A Study on the Situation of Mental Health Rights in Gandaki and Bagmati Provinces - 2024

National Human Rights Commission of Nepal
Pulchowk, Lalitpur, Nepal

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Remarks

Ensuring the rights of individuals with mental health problems or psychosocial disabilities is the responsibility of the state. By ratifying the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2010, Nepal affirmed its commitment to uphold these rights. This study report presents a detailed analysis of the current state of mental health services in Nepal and the challenges in safeguarding mental health rights.

The low prioritization of investments in mental health services in Nepal has severely impacted the accessibility and quality of service delivery. Individuals with psychosocial disabilities frequently face discrimination and stigma within their homes, families and communities. The situation is particularly acute in rural areas due to the lack of trained mental health service providers. Social and economic inequalities, coupled with gaps in legal and policy frameworks, have profoundly affected mental health and overall well-being.

The World Health Organization (WHO) has developed principles and frameworks under the CRPD to ensure quality service delivery, uphold human rights and enhance the capacity of service providers. There is an urgent need to improve mental health services and make substantial investments in this sector.

The Government of Nepal must provide high-quality mental health services for individuals with psychosocial disabilities to fulfill its commitments under the CRPD. Addressing incidents of human rights violations requires collective coordination, collaboration and participation to ensure dignity and respect service recipients' rights. This study identifies gaps in mental health service delivery in Nepal and offers concrete recommendations for improvement. It is expected to guide the government and stakeholders in promoting mental health rights in line with international standards and commitments.

The National Human Rights Commission of Nepal (NHRCN) is highly sensitive to protecting the rights of individuals with psychosocial disabilities and is committed to incorporating human rights perspectives in its future strategies. The study highlights the necessity of a shared and collective commitment from stakeholders to ensure the rights and dignified lives of individuals with psychosocial disabilities in society.

Finally, the NHRCN extends gratitude to clinical psychologists, psychiatrists, nurses, right activists, and civil society members from public and private hospitals in Gandaki and Bagmati provinces for their support in the mental health study and publication.

Special thanks are due to Secretary Murari Prasad Kharel for study management and to Nava Raj Sapkota, Buddha Narayan Sahani Kewat, Lekhnath Bastola, and Hari Prasad Gyawali for their efforts in report editing. The NHRCN also appreciates the financial and technical coordination from Matrika Devkota of KOSHISH and Dr. Kedar Marahatta of World Health Organization.

Moreover, heartfelt thanks go to Sanjaya Raj Neupane, Prasannata Osti, Sangeeta Khadka, Manju Chhetri, Khimlal Subedi and Maya Gaire for their on-site contributions and management as well as Kalpana Nepal Acharya, Abhas Dangol and Dr. Dipesh Kumar Ghimire for their contributions to report writing and editing.

The NHRCN is confident that this study will help prioritize mental health issues in the policies, plans, programs and budgets of all three tiers of government, making them more effective.

Dr. Surya Dhungel
Member
September, 2024

Remarks

Nepal ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2006 in 2010, reaffirming its commitment to uphold and safeguard the rights of persons with disabilities, including those with mental health issues or psychosocial disabilities. It is the State's obligation to ensure these rights, respecting, protecting and fulfilling the entitlements of individuals with disabilities. The Constitution of Nepal enshrines the rights of persons with disabilities as fundamental rights. Additionally, legislative frameworks such as the Rights of Persons with Disabilities Act 2017, its Regulations 2020 and the Accessibility Guidelines 2012 are in effect to operationalize these rights.

The National Human Rights Commission of Nepal, as mandated by the Constitution and the National Human Rights Act 2012, holds constitutional and legal duties to ensure the rights of persons with mental health issues and psychosocial disabilities. Following the country's transition to a federal structure, the NHRCN has prioritized addressing mental health and psychosocial disability rights to hold all three tiers of government; federal, provincial and local, accountable and responsible for safeguarding these rights. This is also reflected in the NHRCN's strategic plan (2021–2026) and annual work plans.

Despite these efforts, persons with psychosocial disabilities continue to face discrimination, stigma, violence and abuse within their families and communities. This report highlights the critical gaps in addressing mental health and psychosocial disability rights, steaming from social and economic inequalities and legal and policy-level inadequacies. The findings align with the World Health Organization's emphasis on ensuring quality service delivery, respecting human rights and enhancing the capacity of service-providers in accordance with the principles of the CRPD. Effective coordination, collaboration and participation of all stakeholders are necessary to address human rights violations and uphold the dignity and rights of service users.

This report identifies gaps in Nepal's mental health service delivery system and offers specific recommendations for improvement. It aims to guide the government and stakeholders in promoting mental health rights in line with international standards and commitments. The NHRCN remains highly sensitive to the protection of the rights of persons with psychosocial disabilities and anticipates that this report will contribute to formulating forward-looking strategies for all concerned bodies.

Finally, I extend my gratitude to the clinical psychologists, psychiatric doctors, health workers, human rights activists and civil society members in Gandaki and Bagmati Provinces, both from public and private institutions, for their contributions to this study and report publication. I would like to thank the Joint Secretaries Nava Raj Sapkota and Buddha Narayan Sahani Kewat, and Under Secretaries Loknath Bastola and Hari Prasad Gyawali for their efforts in managing and editing the report. Special thanks go to Matrika Devkota of KOSHISH and Kedar Marahatta of the WHO for their financial and technical coordination. I also acknowledge Kalpana Nepal Acharya, Abhas Dangol and Dr. Dipesh Kumar Ghimire for their contributions to the report writing and editing. Appreciation is also extended to field researchers Sanjaya Raj Neupane, Prasannata Osti, Sangeeta Khadka, Manju Chhetri, Khimlal Subedi and Maya Gaire for their dedicated work in on-site data collection.

Murari Prasad Kharel
Secretary
October 2024

Some terms and definitions related to mental health care

Human Rights are fundamental rights inherent to all individuals simply by virtue of being human. These rights cannot be established or withdrawn by any government. The nature of human rights is universal, indivisible and unalienable. Section 2 (f) of the NHRC Act, 2012 defines "Human Rights" as rights related to life, liberty, equality and dignity of a person provided by the Constitution and other prevailing laws and this term also includes the rights contained in the international treaties regarding human rights to which Nepal is a party.

Disability

This arises from the interaction between persons with disabilities and various attitudinal and environmental barriers, which obstruct their full and effective participation in society on an equal footing with others.

Persons with Disabilities

Individuals who are prevented from participating fully and effectively in society on an equal basis with others due to long-term physical, mental, intellectual, or sensory impairments, coupled with barriers created by society.

Persons with Psychosocial Disabilities

Individuals who are hindered by psychosocial challenges and various factors such as societal attitudes, stigma, policies, regulations and socio-economic and cultural barriers, which prevent their full and effective inclusion in community life on an equal basis with others.

Attitude

This refers to the perceptions and behaviors of healthcare providers, service users and society at large towards mental health and mental health services. Positive attitudes foster a supportive and inclusive environment, ensuring that persons with mental health problems are treated with dignity, respect and understanding. Conversely, negative attitudes can reinforce stigma, discrimination and human rights violations, potentially leading to neglect, exclusion and abuse, and obstruct access to appropriate care and support.

Mental Health Problems

These refer to the impact of environmental factors on a person's emotional, psychological and social well-being. Experiences such as sadness, anxiety, anger, excitement and despair can negatively affect one's social life. Mental health problems are not classified as diseases and cannot be addressed solely with medication. It is crucial to provide

high-quality support through institutions, family or workplaces, ensuring that mental health services uphold the rights, dignity and autonomy of individuals. Additionally, it is important to guarantee access to treatment or alternative support, prevent discrimination, obtain informed consent, involve individuals in decision-making and protect them from abuse and coercion.

Stigma

Stigma involves negative attitudes, beliefs and discrimination faced by persons with psychosocial problems or disabilities. It can manifest in various forms, such as social exclusion, prejudice and discriminatory practices. This stigma often hinders persons with psychosocial issues from seeking appropriate help and fully participating in social life. Therefore, it is crucial to adopt a rights-based approach in organizations providing services to persons with psychosocial issues, work to reduce stigma and empower people to uphold their dignity and respect.

Quality

Quality refers to the overall excellence and integrity of a service or process which must adhere to established standards. In this context, quality encompasses four key aspects: rights-based, acceptability, affordability and accessibility.

Rights-Based

Services must respect and uphold the dignity, self-determination and rights of all individuals, ensuring that they are non-discriminatory. Acceptability refers to sensitizing a social protection programme toward the multiple forms of discrimination that might arise at the intersection of race, gender, class, ethnicity, disability or other identities and backgrounds. Accessibility means making the social protection programme(s) easy for people to reach, understand and use, irrespective of age, disability, ethnicity, geographical location or other factors.

Affordability

If a social protection programme requires contributions, then the contributions must be stipulated in advance. The direct and indirect costs and charges associated with making contributions must be affordable for all. This definition aims to guide the provision of mental health services to ensure they are comprehensive, inclusive and easily accessible to everyone.

Executive Summary

Persons with mental health problems and psychosocial disabilities have long endured discrimination, hostility, contempt and stigma. They have also been denied basic human rights. The Convention on the Rights of Persons with Disabilities (CRPD), formulated in 2006, aims to advance social justice and inclusion for persons with disabilities, including those with psychosocial disabilities, on an equal basis with others. Despite these goals, challenges such as a lack of awareness among service-providers and negative attitudes towards service-users persist. To overcome these obstacles, it is crucial to develop and enforce inclusive policies and regulations among service providers, which can significantly help in creating a society that is supportive of persons with psychosocial disabilities.

The National Human Rights Commission of Nepal (NHRCN), in collaboration with KOSHISH, has conducted a study on mental health rights in Nepal's Bagmati and Gandaki provinces, following the World Health Organization's (WHO) quality rights approach. This study aimed to assess the current state of service quality provided by agencies for mental health and psychosocial disabilities, evaluate the rights of service users, review accommodations, explore alternative treatment options and assess awareness-raising efforts. It also examined the support offered by service-providers for training and capacity-building to foster community inclusion and analyzed practices related to torture, cruel, inhuman, or degrading treatment, as well as exploitation, violence and abuse of persons with psychosocial disabilities. Furthermore, the study offers various recommendations to the Government of Nepal (GoN) and relevant agencies on measures needed to safeguard the rights of persons with psychosocial disabilities and enhance mental health services.

The study aimed to evaluate the quality of treatment, care and support provided to persons with mental health issues and psychosocial disabilities. It also offered essential recommendations to combat the stigma and discrimination faced by these individuals and to enhance their human rights. Additionally, the study addressed the need for community-based rehabilitation services and policy adjustments in alignment with the CRPD.

The study underscores the importance of taking concrete actions to advance rights and enhance the scope and quality of mental health services in Nepal. Improving these services involves engaging the community, building the capacity of healthcare providers and securing ongoing support from policymakers and stakeholders. The study's findings offer valuable insights for policymakers, mental health professionals and organizations committed to providing inclusive mental health services and upholding human rights.

The study reveals some differences between Bagmati and Gandaki provinces. Bagmati, having the capital city of the country, has well-equipped hospitals; however, it faces challenges in delivering quality mental health services due to limited resources, particularly in terms of human resources, inadequate funding, and insufficient attention and support from stakeholders. To address these issues, the study recommends implementing capacity-building training and orientation programs. It also suggests increasing the availability of professionals from various fields necessary for treating persons with mental health issues and psychosocial disabilities and enhancing the involvement of community stakeholders.

In Gandaki, which has a predominantly rural population compared to Bagmati, persons with mental health issues and psychosocial disabilities face significant barriers to accessing quality mental health services. The study has highlighted various obstacles, including inadequate financial and human resources, budget limitations and constraints imposed by cultural practices and social attitudes. Similar to Bagmati, Gandaki should implement social awareness programs, enhance the capacity of mental health professionals, develop community-based support systems and increase resource allocation for mental health and psychosocial well-being.

In conclusion, the study conducted in Bagmati and Gandaki provinces highlights the need for concrete measures to advance the rights of persons with mental health issues and enhance the quality of mental health services. Community engagement, the development of healthcare providers' skills, and the support of policymakers and stakeholders are crucial for effectively implementing existing policies. To achieve this, it is essential to focus on raising awareness, empowering individuals, strengthening community support systems, improving training and orientation, and sharing resources. These efforts can help reduce the inadequacies in service quality and better ensure the rights of those with mental health problems.

