and hotline services to register the grievances of ESWs and so forth,
- Ensure access to information for all in community in general and targeted messages to formal and informal sectors workers through the use of various information channels and local language, disseminate simple messages to raise awareness about negative impacts of COVID-19 and ensure that women and girls have access to safe livelihood support and other necessary services related to sexual and reproductive health,
- Establish the labor help-desk office with required resources.

Civil Society Organizations

- Raise awareness and concretization program to empower the workers in general,
- Organize advocacy activities and strengthen civil society movement to make government and business entities accountable towards entertainment sector workers,
- Implement capacity development program of civil society organization on advocacy work and movement building for introducing specialize regulation to execute the labor law in the sector and implementation of various specialized and general laws to improve the working conditions and livelihood of entertainment sectors workers ,
- Civil society should invest their time and resources to promote the dignity of women workers in entertainment sectors via mobilizing media, conduct specialized training, organizing and empowering workers.

Human Rights Institutions (National Women Commission and National Human Rights Commission)

- Conduct nationwide public hearing on the issues related to women workers of entertainment sectors, publish periodical reports, and internationalize the issues with human rights committees.
- Strengthen targeted monitoring mechanism of violations of labor rights due to COVID-impact and provide recommendation to government to take actions.

Enhance Parliamentary Oversight

- Parliament should focus on parliamentary oversight in order to implement the labor laws and related directives, guidelines and plan of action in the context of COVID-19 crisis,
- Strengthen FP and provincial assembly committees with financial or logistical support from the executive branch. They require external support to carry out their core functions: research and analysis, conducting oversight of government programs and carrying out outreach activities.

Approaches, Principles and Values

All the above stated key stakeholders should adopt following approaches while execute the recommendation provided above:

Approach

- Intersectionality approach,
- Human Rights based approach,
- Gender and Social Inclusive approach,
- Do no harm approach,
- Participatory approach,
- Integrated program approach

Principles

- Substantive Equality
- Non-discrimination,
- Positive discrimination/affirmative action

Values

- Empathetic towards most marginalized, disadvantages and vulnerable communities and groups,
- Respect dignity of individuals

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Annex-1: KII Guiding Checklist

Civil Society Organization

1. What type of work do you carry out for the benefit of entertainment sector women workers?
2. What all hardships have you noted entertainment sector women workers to have faced?
3. What are the labour rights issues you have witnessed during your work with entertainment sector women workers? What measures have you taken to address them? What are the limitations that law has not addressed?
4. Do you carry out awareness programs among entertainment sector women workers to raise awareness about their labour rights, right to safe workplace and right against harassment at workplace? If yes, what kind of activities and how do you ensure outreach?
5. Have any entertainment sector women workers approached your organization during the pandemic seeking help? If yes, what are the measures you have taken to provide support?
6. What all hardships have been added to entertainment sector women workers by the pandemic? Are there any benefits of the pandemic on their safety, security and livelihood?
7. What do you think is lacking among networks of your type of organizations to support entertainment sector women workers and ensure their safety and security during the lockdown?
8. What do you think is lacking in law and government measures to effectively address the rights of entertainment sector women workers and ensure their safety, security and livelihood?
9. Do you see the vulnerability of trafficking & transportation, forced labour and sexual violence against women due to the impact of COVID 19 in this sector?
10. What are response you get from local government?
11. What can be done to prevent similar issues to arise in future emergencies or disasters?
12. What can be done to ensure the rights, respect and acceptance of entertainment sector women workers?

Additional questions for Government Stakeholders

1. What is the role of your department in ensuring the rights and safety of entertainment sector women workers?
2. What are the powers vested in you to address the issues faced by entertainment sector women workers?
3. What are the current plans and policies initiated by the government for ensuring entertainment sector women workers social and economic welfare?
4. What are the plans and policies initiated or planned to be initiated for the social and economic security of entertainment sector women workers during pandemic and for those affected by Covid lockdowns?
5. What are the shortcomings in the legal framework for effectively ensuring the social and economic security of entertainment sector workers?
6. What effects have you noted on the entertainment sector women workers during the lockdown?