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Chapter 1

Background

1.1. Introduction to the Study

The WHO defines mental health as " a state of mental well-being that enables people to cope with the stresses of life, realize their abilities, learn well and work well, and contribute to their community.[1]" Nepal ratified the CRPD in 2010, reflecting its commitment to safeguarding the rights of persons with disabilities, including those with psychosocial disabilities.[2] Following this ratification, Nepal is required to implement laws and policies that protect and fulfill the rights outlined in the Convention. Despite this commitment, numerous challenges and obstacles continue to hinder the full realization of these rights, particularly in the area of mental health.

In its concluding remarks, the Committee on the CRPD has highlighted concerns about the discrimination faced by persons with disabilities in Nepal, noting issues related to caste and gender. The Committee emphasized that women and girls with mental health issues, persons with autism, and those from marginalized communities are particularly at risk.[3] These groups frequently experience multiple and interconnected forms of discrimination, which heightens their vulnerability and obstructs their access to crucial services.

Nepal's mental health sector is grappling with numerous challenges, including inadequate resources and insufficient physical infrastructure and service facilities. The 2020 National Mental Health Survey by the Nepal Health Research Council revealed that 10 percent of adult respondents had experienced some form of mental health issue during their lives, and 4.3 percent were dealing with mental health problems at the time of the study.[4] Despite this, investment in mental health services remains insufficient,

1 *https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response/?gad_source=1&gclid=Cj0KCQjwrp-3BhDgARIsAEWJ6SxJD08C-QhTPvmcL25cFWWoj2URj7dlC7S30kfxMkY8yeeD_yDFHOIaAhtpEALw_wcB Accessed on 15 September 2024.*

2 *https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd Accessed on 3 July 2024.*

3 *https://www.ohchr.org/en/documents/concluding-observations/committee-rights-persons-disabilities-concluding-observations-0 Accessed on 3 July 2024.*

4. *Nepal Health Research Council. (2020). National mental health survey 2020. Kathmandu: NHRC.*

creating a stark gap between the need for such services and their availability. The limited mental health services, socio-economic inequalities and deficiencies in legal and policy frameworks are significantly impacting mental health and psychosocial well-being in Nepal. Particularly in rural areas, the shortage of trained mental health professionals with the necessary expertise and training has exacerbated this gap, leading to either a lack of available services or, where services do exist, a notably poor quality.

Socio-economic inequality is preventing persons with mental health issues and psychosocial disabilities from accessing opportunities and advancing like others. These disparities especially obstruct their ability to develop skills and pursue educational opportunities. Additionally, the current legal and policy framework in Nepal includes discriminatory provisions against persons with mental health problems and psychosocial disabilities. A study by KOSHISH found that out of 345 existing laws, 69 are discriminatory towards those with psychosocial disabilities, highlighting a significant gap between well-intentioned policies and their effective implementation.[5]

In this context, the study examined the quality of mental health services provided in Bagmati and Gandaki provinces of Nepal. It also assessed the human rights conditions for persons with mental health issues and psychosocial disabilities within community-based health recovery services. Based on these findings, the study offers essential recommendations for the Government of Nepal and relevant agencies, suggesting immediate actions to enhance the quality of mental health service facilities.

1.2. Statement of the Problem

By ratifying the CRPD in 2010, Nepal committed to safeguarding the rights of persons with disabilities, including those with psychosocial disabilities. Despite this commitment, numerous challenges and obstacles persist in the effective implementation of these rights. As a result, persons with mental health issues and psychosocial disabilities continue to face significant barriers that hinder their ability to lead a quality life.

The first issue is the insufficient resources and infrastructure available for mental health services. According to the 2020 National Mental Health Survey by the Nepal Health Research Council, current investment in mental health services is notably low. This scarcity of resources, coupled with a lack of adequately trained mental health professionals, directly impacts the ability of persons with mental health issues and psychosocial disabilities to access the necessary services.

5. *KOISHISH (2022). A study on the discriminatory provisions in existing laws against persons with psychosocial disabilities. Kathmandu: KOSHISH.*

The second issue is the pervasive social stigma and discrimination that adversely affect persons with mental health problems and psychosocial disabilities. These individuals frequently encounter multiple and interconnected forms of discrimination, which further obstructs their access to healthcare services. Such societal prejudices undermine the dignity and respect of those with mental health issues and psychosocial disabilities.

The third issue is the gap in the legal and policy framework. Although Nepal's laws and policies are generally progressive, some still contain discriminatory provisions against persons with psychosocial disabilities.

The fourth issue is the insufficient capacity building and quality of services for mental health professionals. While the WHO has developed quality rights tools to help align mental health services with human rights principles, there remains considerable work needed to effectively implement these tools and ensure service quality in Nepal.[6] Without proper training and capacity building for service providers, the rights of persons with mental health issues and psychosocial disabilities to access quality health services cannot be fully upheld.

The fifth issue is socio-economic inequality, which obstructs the development and equal opportunities for persons with psychosocial disabilities. These disparities also limit their access to skill development, educational opportunities, and employment. Consequently, persons with psychosocial disabilities are unable to fully and effectively participate in society, both socially and economically, which undermines their economic rights and their right to equality.

To address these issues, there is a need for adequate resources, efforts to combat social stigma, legal and policy reforms, capacity building for service providers, and initiatives aimed at reducing socio-economic inequality. This study seeks to analyze these challenges and provide concrete recommendations to protect and enhance the rights and well-being of persons with psychosocial disabilities in Nepal.

1.3 Objectives of the Study

The study aims to assess the quality of services and human rights conditions provided by mental health service providers for persons with mental health issues and psychosocial disabilities in Gandaki and Bagmati provinces. The specific objectives are:

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7. *https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools Accessed on 3 July 2024*

i) To assess the quality of services and the human rights conditions provided by mental health service providers in alignment with the Quality Rights Standards established by the WHO.

ii) To examine and analyze the state of service delivery for persons with mental health issues and psychosocial disabilities, evaluating it against human rights standards.

iii) To offer actionable recommendations to the GoN and relevant stakeholders aimed at enhancing the quality of services provided by mental health service providers for persons with mental health issues and psychosocial disabilities.

1.4 Significance of the Study

The WHO has created Quality Rights Tools to help mental health services adhere to the principles outlined in the CRPD, aiming to deliver quality care while respecting the rights of persons with mental health issues and psychosocial disabilities. Despite Nepal's ratification of CRPD, human rights violations against persons with psychosocial disabilities persist, including issues such as forcible confinement, shackling, use of force, and involuntary medical treatments without free and informed consent. There is an urgent need in Nepal for improved mental health services, adequate professional staff, and increased investment. This necessity is underscored by the report submitted to the Committee on the CRPD, which highlighted the need for quality mental health services, enhanced capacity of mental health professionals, and investment to meet the rising demand for mental health care. This study is significant as it aims to address these critical needs and contribute to advancing mental health services and human rights protections in Nepal.

Nepal's commitment to the CRPD mandates that mental health and community-based rehabilitation programs for persons with mental health issues and psychosocial disabilities must uphold high standards of quality and respect their rights. According to the Nepal Treaty Act, 1990, the provisions of the Convention are legally binding, and in the event of a conflict with national laws, the provisions of the Convention take precedence. Consequently, it is the GoN's responsibility to ensure that mental health and rehabilitation programs comply with all human rights standards. This study aims to provide concrete evidence to address the existing gaps in mental health service delivery in Nepal. By evaluating the quality of services and human rights conditions among mental health service providers, identifying deficiencies in service delivery, and offering recommendations to the government and relevant stakeholders, the research seeks to enhance the rights and well-being of persons with psychosocial disabilities in Nepal, in alignment with international standards and commitments.

The significance of this study extends beyond merely analyzing service quality and access; it also plays a crucial role in identifying and addressing social stigma, discrimination, and legal gaps. The insights gained from this research will guide the government, non-governmental organizations, and other stakeholders in taking concrete actions to enhance the protection of the rights of persons with psychosocial disabilities. The study will offer specific recommendations for increasing investment in mental health services, building the capacity of service providers, and reducing socio-economic disparities. These measures are essential for improving the quality of life and ensuring the fulfillment of the rights of persons with psychosocial disabilities.

1.5. Methodology of the Study

A variety of methods have been employed to ensure the accuracy and reliability of the study. This includes reviewing research documents, books, articles, and journal papers published in both national and international sources. Additionally, documents from governmental and non-governmental organizations, study reports, and relevant national and international laws, policies, plans and programs have been thoroughly examined. The study also incorporates expert opinions and a review of the CRPD. Both qualitative and quantitative approaches have been used in a mixed-methods framework, utilizing both primary and secondary data to enrich the study's findings.

Data were gathered from 10 service providers offering psychiatric services in Bagmati and Gandaki provinces of Nepal. To assess the service facilities provided by government hospitals, as well as other organizations serving persons with mental health issues, various methods such as observation, focus group discussions, and interviews were utilized. This approach aimed to collect comprehensive information about the quality of monitoring and respect for human rights in alignment with the CRPD and the WHO's quality rights standards. Quantitative data were collected from a total of 116 individuals, including 55 men and 61 women.

1.6 Study Team

This study was conducted by the NHRCN in collaboration with KOSHISH. A dedicated committee was established to oversee and coordinate the study, addressing any challenges that arose during the process. The team included Joint Secretary Mr. Nava Raj Sapkota from the NHRCN, Mr. Matrika Prasad Devkota from the partner organization KOSHISH, and Dr. Kedar Marahatta, who served as a consultant from the WHO. The team also comprised several key contributors from the NHRCN and KOSHISH, including Human Rights Officers Kalpana Acharya, Khimlal Subedi, Maya Gaire, and Sanjay Raj Neupane, Prasannata Osti, Sangeeta Khadka and Manju Chhetri

from KOSHISH. Additional support in report writing was provided by Sanjay Raj Neupane, Abhash Dangol, and Tham Kumari Kunwar. The report was edited by Dr. Dipesh Kumar Ghimire, Assistant Professor at Tribhuvan University.

1.7 Limitations of the Study

This study is primarily focused on assessing the quality of services provided to persons with mental health issues and psychosocial disabilities in Gandaki and Bagmati provinces. While it provides a detailed examination of the human rights conditions and the state of psychiatric service facilities in these regions, it has several limitations. The study is limited to only two provinces in Nepal, which may not fully represent the situation across the entire country. The research was conducted within a brief timeframe and with limited resources, potentially impacting the depth and breadth of the analysis. Since most service providers adhere to government procedures, there may be a perception of uniformity in the services offered, which might not capture the nuances of service delivery. The study is based on WHO's global concept of quality rights, which, while comprehensive, may not fully account for local variations and specific regional needs.

Chapter 2
Review of Laws and International Standards

2.1. International Standards and Laws

The CRPD guarantees that persons with disabilities have the same rights as everyone else. Article 28 of the CRPD specifically addresses the right to an adequate standard of living for persons with disabilities. Article 28 (1) requires that States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability. Article 28 (2) requires that 1. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs; b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes; c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care; d. To ensure access by persons with disabilities to public housing programmes; e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 25 of the Universal Declaration of Human Rights also guarantees the right to an adequate standard of living. According to Article 25 (1), Everyone has the right to an adequate standard of living, which includes access to food, clothing, housing, medical care, and essential social services for their health and well-being, as well as for their family. This right also extends to security in cases of unemployment, illness, disability, widowhood, old age, or any other situation where an individual lacks means of support.

2.2 Quality Rights Criteria

The Quality Rights Initiative by the WHO offers a robust framework that aligns with the principles of the CRPD, emphasizing human rights in mental and psychosocial health

services for persons with mental health issues and psychosocial disabilities. Despite this, there are still implementation challenges, such as disparities in accessing mental health services in Nepal due to social, economic, and caste-based inequalities, particularly in rural areas.

The WHO's quality rights standards outline several key rights, including the right to an adequate standard of living, the highest achievable level of physical and mental health, legal capacity, personal freedom, and protection from torture, cruel, inhuman, or degrading treatment or punishment, as well as from exploitation, violence, and abuse. These standards are detailed further with reference to Nepali context below.

a) Adequate Standard of Living

The WHO's Quality Rights standards stress the importance of ensuring an adequate standard of living for persons with disabilities. This includes access to fundamental needs such as food, clothing, and housing, along with receiving necessary health care services. The standards also call for ongoing improvements in living conditions and the management of services to mitigate the effects of disabilities. However, previous research has highlighted challenges such as inadequate infrastructure, financial limitations, and social stigma as significant barriers.[8]

Nepal, having ratified the CRPD, is committed to upholding these standards. Yet, mental health care facilities in Nepal appear to be suffering from neglect and a lack of essential resources, contributing to a sense of disregard among clients. Reports from consumers and their families—who often reside in the facilities—reveal widespread dissatisfaction with the conditions, including inadequate lighting, cleanliness, and space. One caregiver noted, "In the morning and evening, you have to wait in line to use the bathroom. The waiting area for patients is problematic and uncomfortable." [9]

Similarly, the study highlights the disparity between the demand for mental health professionals and their availability. Despite the widespread prevalence of mental health issues, there is a significant shortage of mental health care infrastructure, equipment, and trained personnel. For instance, Mental Hospital Lagankhel, the country's sole mental hospital, is struggling with inadequate facilities and insufficient staff to adequately serve patients nationwide.[10] This shortfall underscores the pressing need for increased

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8. https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools Accessed on 30 June 2024]

9. https://nagariknews.nagariknetwork.com/health/166815-1545184140.html?click_from=category Accessed on 30 June 2024.

10. https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools

resources to meet the growing demand for mental health services and to expand service provision at the local level.

The situation reveals a significant gap between the need for mental health professionals and their actual availability. Despite a substantial portion of the population experiencing mental health issues, there is a shortage of mental health infrastructure, equipment, and trained service providers. For instance, Lagankhel hospital is operating with inadequate infrastructure and staff to cater to patients nationwide. This shortfall highlights the urgent need for more resources to meet the rising demand for mental health services and to expand services at the local level.

Beyond physical infrastructure, financial constraints and social stigma further hinder access to mental health services in Nepal. Limited budget allocations for mental health, coupled with social discrimination, exacerbate the challenges in obtaining quality care for persons with mental health issues or psychosocial disabilities.[11] Additionally, previous studies have pointed out disparities in access to mental health services related to socio-economic status and ethnicity, which further marginalizes individuals and communities from disadvantaged backgrounds.[12]

To overcome these barriers, it is crucial to implement comprehensive reforms that tackle social stigma, enhance the infrastructure of service providers, boost investment, and ensure equitable access to quality mental health services for everyone. Addressing deficiencies in infrastructure, resources, and service management is essential for effectively implementing the WHO Quality Rights Framework in Nepal. This will improve public access to quality mental health services and uphold the rights and well-being of persons with mental health issues or psychosocial disabilities.[13]

b) The Right to the Highest Attainable Standard of Physical and Mental Health

According to Article 25, which guarantees the right to the highest attainable standard of physical and mental health, international human rights organizations stress that everyone is entitled to this right. The United Nations Special Rapporteur on the right to the highest attainable standard of physical and mental health has highlighted significant deficiencies in the provision of mental health services in the report.

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11. *https://journals.sagepub.com/doi/10.1177/00258172221141293?icid=int.sj-full-text.similar-articles.9 Accessed on 30 June 2024*
12. *https://kathmandupost.com/art-culture/2024/03/05/mental-health-disparities-in-marginalised-communities] Accessed on 30 June 2024*
13. *https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools Accessed on 30 June 2024]*

In Nepal, the Rights of Persons with Disabilities Act 2017 includes provisions for the treatment of persons with mental health issues or psychosocial disabilities. Section 35 of the Act mandates that the government arrange for treatment at community hospitals or health centers selected by the individuals, their families, or guardians. Additionally, the government provides free essential medicines and counseling services, and makes arrangements for the rehabilitation or family reunification of those neglected by their families.[14]

Despite these legislative provisions, access to quality mental health services remains limited, particularly for rural and marginalized communities. The country's sole mental hospital in Lagankhel is insufficient to meet the needs of the entire population. Building a hospital exclusively for mental health services might exacerbate stigma and discrimination, potentially delaying problem identification. Therefore, it is crucial to integrate mental health services at the community level. However, mental health services have not yet been incorporated into community-level health services as needed, forcing individuals from remote areas to travel to urban centers for treatment.[15]

In Nepal, the allocation of less than 1 percent of the health budget to mental health underscores the state's vulnerability in this area.[16] This funding shortfall directly affects service delivery and the development of a skilled human resources. Currently, the country has a shortage of psychiatrists, medical psychologists, psychiatric nurses, psychologists, and trained psychotherapists, with specialist services largely confined to urban areas. This concentration limits access for those living in rural and remote regions.[17]

To address these gaps, various private and non-governmental organizations have stepped in to provide alternative mental health services. However, these initiatives often lack adequate monitoring and evaluation by relevant agencies, leaving persons with psychosocial disabilities vulnerable to exploitation and discrimination.[18] Reports indicate a continued practice of involuntary admissions and long-term institutionalization, coupled with insufficient investment and opportunities for community reintegration.[19]

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14. *https://www.lawcommission.gov.np/np/wp-content/uploads/ the Rights of Persons with Disabilities Act, 2017 Accessed on 3 July 2024*
15. *KOSHISH Nepal. (2022). A study on the discriminatory provisions in existing laws against persons with psychosocial disabilities. Kathmandu: KOSHISH*
16. *Ibid*
17. *https://cdn.who.int/media/docs/default-source/mental-health/special-initiative/who-special-initiative-country-report---nepal---2021.pdf?sfvrsn=52a31930_7%20. Accessed on 30 June 2024*
18. *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8274424/ Accessed on 30 June 2024*
19. *https://ijmhs.biomedcentral.com/articles/10.1186/s13033-017-0139-1 Accessed on 30 June 2024*

c) The Right to Exercise Legal Capacity and the Right to Individual Freedom and Security

The CRPD upholds the right of persons with psychosocial disabilities to legal capacity and individual freedom. This affirmation grants them the authority to make decisions regarding their own treatment and services. Article 12 (2) of the CRPD highlights that persons with disabilities should have legal capacity on an equal basis with others in all areas of life. This shifts away from the outdated, power-imbalance medical model of disability towards a rights-based approach.

Article 12 underscores the importance of legal capacity for persons with disabilities, enabling them to make decisions about their lives, including medical treatment, financial matters, and other legal choices. This provision represents a shift from the previous view that persons with disabilities were incapable of making decisions, advocating instead for a rights-based approach.

Healthcare providers and their caregivers have a crucial role in supporting the decision-making rights of persons with psychosocial disabilities. Initiatives such as support networks, recovery-focused health services, and community support groups have demonstrated positive impacts on both their health and social inclusion.[20]

Similarly, Article 28 of the Constitution of Nepal guarantees the right to privacy for all citizens. In accordance with this, hospitals and organizations are required to protect the confidentiality of medical records for persons with psychosocial disabilities and must not disclose sensitive information to others without consent.[21]

Article 14 of the CRPD underscores the right to individual freedom and security, prohibiting the involuntary institutionalization and deprivation of freedom for persons with disabilities. This provision affirms that individual autonomy must be respected and that persons with disabilities should be included in decision-making processes. Similarly, Section 8 of the Nepal's Rights of Persons with Disabilities Act 2074 explicitly states that persons with disabilities must not face discrimination or be deprived of their personal freedom due to their disability.[22]

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20 KOSHISH Nepal. (2022). A study on the discriminatory provisions in existing laws against persons with psychosocial disabilities. Kathmandu: KOSHISH

21 https://www.moljpa.gov.np/wp-content/uploads/2017/11/Constitution-of-Nepal-_English_-with-1st-Amendment_2.pdf Accessed on 30 June 2024

22 https://www.lawcommission.gov.np/np/wp-content/uploads/ the Rights of Persons with Disabilities Act, 2017 Accessed on 30 June 2024

In Nepal, challenges persist in upholding these rights. Issues such as the lack of institutional and informed consent, inadequate health services, and disparities in access to care prevent persons with psychosocial disabilities from fully enjoying their rights. It is crucial to respect individual preferences and uphold the rights and dignity of persons with psychosocial disabilities throughout the decision-making process. To address these challenges, reforms in Nepal's legal and healthcare systems are necessary. Initiatives like developing support networks, providing community-level services, and training healthcare providers are essential for promoting the inclusion of persons with psychosocial disabilities in society.

d) Freedom from Torture or Cruel, Inhuman, or Degrading Treatment or Punishment and from Exploitation, Violence, and Abuse

Ensuring protection against torture and inhumane treatment is crucial for safeguarding the rights and well-being of persons with psychosocial disabilities. Articles 15 and 16 of the CRPD prohibit such practices, including non-consensual psychiatric interventions. These articles mandate that states parties must implement effective measures to prevent torture under any circumstances. Similarly, Section 10 of the Nepal's Rights of Persons with Disabilities Act 2074 guarantees that persons with disabilities are protected from all forms of inhuman or degrading treatment, including physical or mental violence, gender-based violence, domestic violence, and sexual abuse and exploitation by family members, guardians, or others. The Act also ensures that persons with disabilities receive priority protection, rescue, and support during armed conflicts, crises, or disasters.[23]

In Nepal, instances of non-consensual treatment and human rights violations persist. Administering treatment and medications without the client's consent constitutes a serious breach of human rights. To address these issues and ensure more accessible and respectful services, it is crucial for regulatory bodies to focus on adopting or transforming mental health service delivery through community-level support networks.

India has taken steps to regulate the use of electroconvulsive therapy (ECT) by restricting its use to cases where individuals provide free and informed consent only after all other treatment options have been exhausted. This model could serve as a useful reference for Nepal, where enhancements in mental health services are necessary.

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23 https://www.lawcommission.gov.np/np/wp-content/uploads/2018/10/the Rights of Persons with Disabilities Act, 2017 Accessed on 3 August 2024

Healthcare providers, policymakers, and society must collaborate to uphold the dignity and rights of persons with psychosocial disabilities in Nepal. To ensure adequate mental health services for those affected, it is essential to address infrastructure gaps, financial barriers, stigma, and human rights violations. By enacting comprehensive reforms and fostering community-based support networks, Nepal can enhance access to quality mental health care and respect the rights and dignity of all individuals, regardless of their disability status.

Provisions of Health Rights

Article 25 of the CRPD obliges States Parties to guarantee equal access to quality basic health services for persons with disabilities. Additionally, Sustainable Development Goal no. 3 emphasizes health-related objectives, including efforts to reduce suicide rates.

The Constitution of Nepal includes several relevant provisions: Article 16 ensures the right to live with dignity, Article 18 guarantees the right to equality, Article 22 protects against torture, and Article 42 upholds the right to social justice. These provisions are applicable to persons with mental health issues and psychosocial disabilities, ensuring their rights are protected.

In the Fifteenth Plan of Nepal (2019/20-2023/24), there is a focus on protecting the rights of persons with disabilities, creating disability-friendly physical environments, providing rehabilitation services, ending discrimination, and expanding access to mental health services at all levels. Similarly, the National Health Policy 2019 emphasizes the state's responsibility to offer quality health services to persons with psychosocial and physical disabilities.

Article 35 of the Rights of Persons with Disabilities Act 2017 allows persons with mental health problems or psychosocial disabilities to receive treatment from any health institution of their choice, as selected by themselves or their family members.

2.3 Mental Health Rights in Nepal

Historically, the advancement of mental health rights in Nepal has been slow. However, recent efforts to improve this sector include the implementation of various policies and legal frameworks. A significant development is the Act on the Rights of Persons with Disabilities 2017. This Act includes crucial provisions to safeguard the rights of persons with mental or psychosocial disabilities.[24] It guarantees equal access to healthcare, mandates reasonable accommodations, and ensures the provision of services without discrimination.[25] By establishing access to mental health services as a legal right, the Act represents a significant step forward in the protection and advancement of mental health rights.