Annex-2: Survey Questionnaire

मनोरञ्जन क्षेत्रका महिला श्रमिकहरुमा कोभिड १९ र बन्दाबन्दीका कारण

परेको प्रभाव सम्बन्धि सर्वेक्षण २०७७

१. उमेर : १४ वर्षभन्दा कम १४ देखि १८ वर्ष १८ वर्षभन्दा बढी
२. मनोरञ्जन क्षेत्रमा तपाइले के काम गर्नुहुन्थ्यो :
नाच्ने गाउने बजाउने बेटर गेस्ट रिलेसन अन्य
३. लकडाउन शुरुभए देखि हालसम्म तपाइ कती दिन काममा जान पाउनुभयो :
० दिन ५ दिन १० दिन १५ दिन नियमित
४. लकडाउनको अवधीमा तपाइको साहुजीले के तपाईलाई तलब दिनुभयो :
दिनुभयो आधा दिनुभयो एक चौथाइ दिनुभयो एक महिनाको दिनुभयो
दिनुभएन
५. यस अवधीमा तपाइले आफ्नो खर्च कसरी चलाउनुभयो ? (एकभन्दा बढी चिन्ह लगाउन सकिने)
बचत गरेको रकमबाट उधारो खाद्यन्नहरु किनेर साथीहरूसँग सापटी लिएर
संस्थाहरुको सहयोगबाट वडाको सहयोगबाट साहुजीसँग ऋण लिएर
पुराना ग्राहकहरुबाट सहयोग लिएर
६. साहुजीसँग ऋण लिएको भए, तपाइले कुनै शर्तहरु पालन गर्नुपर्छ ? छ भने कस्ता शर्तहरु थिए ?
(एकभन्दा बढी चिन्ह लगाउन सकिने)
पछि पनि त्यही साहुसँगै काम गर्नपर्ने
लकडाउनमा पनि गेस्टले बोलाएमा जानपर्ने
१० प्रतिशत भन्दा बढी ब्याज तिर्नुपर्ने
अन्य
कुनै शर्त छैन

७. लकडाउनको अवधीमा तपाइको घरपेटीको ब्यवहार कस्तो रहेको थियो ?
(एकभन्दा बढी चिन्ह लगाउन सकिने)
- | | | |
|-----------------------------|----------------------|---------------------------|
| घर भाडा बढाएको थियो | डेरा सर्न दबाव दिएको | एक महिनाको भाडा छुट गरेको |
| जबर्जस्ती यौन ब्यवहार गरेको | | सामाजिक लाञ्छना लगाएको |
| असल र सहयोगी ब्यवहार गरेको | | अन्य |
८. मनोरन्जन क्षेत्रमा नै काम गरिरहेका तपाइका धेरै साथीहरुले लकडाउनमा तलको कुन कुन समस्या भोग्नुपरेको तपाइलाई थाहा छ ?
- | | |
|------------------------|-------------------------|
| रोजगारीबाट हटाइएको | गेस्ट सर्भिस गर्न परेको |
| साहुजीसँग ऋण लिन परेको | घरपेटीले दुःख दिएको |
| वडाबाट राहत नपाएको | अन्य |
९. के तपाइले यस अवधीमा आफ्नो वा परिवारको कोभिड परिक्षण गर्नुभयो ? यदि गरेको भए कुन परिक्षण गर्नुभयो ?
- आरडिटी पिसीआर अन्य
१०. स्वास्थ्य परिक्षणका लागि कती पैसा तिर्नुभयो ?
.....
११. तपाइलाई रोजगारीबाट हटाएकोमा, घरपेटीले दुःख दिएकोमा वा जबर्जस्ती गेस्ट सर्भिस गर्न लगाएकोमा कतै गुनासो गर्नुभयो ? यदि गर्नुभयो भने कहाँ गर्नुभयो ?
- | | | | |
|---------------|--------------|---------------------|--------|
| श्रम कार्यालय | वडा कार्यालय | नजिकैको प्रहरी चौकि | संस्था |
| पत्रकार | अन्य | | |
१२. उनीहरुबाट तपाइले के कस्तो सहयोग पाउनुभयो ?
- | | | |
|-------------------|------------------------------|------------------|
| समस्या समाधान भयो | कुरा सुने तर केही काम गरेनन् | कुरा पनि सुनेनन् |
| अन्य | | |
१३. स्थानीय सरकारबाट कस्तो सहयोग प्राप्त गर्नुभयो उल्लेख गर्नुहोस ।
१४. लकडाउनको प्रभावका कारण यो क्षेत्रमा काम गर्ने महिलाहरुको बेचबिखन, ओसार पसार, बाध्यत्मक श्रम, यौन हिंसा तथा दुर्व्यवहारको जोखिम कतिको देख्नुभएको छ । कुनै त्यस्तो घटना देख्नु वा सुन्नुभएको छ भने सो को बारेमा पनि उल्लेख गर्नुहोस ।
१५. कोभिड र बन्दा बन्दीले पारेको प्रभावको बारेमा अन्य केही भन्न चाहनुहुन्छ भने तल लेखिदिनुहोस :

Annex-3: KII Participant's List

S.N	Name of the Organization	Name	Phone number
1	Ministry of Women, Children and Senior Citizen	Roshani Karki	9841607364
2	National Women Commission	Meera Serchan	9841206680
3	Rakshya Nepal	Devi Thapa	9840905047
4	Biswas Nepal	Rashana Dhakal	9851135484
5	Shakti Samuha	Narbada Magar	9841024591
6	WOFON	Shrijana Pun	9841426575
7	Lokdohori Pratisthan Nepal	Binod Shrestha	9851032210
8	Journalist	Lokshari Kunwar	9849961986
9	Human Trafficking Bureau	SP Anurag Duivedi	9851280136
10	Advocate/Assistant Professor (Nepal Law Campus)	Manisha Poudel	9841835962



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