Section 28 of the Act on the Rights of Persons with Disabilities, 2017 outlines provisions for free health services. Specifically:

- It mandates the provision of free health services, including necessary therapies such as speech therapy and occupational therapy, to persons with disabilities whose annual income is below the threshold set by the GoN, or who are admitted to government hospitals for treatment of specified conditions.
- The GoN is required to provide free medications and essential factors for persons with hereditary bleeding disorders (hemophilia) as a result of their disabilities.
- The GoN is tasked with ensuring that barriers to accessing hospitals for persons with disabilities are removed.
- Health workers at hospitals are expected to prioritize and provide quality healthcare services to persons with disabilities, as long as they are available at the hospital.
- Hospitals with more than twenty-five beds, whether run by the government or the private sector, are required to reserve at least two beds specifically for persons with disabilities.
- The GoN is responsible for organizing efforts to prevent, control, eliminate, and treat disabilities that can be prevented or addressed. This includes identifying and addressing the factors that contribute to disability.
- The GoN will ensure that treatment is provided at the nearest hospital to minimize the impact on bodily functions or organs caused by the disability.

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24. *https://www.lawcommission.gov.np/en/wp-content/uploads/2019/07/The-Act-Relating-to-Rights-of-Persons-with-Disabilities-2017.pdf Accessed on 30 June 2024*
25. *Ibid*

Similarly, the Regulation on the Rights of Persons with Disabilities 2020 offers detailed guidance for safeguarding and advancing the rights of persons with disabilities. According to sub-rule 3 of Rule 25 of this regulation, the GoN is required to provide free psychosocial counseling services for persons with psychosocial disabilities in all government hospitals.[26]

The Public Health Service Act 2017 was enacted to implement the constitutional right to free basic and emergency health services and to ensure that health services are regular, effective, and accessible to all citizens.[27] Section 3 of the Act guarantees that every citizen is entitled to receive such health services free of charge, including those related to mental illness, as part of basic health services.

Likewise, Section 10 of the Act mandates that each health institution and healthcare worker must inform patients about their health and treatment status. Section 11 requires obtaining informed consent from the service recipient. Additionally, Section 12 stipulates that all service users should receive equal and respectful treatment and prohibits discrimination by any health institution based on health condition, disability, or other factors.

Nepal's health policy, revised in 2020, aims to integrate mental health services into the national healthcare system.[28] The policy focuses on enhancing access to mental health services and promoting community-based mental health care. Likewise, Nepal's Fifth Health Sector Reform Program (2020-2025) prioritizes mental health, emphasizing the implementation of various programs to improve both access to and the quality of health services.[29]

The National Mental Health Strategy and Action Plan 2021 recognizes the extensive discrimination, stigma, and neglect faced by persons with mental health issues and psychosocial disabilities in Nepal. It outlines the difficulties in providing sufficient psychosocial services, attributing these challenges to the dominance of the medical model, a shortage of trained professionals, and the persistence of harmful traditional practices. The plan notes a significant shortage of essential personnel in the mental health field, stating: "The low number of medical psychologists, psychologists, trained

26. *https://lawcommission.gov.np/np/wp-content/uploads/ the Rights of Persons with Disabilities Regulation, 2020 Accessed on 4 August 2024.*
27. *https://lawcommission.gov.np/np/wp-content/uploads/ Public Health Service Act, 2018 Accessed on 12 August 2024.*
28. *https://www.opmcm.gov.np/wp-content/uploads/npolicy/Health/Mental%20Health%20policy2053.pdf Accessed on 30 June 2024*
29. *https://publichealthupdate.com/nepal-health-sector-strategic-plan-2023-2030/ Accessed on 30 June 2024*

psychotherapists, and social workers has made it difficult to assess persons' psychosocial conditions and provide appropriate psychosocial services." As a result, some persons with severe mental illnesses are either confined at home, restrained, or left to roam the streets, making it challenging to access treatment or reintegrate them into society post-treatment.[30]

The National Mental Health Strategy and Action Plan 2020 also notes: "Some communities in Nepal continue to rely on traditional practices such as *Dhami Jhankri, Guvaju, Jharphuke* and other indigenous healing methods. There is a need to modernize these practices by integrating scientific treatment approaches."[31] The Strategy and Action Plan thus advocates for a shift from the medical model to human rights-oriented psychosocial services, acknowledging the prevailing patriarchal beliefs and power imbalances that impede the rights and equality of persons with disabilities.

In addition, the Health Service Standards 2020 are crucial for advancing mental health rights in Nepal.[32] These standards focus on enhancing the quality, accessibility, and delivery of health services, which will particularly benefit the field of mental health services.

The Health Service Standards 2020[33] include specific provisions aimed at enhancing the quality of health services, with particular emphasis on mental health services. These standards establish necessary benchmarks to ensure minimum quality across all health services and guarantee equal access to healthcare for all individuals, a crucial element of mental health rights.

Major Challenges to Mental Health Rights

Significant challenges to implementing mental health rights in Nepal include inadequate infrastructure, a shortage of human resources, financial limitations, and social stigma. Many hospitals and health centers are not equipped with the necessary facilities to support mental health services. The absence of sufficient hospitals, clinics, and service centers impedes access to care for persons with psychosocial disabilities, particularly in rural regions. Additionally, existing negative attitudes and societal prejudices further restrict access to these essential services.

30. *https://www.opmcm.gov.np/wp-content/uploads/2023/10/ National Mental Health Strategy and Action Plan 2020, Accessed on 30 June 2024*
31. *https://www.opmcm.gov.np/wp-content/uploads/2023/10/ National Mental Health Strategy and Action Plan 2020, Accessed on 29 June 2024*
32. *https://www.siddhasthalihospital.org/wp-content/uploads/2022/03/ the Health Service Standards 2020 Public-Health-Update.pdf*
33. *http://nssd.dohs.gov.np/mapdanda/MSS_HealthPost.pdf Accessed on 29 June 2024.*

The shortage of trained mental health professionals, such as psychiatrists, psychotherapists, and mental health nurses, significantly hampers service delivery. The mental health budget, constituting less than one percent of the total health budget, complicates and limits access to services for persons with mental health issues and psychosocial disabilities. This funding constraint directly impacts the quality of mental health services and the training of service providers.

According to the Health Service Standards of Nepal 2020, there are several deficiencies in infrastructure and service management for mental health services. Facilities such as mental health service buildings and hospital wards are often in poor condition, with inadequate lighting, sanitation, and basic amenities like toilets and water. Additionally, mental health care resources are scarce, with only 0.58 hospital beds per 100,000 people. Service providers are predominantly located in urban areas, leaving rural populations underserved and deprived of essential mental health services.

Legal structures and policies play a crucial role in advancing mental health rights in Nepal. However, to effectively implement these policies, improvements are needed in infrastructure, human resources, financial resources, and social attitudes. While Nepal's policy framework has made notable progress in safeguarding and promoting the rights of persons with disabilities, further efforts are required to address these gaps and enhance the overall effectiveness of mental health rights protection.

Chapter 3
An Assessment of Psychosocial/Mental Health Service Providers in Nepal

3.1 Introduction

This section evaluates the services provided to persons with psychosocial disabilities, focusing on rehabilitation centers and health service providers, in accordance with various articles of the CRPD (Articles 12, 14, 15, 16, 17, 25, and 28) and the standards set by the WHO's Quality Rights Standards. The chapter reviews the experiences of individuals receiving mental or psychosocial treatment, as well as the conditions observed through interviews and direct observation. The analysis is aligned with four out of the five standards established by the WHO.

3.2 Status obtained from observations

3.2.1 Status of the right to an adequate standard of living

Under this, for persons with mental health issues and psychosocial disabilities, according to their religious traditions, services such as food, clothing, housing and clean drinking water, including sanitation, bathing, washing, toilet should be provided in sufficient quantity without any kind of discrimination like other people. In addition to this, it is important to ensure the availability of social security programs, various concessions and relief services.

During the study, it was discussed with various respondents and knowledgeable people about the implementation status of the provisions of Article 28 of the CRPD in health care providers. During this, the condition of government hospitals, private hospitals and organizations and rehabilitation centers working in the field of mental health issues and psychosocial disabilities were studied.

a) Situation of Government Hospitals

The study revealed that the condition of government hospitals is highly concerning. Many mental health wards in these hospitals are in disrepair, with broken windows and doors that have not been fixed. According to one of the hospital staff observed during the study:

> *Despite our efforts to maintain the facilities, regular maintenance is challenging because severe mental health patients often break and damage the structures. What is repaired today may be destroyed again tomorrow.*

The maintenance of government hospital buildings has been lacking, with certain areas falling behind compared to other wards. Many mental health wards are dark, damp, and poorly maintained, resembling prison-like conditions. The rooms are often unpainted, with visible stains on the walls and ceilings. Additionally, these wards are typically situated in the most remote corners of the hospital buildings, lacking proper ventilation and sunlight, which fails to meet health standards.

During the observation, it was noted that while the wards were accessible for patients and their families, there was no designated space for relatives to stay comfortably. Although there are separate wards for men and women, it was observed that the arrangements could lead to awkward situations, particularly when visitors or patients of the opposite gender are present. As one patient's relative commented during the study:

> *This hospital has designated wards for men and women with mental health issues or psychosocial disabilities. However, those accompanying patients face significant difficulties due to inadequate facilities. Additionally, there is no partition between the male and female wards, and the doors are poorly maintained and ineffective, increasing the risk of gender-based abuse within the wards.*

The observation revealed that there is no separate room for children with mental health issues or psychosocial disabilities. Despite the policy requiring curtains for every bed, no hospitals have implemented this arrangement. There is also a lack of designated areas for patients to change their clothes, leading them to use the toilet for this purpose. This is particularly problematic during menstruation, causing considerable discomfort for female patients and their caregivers regarding personal hygiene. Hospital management has not addressed issues of personal privacy. Furthermore, some hospitals were observed to consult patients with psychosocial problems alongside those with other health issues in the same room. While ramps and lifts are available in all government hospitals for disabled and wheelchair users, there seems to be no consideration for the psychosocial needs of persons with physical disabilities.

Most of the hospitals examined did not meet the required standards for toilets. The general hygiene and cleanliness of these facilities were also subpar. According to the cleaning staff, the cleaning schedule is insufficient given the number of users. Additionally, there

is a lack of soap, tables, and regular water supply in the toilets. This shortage of water and poor sanitation has resulted in dirty and odorous facilities.

The condition of the hospital beds was similarly poor. The sleeping arrangements for patients were inadequate, with rusted folding beds covered in worn and grimy sheets. As a result, many family members of the patients have had to bring essential supplies from home to address these deficiencies.

b) Situation in Private Hospitals

During the study, private hospitals were generally found to be cleaner and better maintained compared to government hospitals. However, staff at these facilities reported similar issues with patients with psychosocial disabilities damaging windows and door handles. Despite this, private hospitals were noted for having more disability-friendly window designs.

Nonetheless, some private hospitals had toilets that were not accessible for wheelchair users, making it difficult for them to navigate these spaces. Among the private hospitals observed, only one had toilets with locks that could be opened from the inside but were also equipped with emergency access from the outside. Most other hospitals did not have such arrangements. When questioned about the lack of locks, hospital administrators explained that locks are not used due to concerns about patients with mental health issues potentially misusing them. Overall, the cleanliness and hygiene standards in private hospitals were found to be superior to those in government hospitals.

c) Organizations and Rehabilitation Centers

The study revealed significant variation in cleanliness standards among the visited organizations and rehabilitation centers. While some organizations maintained high levels of cleanliness and hygiene, most others had only average standards. Privacy was often neglected, and the quality of materials used in these facilities was generally subpar.

Separate sleeping quarters for men and women were provided in most organizations and rehabilitation centers. Of the five rehabilitation centers observed, two offered paid services while three provided services at no cost. One organization offering paid services did not cooperate with the study team, making it difficult to assess its conditions thoroughly. It was noted that four of the monitored centers exceeded their recommended capacity. For instance, a paid service facility was found to have four beds in a room measuring 14x14 feet, accommodating two individuals per bed.

Similarly, in one of the free service organizations, persons with psychosocial, intellectual, and physical disabilities were housed together. During the winter visit, clients were seen sunbathing, and some were reluctant to discuss their living conditions, including housing, sleeping arrangements, and food. However, through empathetic conversations, it became apparent that some individuals were distressed about their homes, with a few even in tears over the poor living conditions and remembering their own house. None of the organizations or rehabilitation centers met the minimum standards for toilet facilities.

3.2.2 The Right to the Highest Attainable Standard of Physical and Mental Health

Article 25 of the CRPD addresses health rights. It stipulates that parties to the convention must ensure that persons with disabilities receive the highest attainable standard of health without discrimination based on disability. This study included discussions with various respondents and experts about the implementation of Article 25, as well as observations of different service providers.

It was discovered that individuals could access free services at government hospitals if they brought a recommendation from the local government. However, the number of government hospitals is limited, which restricts the extent to which persons with financial hardships can receive treatment. The scarcity of mental health services in urban areas has resulted in significant challenges for economically disadvantaged individuals residing in rural areas.

During the study, discussions with hospital officials revealed varied referral practices. Government hospitals in Kathmandu reported that they do not refer patients elsewhere, while those outside Kathmandu indicated that they send clients needing clinical psychologists or intensive treatment to private hospitals or to Kathmandu. Additionally, there was notable variation in the duration of hospital stays for patients. It was observed that there was no provision for prolonged involuntary hospitalization, and patients were typically discharged after a brief period of treatment. If patients' relatives failed to pick them up or could not be located, the patients were transferred to nearby organizations or rehabilitation centers. Throughout this process, the preferences and emotional well-being of the patients were largely neglected.

The study revealed that government hospitals in Nepal distribute 11 types of medicines free of charge. However, since only a limited range of medicines is covered, many additional medications need to be purchased privately, imposing a significant financial burden on low-income patients. Hospital officials pointed out that the lengthy and complex procurement process required by the Public Procurement Act delays the availability of necessary medicines. Consequently, government hospitals primarily focus on treatment

and lack investment in community rehabilitation, with no support or provisions from the government for this area.

Further monitoring showed that local governments struggled to initiate timely medicine procurement due to budgetary constraints. In Gandaki Province for the fiscal year 2079-80 BS, it was noted that outdated medicines worth millions were to be disposed while 60 lakh rupees budget went freeze due to disability of government to spend the budget on time.

A shortage of psychiatrists was observed in private hospitals. Additionally, private hospitals lack established procedures for mental health care. The conditions in organizations and rehabilitation centers were also found to be inadequate. While these facilities provide food, shelter, and basic cleanliness, they fall short in addressing the psychosocial needs of their residents. It appears that psychiatrists visit infrequently, and the organizations either fail to manage necessary medications properly or do not prioritize comprehensive treatment. Some rehabilitation centers only offer a limited range of medications to control symptoms, without focusing on the overall treatment of the individuals.

3.2.3 Legal Rights and the Right to Individual Freedom

Article 12 of the CRPD guarantees equal legal recognition and treatment, asserting that persons with disabilities should be recognized as fully legal persons, with the same rights as others. Similarly, Article 14 addresses the right to freedom and safety, stipulating that parties must ensure persons with disabilities can enjoy the same freedoms and security as others. This study included interviews, discussions, and observations to assess how these legal rights and personal freedoms are being implemented.

During the study, it was observed that government hospitals did not have procedures in place to obtain informed consent directly from the service recipients. Instead, consent was sought from family members or guardians. Furthermore, the treatment process was typically discussed only with the family, not with the patients themselves. It was noted that government hospitals generally did not retain patients for extended periods. For example, a client in a Kathmandu Valley government hospital had been in bed for 45 days. However, on average, patients were admitted and discharged within 7 to 10 days, based on urgent care arrangements.

The study revealed that staff at private hospitals lacked understanding and skills related to the psychosocial aspects of their clients. Their focus was primarily on basic care, such as ensuring that clients were fed properly and were not physically abused. However, they did not grasp the broader issues of clients' rights, including their right to make

independent decisions. It was also noted that employees had minimal knowledge of the CRPD and the rights of persons with disabilities. Similarly, there was no training offered to staff involved in community rehabilitation. Psychiatrists were also found to be issuing disability ID cards only on a limited, demand-based basis.

In organizations and rehabilitation centers, there was a noticeable lack of focus on enhancing the skills and knowledge required for effective community rehabilitation. Post-rehabilitation, there was no follow-up on the individual's activities, methods, or support systems. Additionally, it was observed that long-term services were only available to those who could afford to pay for them.

3.2.4 Protections Against Torture, Cruel, Inhuman or Degrading Treatment, and Exploitation, Violence, and Abuse

Article 15 of the CRPD stipulates that persons with disabilities must not be subjected to torture, inhumane treatment, or humiliation. It also emphasizes that no scientific experiments, such as drug research, should be conducted on them without their voluntary and informed consent. Additionally, Article 16 mandates that parties must establish and enforce laws and regulations to shield persons with disabilities from violence, exploitation, and unfair use, both within and outside their homes.

Many persons with mental health issues and psychosocial disabilities interviewed during this study reported experiencing inhumane and degrading treatment. They expressed feelings of being treated more like objects than individuals within the community, and described instances of torture. Clients in various hospitals also mentioned the use of force and mistreatment. Conversely, officials from service providers claimed that while some force might be necessary during treatment, torture and inhumane treatment are prohibited.

During the observations, it was noted that nearly all hospitals employed force to manage the condition of clients. Furthermore, there were no mechanisms in place for filing complaints or seeking justice in cases of abuse. Additionally, it was found that family members often accepted the use of force, with some even considering it normal to restrain their relatives by tying them up.

Although there are various complaint boxes in the hospital, no complaint box has been found so far. No information has been given about this arrangement that the family of the service recipient or the general public can also file a necessary complaint. Similarly, it was found that the ECT service was given without the free and informed consent of the customer. Psychiatrists also were found to be positive on unmodified ECT. In this regard, it was found that the condition of all government and private hospitals is almost

the same. Also, the condition of organizations and rehabilitation centers was found to be almost the same. During the monitoring, due to the lack of supervision and relatives, it was found that tying, beating and controlling the service users were common, while the complaint mechanism was found to be ineffective.

In this way the study has highlighted major challenges concerning the rights of persons with mental or psychosocial health issues and the quality of services they receive in Nepal. Notable problems include inadequate infrastructure, poor maintenance, insufficient privacy and hygiene standards, limited access to services, systemic inefficiencies, and prevalent use of force. To ensure better protection of service quality and user rights, it is essential to implement comprehensive reforms aligned with the CRPD.

3.3 Conditions Identified Through Interviews and Questionnaires

Data for this study was gathered through interviews and questionnaires involving individuals receiving services, their caregivers, and the staff of service providers. This data was used to assess the conditions of psychosocial and mental health services in Nepal. The findings are analyzed under four distinct categories.

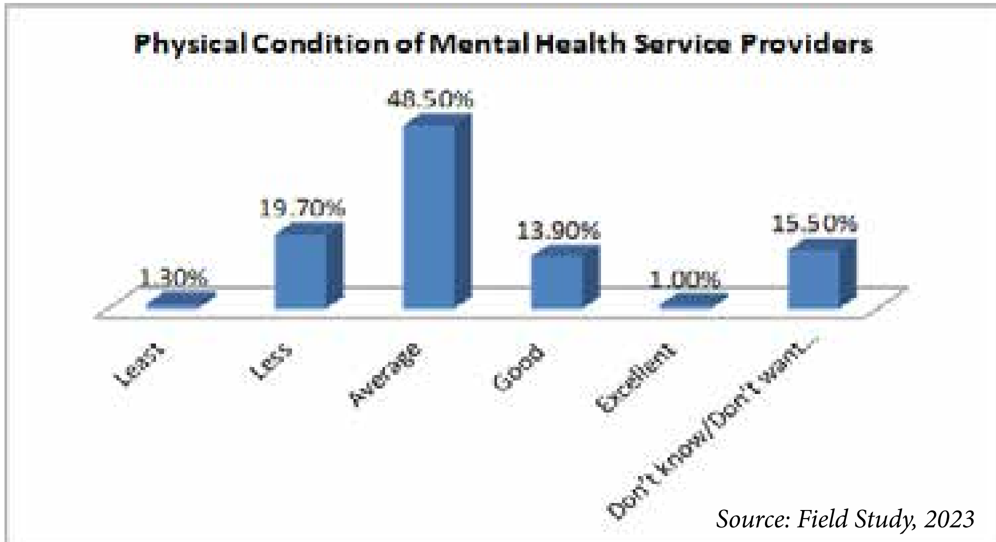
a) The Right to an Adequate Standard of Living

The assessment of the right to an adequate standard of living was based on three specific standards: Standard 1.1: The physical condition of the building. Standard 1.2: Comfort and privacy of the sleeping arrangements for clients. Standard 1.3: The cleanliness and hygiene standards maintained by the service provider.

i) Standard No. 1.1: The Physical Condition of the Building

The WHO's quality standards emphasize the importance of the physical condition of the building. The assessment considers whether repairs are promptly made for issues such as damaged or discolored walls, peeling paint, and malfunctioning ramps or elevators. It also evaluates accessibility features like wheelchair access to toilets or shower rooms and the presence of appropriate handles in these areas. Additionally, the standards require that bedrooms be well-lit, well-ventilated, and clean, with functional amenities such as fans for summer and heaters for winter. Questionnaires were designed to address these aspects, and responses from both provinces were collected accordingly.

Figure 1: The Physical Condition of the Mental Health Service Providers

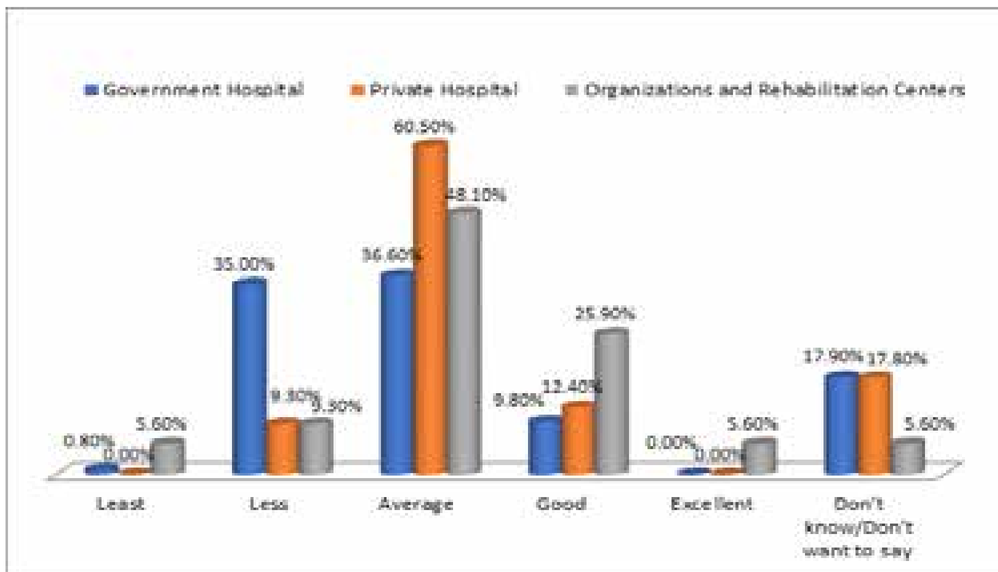


Source: Field Study, 2023

The figure illustrates that the majority of mental health service providers are categorized as average, indicating a generally satisfactory physical condition. Notably, 15.5 % of respondents either did not know or chose not to answer, which may reflect potential pressure or a lack of awareness when providing information.

The second figure shows the physical condition of various types of institutions, including government hospitals, private hospitals, and rehabilitation centers.

Figure 2: Physical Condition of Service Providers Institutionally

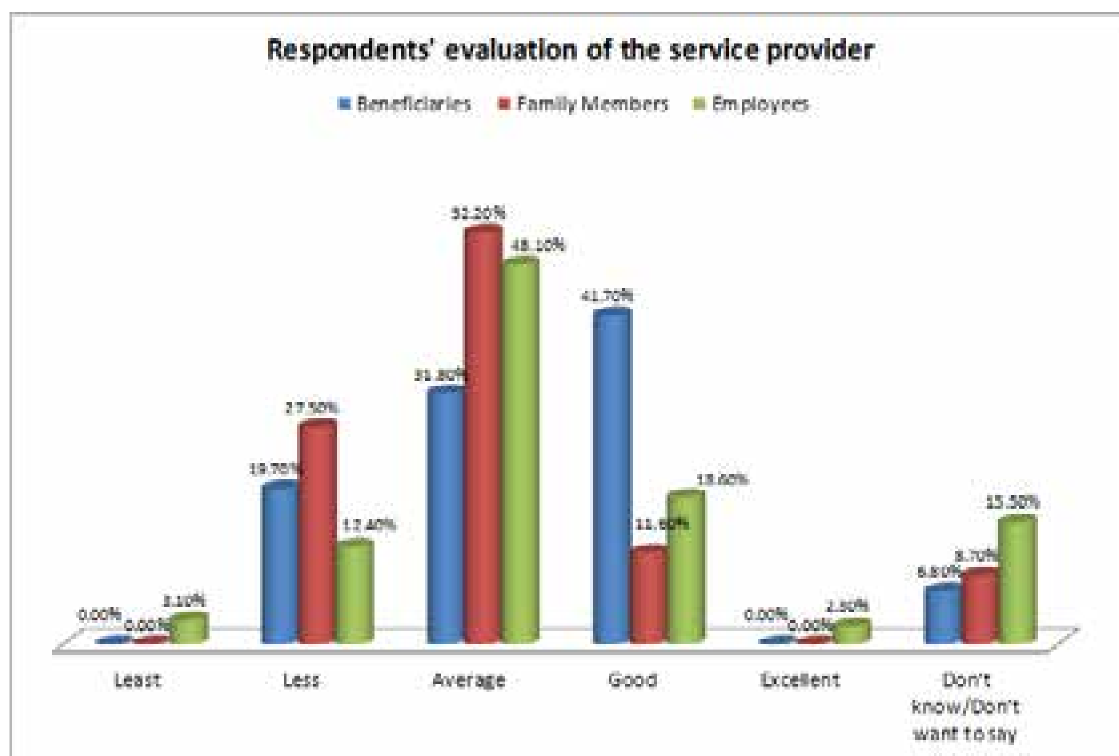


Source: Field Study 2023

The above figure shows that the condition of private hospitals is better than that of government hospitals. But it seems that there is still a need for improvement in all three service providers. In this process, especially from the point of view of accessibility, it is seen that there is a weak situation in all the three institutions.

In order to evaluate the service delivery agencies, interviews were conducted with three parties during the study. In which there were service users, family members and employees (Figure 3).

Figure 3: Different respondents' evaluation of the service provider



Source: Field Study, 2023

Based on the data, the condition of the psychosocial service buildings in Bagmati and Gandaki provinces is generally considered satisfactory by both service providers and recipients, along with their families. However, this assessment is influenced by several factors. For instance, none of the respondents have physical disabilities, so the data does not reflect issues faced by wheelchair users. Additionally, while private hospitals have better physical infrastructure compared to government hospitals, their facilities are still lacking compared to other health services. Although there are policies and regulations

for construction, reconstruction, and sanitation, adherence to these guidelines has been inadequate. Therefore, it is important for relevant stakeholders to focus on improving these aspects.

Analyzing the data on the right to an adequate standard of living reveals several key issues. First, while the physical condition of the buildings is generally deemed satisfactory, this assessment is influenced by factors such as the individual's financial status, access to information, awareness levels, and the absence of physical or other disabilities among service recipients. Second, there is a discrepancy between the satisfaction levels of service providers and users. Providers believe they are delivering good service, yet users have expressed complaints, which may deter future feedback. Third, there is a need for improvements in construction, reconstruction, and sanitation standards across all service providers.

Case Study one: Poor Management and an Injured Adolescent

In an institution in Bagmati Province, individuals with psychosocial health issues and intellectual disabilities were housed together. Although separate sleeping arrangements were in place, everyone shared the same space for sunbathing and afternoon activities. This cohabitation of individuals with different types of disabilities sometimes led to uncomfortable and challenging situations, occasionally resulting in unpleasant incidents.

One day, Silu, an adolescent girl with a psychosocial disability, was sunbathing and making garlands with other residents of the shelter. Suddenly, a man with an intellectual disability approached her from behind and violently grabbed her, biting her neck and back. The incident happened so quickly that Silu could not react, leaving her injured and bleeding profusely.

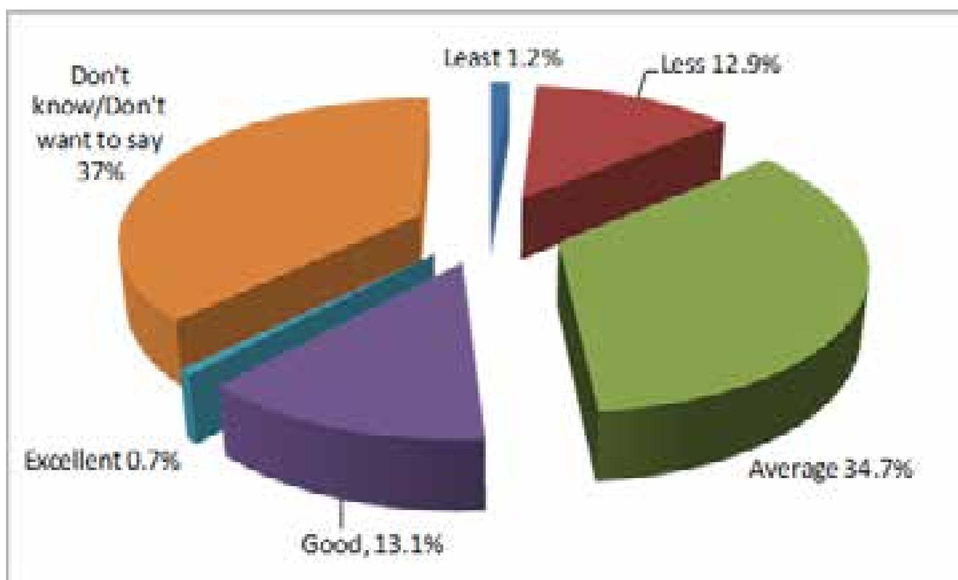
When the shelter staff arrived, they found Silu in agony while the assailant was clapping and laughing, seemingly unaware of the harm he had caused.

This incident highlighted significant shortcomings in the management and care of individuals with psychosocial and intellectual disabilities. It underscores the need for proper arrangements to ensure their safety and well-being.

Standard 1.2: Comfort and privacy of the sleeping arrangements.

This standard considers the sleeping arrangement of the service users and their privacy with importance. A questionnaire was prepared about the size of the room, the number of beds, and accordingly the number of clients as well as whether separate rooms were arranged for women, men, children and the elderly, whether there were enough bed sheets, quilt, mattresses and pillows according to the weather and whether attention was paid to the privacy of the clients (Figure 4).

Figure 4: Comfort and privacy of the sleeping arrangements.



Source: Field Study, 2023

According to the respondents, most service providers are rated as average in quality. It appears that these providers give only a moderate level of attention to customers' sleeping and resting areas and their privacy. Notably, 37 percent of respondents either did not know or chose not to answer this question, indicating potential issues with freely sharing information or responding, as well as a possible lack of awareness among some respondents.

Additionally, Figure 5 illustrates the conditions related to sleeping arrangements, rest rooms, and privacy provided by various institutions, including government hospitals, private hospitals, and rehabilitation centers.

Case Study Two: Where Is the Right to Freedom?

Priya's life narrative epitomizes the tension between societal expectations and personal autonomy. At 32, despite having earned a bachelor's degree, she has been unable to live a life that reflects her true potential. She currently resides in an institution near Kathmandu, where her brother and sister-in-law pay a monthly fee of NPR 18,000 for her accommodation.

Although Priya has a strong desire to work with various organizations, she has not been given the chance to live independently or lead a social life on her own terms. She longs to return home, but her fear of her sister-in-law prevents her from doing so. The sister-in-law is concerned that if Priya moves back, she may engage in a romantic relationship, become pregnant, and damage the family's reputation. Paradoxically, despite holding a senior position in government service, the sister-in-law continues to restrict Priya's freedom and limits her ability to shape her future.

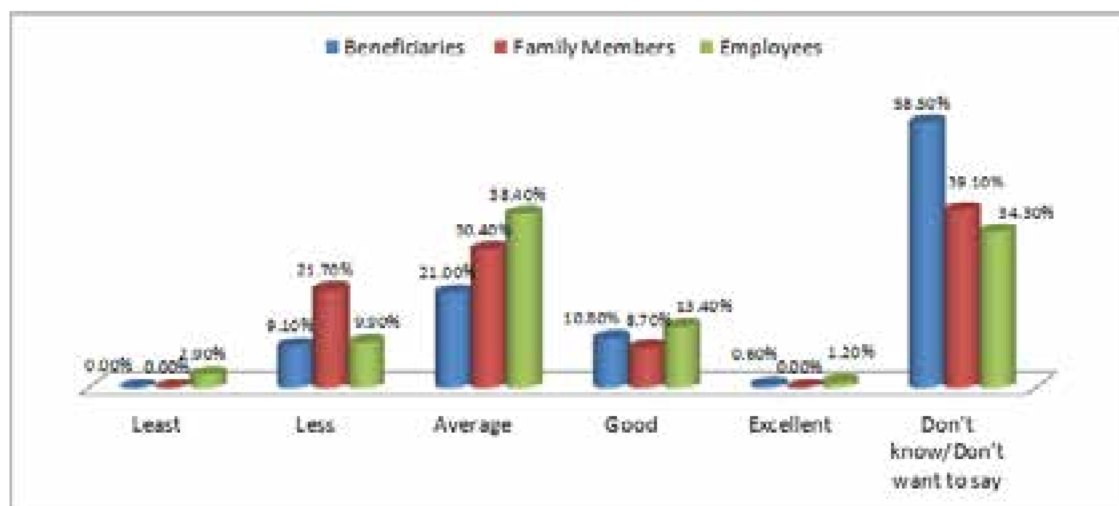
Priya also dreams of writing stories, but the institution prohibits her from using a pen, citing concerns that it could pose a danger to others. This situation exemplifies a blatant violation of Priya's human rights, including her freedom of expression, her right to live with dignity, and her cultural rights.

Figure 5: Quality of Sleeping Arrangements made institutionally

Source: Field Study, 2023

Regarding sleeping and resting arrangements, organizations and rehabilitation centers generally perform better than hospitals. However, conditions vary significantly from one individual and organization to another. The fact that over half of the private hospitals chose not to respond suggests either a lack of awareness or intentional neglect. Similarly, Figure 6 provides a visual representation of how different respondents are experiencing these conditions.

Figure 6: Quality of Sleeping Arrangements and Privacy according to respondents



Source: Field Study, 2023

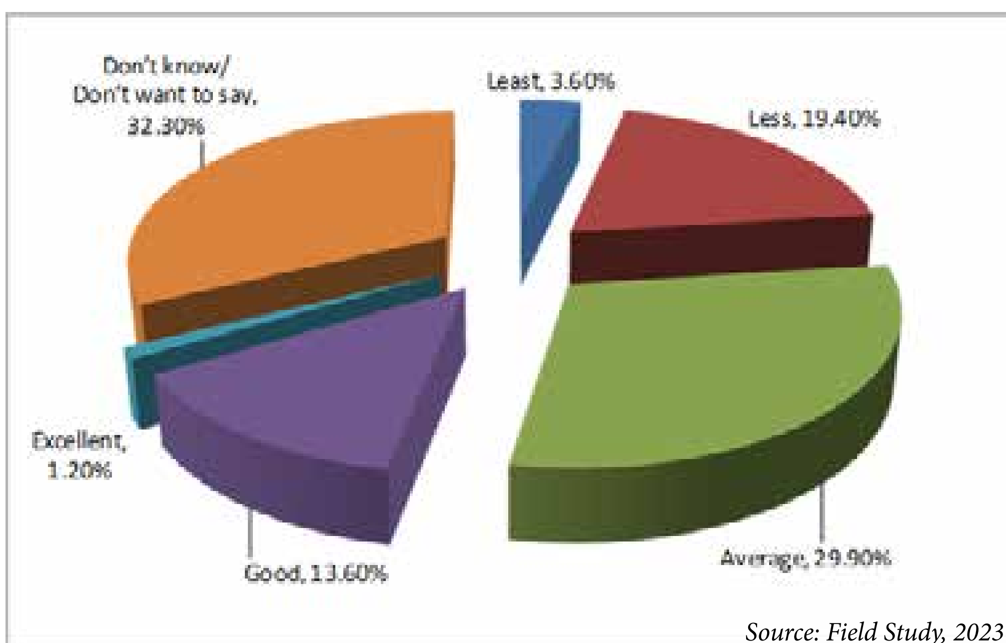
Analyzing the data reveals significant dissatisfaction among service users and their families regarding sleeping arrangements. Additionally, 34.3 percent of service providers did not respond, which may indicate a lack of awareness or concerns about potential repercussions of providing honest feedback. There is a clear need for service providers to expand sleeping and resting areas for clients and to improve infrastructure and management to better protect user privacy.

Efforts should be made to enhance the comfort of sleeping arrangements and ensure adequate attention to privacy. While clean sheets are provided to new clients, there appears to be a lack of regular cleaning and changing of linens for existing clients, which needs improvement. Moreover, privacy concerns are not adequately addressed, particularly for women with mental health issues and psychosocial disabilities who are at greater risk. Relevant agencies should focus on safeguarding privacy and upgrading infrastructure to meet these needs.

Standard 1.3: The cleanliness and hygiene standards maintained by the service provider.

This standard looks at the cleanliness of the toilet, the arrangement of water according to the weather, and whether or not they can use it according to the wishes of the customers. It is a standard to keep soap, detergent, sanitizer and other necessary materials in the toilet or bathroom. A question was asked to the respondents about whether the said criteria have been fulfilled or not (Figure 7).

Figure 7: The hygiene and cleanliness standards of service provider

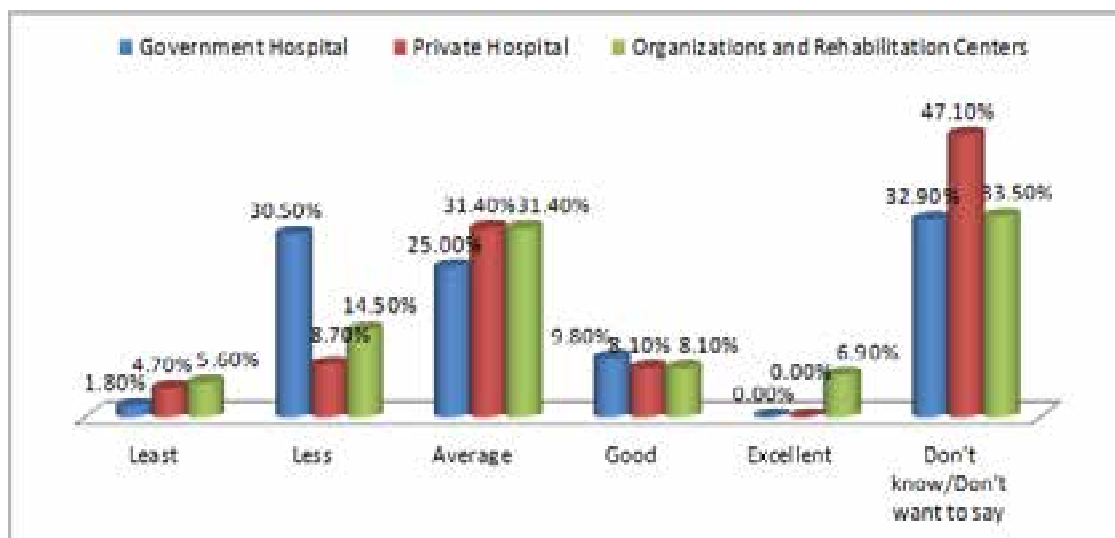


Source: Field Study, 2023

When respondents were asked whether the service provider met hygiene and cleanliness standards, 29.90% rated it as average. The largest group, 32.3%, chose not to respond. Meanwhile, 13.60% rated the standards as good, and 1.20% rated them as very excellent.

Additionally, an analysis of the data based on the type of service provider, such as government hospitals, private hospitals, and rehabilitation centers, reveals differences in performance. These variations are illustrated in Figure 8, which details the standards adhered to by different organizations.

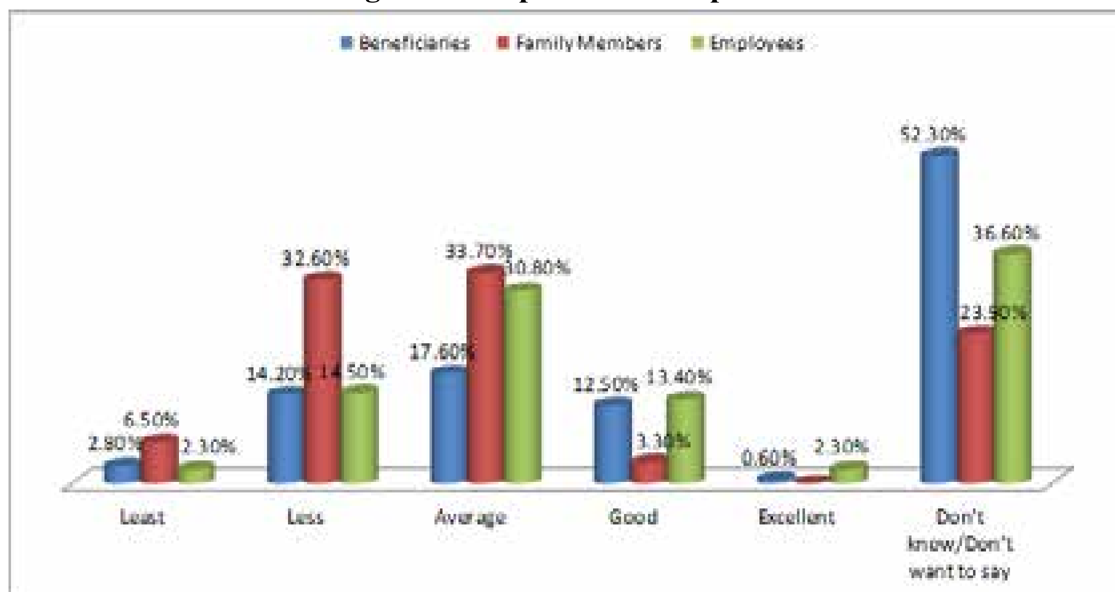
Figure 8: Standards followed by different institutions



Source: Field Study, 2023

Looking at the answers given by the respondents regarding cleanliness, it seems that the condition of organizations and rehabilitation centers is better than that of hospitals. However, it is difficult to generalize it. During the monitoring, it was found that the cleanliness of some rehabilitation centers was poor. Similarly, it is found that the interviewees, family members and employees have different views (Figure 9).

Figure 9: Respondents' Responses



Source: Field Study, 2023

Based on the data presented, it appears that a majority (52.30 percent) of service users chose not to respond. Additionally, family members reported that the standards were either low or average. This suggests that the service provider has not met the required hygiene and cleanliness standards, leading to dissatisfaction among service users and their families. In government hospitals, service users are required to provide their own cleaning supplies, while in private hospitals, organizations, and rehabilitation centers, access to such resources seems very limited. This lack of adequate cleaning provisions appears to negatively affect the health of individuals who need long-term care in these facilities. Consequently, it is crucial for both the service provider and regulatory agencies to conduct thorough investigations and implement necessary improvements without delay.

Despite progress in improving services for persons with mental health issues and psychosocial disabilities in Nepal, significant challenges persist, particularly in government hospitals. To effectively enforce Article 28 of the CRPD, immediate actions must be undertaken.

- Clear policies should be made and enforced for consistent building maintenance, regular cleaning, enhanced accessibility for wheelchair users, and ensuring privacy.
- All service users should be provided with clean, comfortable accommodations and suitable sleeping arrangements.
- The regulatory body must ensure rigorous adherence to hygiene and sanitation standards through diligent monitoring.
- Financial constraints should be tackled to enhance resource distribution and investment.
- Each service provider organization should establish and effectively implement a robust mechanism for addressing complaints.
- Greater emphasis should be placed on mental health services and disability rights, with advocacy and lobbying efforts pursued at all levels.

In conclusion, the data suggests that the quality of mental and psychosocial services is generally average. While some organizations and private hospitals show relatively positive conditions, there is a need for ongoing improvements. Government hospitals, in particular, must meet at least the minimum standards set by the government, given their role in serving the general public. To address any non-compliance with these standards, continuous evaluation and policy reforms are essential to safeguard the rights and well-being of persons with mental health issues. Regulatory bodies and organizations are crucial in this process.

b) Human right to enjoy the highest attainable standard of physical and mental health.

Regarding human rights, the Constitution of Nepal recognizes the right to health as a fundamental right, in line with international law that views health as a human right. This right is reinforced by the CRPD and the WHO. It encompasses access to healthcare, health promotion, protection against discrimination and abuse, informed consent, confidentiality, and participation and accountability.

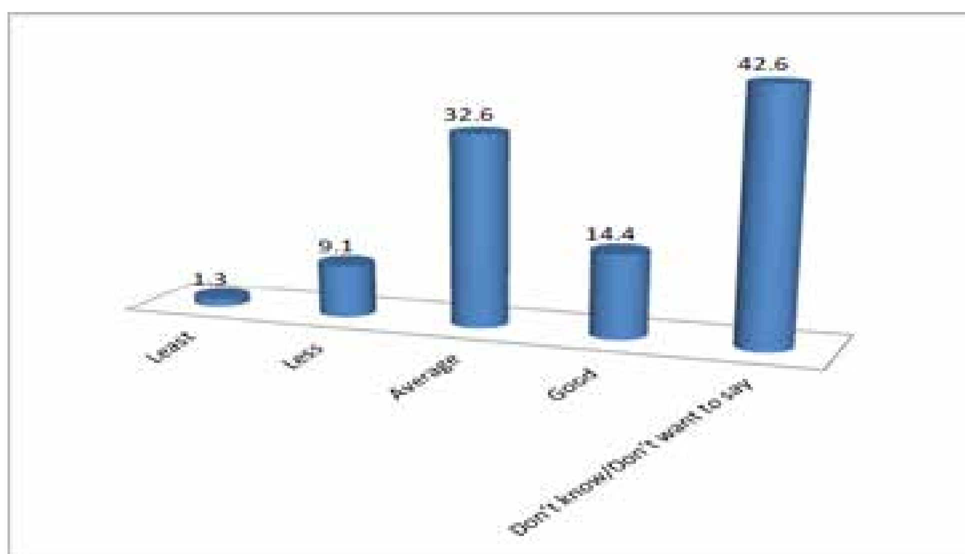
This study assesses the current status of mental health services in Nepal based on the WHO quality standards. During this study, data has been collected under four standards. Standard no. 2.1 Facilities are available for all who need treatment and assistance, Standard no. 2.2 Service Providers Employ Competent Staff and Deliver High-Quality Mental Health Services, Standard no. 2.3: Beneficiary controlled health recovery plan and Standard no. 2.4 Psychotropic medication is available, affordable and used appropriately.

Standard 2.1: Facilities are available for all who need treatment and assistance.

In this study, feedback was gathered on whether treatment and assistance facilities are accessible to everyone in need. Conversations with psychiatrists from private hospitals revealed that treatment is available even for those who cannot afford it. Patients without post-treatment care options are referred to organizations and rehabilitation centers for further support. Additionally, for those unable to pay for medications, efforts are made in collaboration with pharmaceutical companies, with some individuals benefiting from these arrangements. However, there is no comprehensive data on this issue. The study also highlighted concerns about potential discrimination between individuals from lower and higher economic backgrounds within these organizations.

Respondents were also asked whether they could access mental health treatment and support without facing discrimination. The response provided by the customer, shown in figure 10, addresses this concern.

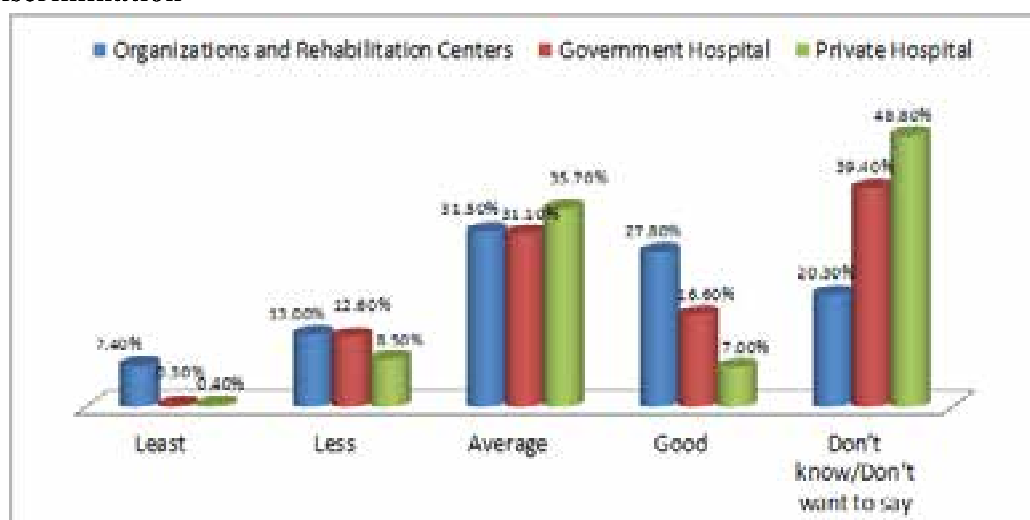
Figure 10: Access to Mental Health Treatment and Support without Discrimination



Source: Field Study, 2023

The figure 10 shows that the majority either does not know about this or they are in a situation where they do not want to say. 42.6 percent of the respondents answered that they do not know and do not want to say. Similarly, 32.60 percent answered that the access condition is normal. Similarly, according to the institution, the access situation is different.

Figure 11: Access to health treatment and support institutionally without discrimination



Source: Field Study, 2023

It appears that a significant number of private hospital clients chose not to respond, reflecting potential dissatisfaction or a lack of awareness about the available services among users or their families. Both government and private hospitals offer free services when referred by municipal authorities, but there is a lack of detailed data on the number of beneficiaries and the services provided. The stigma and discrimination experienced by persons with mental health issues or psychosocial disabilities, particularly those from low-income backgrounds, seem to further hinder their access to essential services.

Given this data, it is crucial to develop policies that enhance public access to mental health services, ensuring that no one is denied treatment due to financial constraints or social discrimination. Additionally, increasing transparency in service management data and addressing stigma are necessary steps to improve the situation.

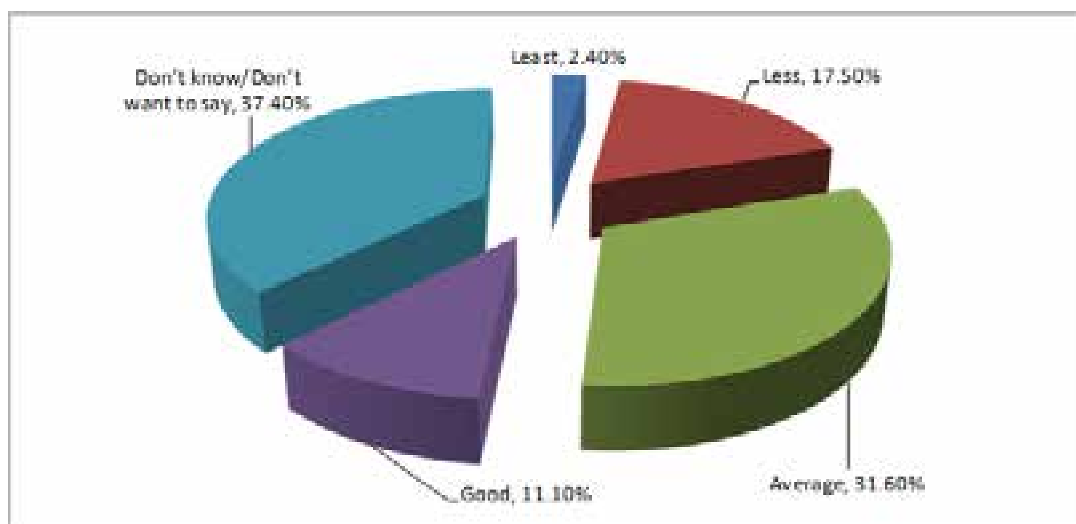
Standard 2.2: Service Providers Employ Competent Staff and Deliver High-Quality Mental Health Services

This standard highlights the importance of having skilled personnel who are well-versed in the needs of persons with mental health issues or psychosocial disabilities. There is a notable discrepancy between the perceptions of institutional staff (e.g., hospitals) and the experiences of service users regarding the quality of mental health services. Service providers claim that their services are of high quality and that their staff are well-trained, whereas service users often disagree. The observed lack of knowledge about the Convention on Human Rights and the Rights of Persons with Disabilities among healthcare workers underscores the need for thorough training. Figure 12 illustrates the current level of knowledge and skills among employees, including their awareness of human rights and mental health standards.

Case Study Three: Mental Health and the Burden of Medication

Suchita, a 40-year-old woman living in a village near the city, faced mental health challenges 18 years ago, primarily due to limited access to mental health care. During her treatment, a psychiatrist in Birgunj told her, “You are poor, so regular treatment is not feasible here. I will buy and take this medication for the rest of my life.” Since then, Suchita has been compelled to purchase and consume the medication without any follow-up or clarity on the doctor’s prescription. This practice is illegal, as it is prohibited to buy and use medication without a prescription, and she risks arrest at any time. Moreover, there is uncertainty about the nature of the medication, whether it is intended for long-term use or for rehabilitation. Suchita perceives the drug not as a means of recovery, but as a tool for ongoing control. The incident reveals significant issues such as poverty, limited access to treatment, medical negligence, and the poor quality of mental health care.

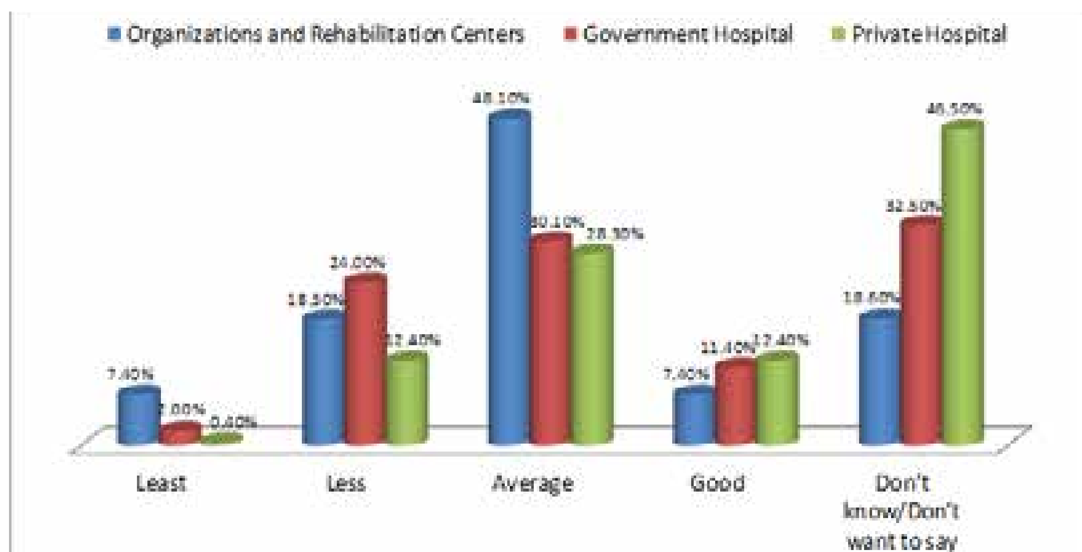
Figure 12: Knowledge and skill of the employees with awareness on human rights and mental health criteria



Source: Field Study, 2023

According to the figure above, the majority of the respondents answered that they did not have any information about it or did not want to say anything about it. Similarly, 11.1 percent of the respondents said that the knowledge and skills of the employees with awareness of human rights and mental health standards are good and 31.60 percent of the respondents said that they are normal.

Figure 13: Knowledge and skill of the employees with awareness on human rights and mental health criteria institutionally



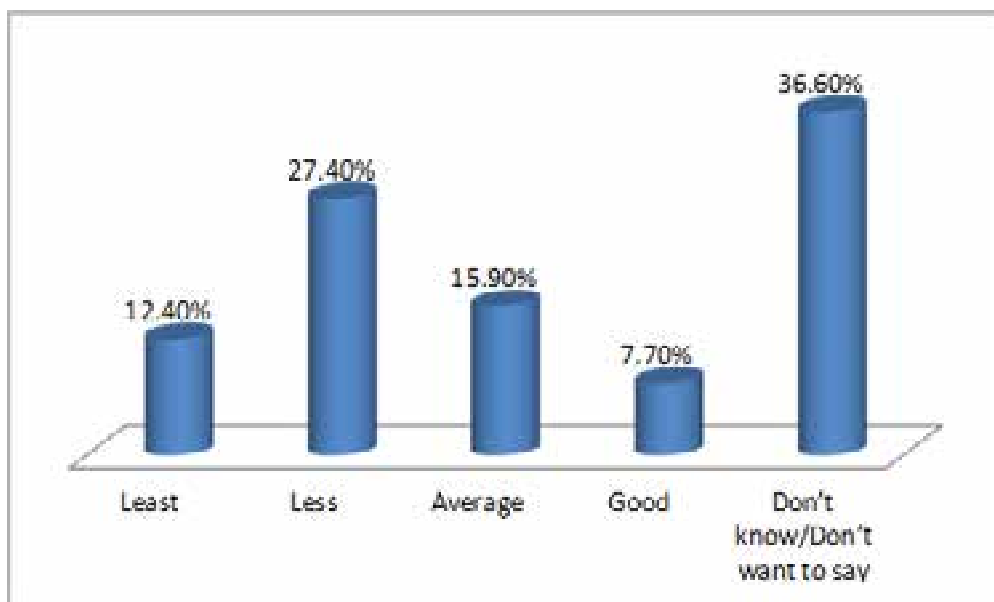
Source: Field Study, 2023

The data above underscore the lack of skilled health professionals, even though many respondents were unable to assess staff capacity due to insufficient information about the specific needs for mental health professionals. Government hospitals have yet to fill positions for psychiatric nurses, leaving the role to general nurses. Similarly, there is a shortage of psychologists, counselors, social workers, and skilled psychiatrists. The healthcare system should prioritize the recruitment and management of mental health professionals and ensure they receive updated training. Additionally, incorporating conventions and human rights issues into medical education and ongoing professional development is crucial.

Standard No. 2.3: Beneficiary-Controlled Health Recovery Plan

This standard focuses on treatment, psychosocial rehabilitation, and connecting clients with various networks in the psychosocial field to support their independent living. However, there appears to be a shortage of psychosocial rehabilitation programs and support networks for persons with mental health issues or psychosocial disabilities, and hospitals and organizations lack information about these resources. There is also a notable deficiency in skills development programs designed to meet the needs of persons with psychosocial disabilities, which is crucial for their successful reintegration into the community. Figure 14 illustrates respondents' perspectives on psychosocial rehabilitation and support networks within mental or psychosocial health recovery initiatives.

Figure 14: Beneficiary Controlled Health Recovery Plan

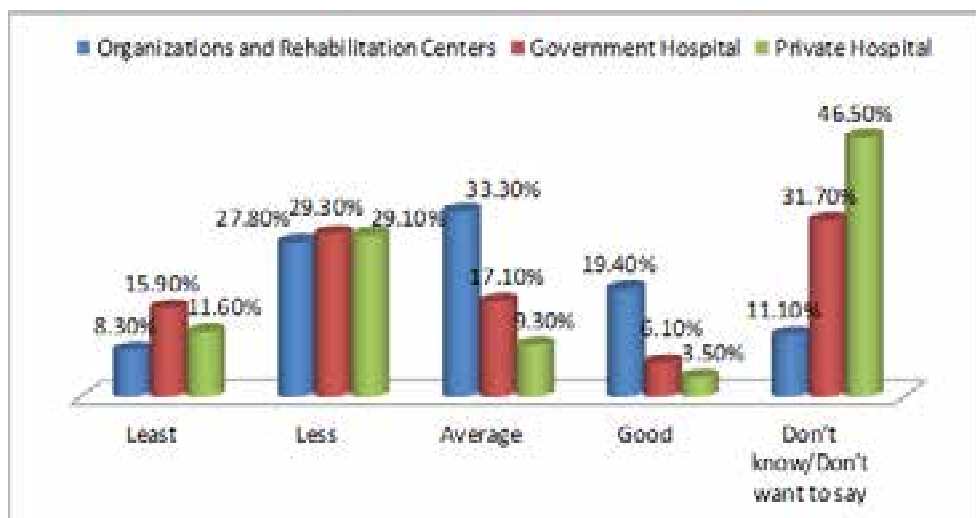


Source: Field Study, 2023

Among the data collected, the largest number (36.6 percent) of respondents answered that they do not know or do not want to say about psychosocial rehabilitation and support networks in mental or psychosocial health recovery programs. This clearly shows that there is a significant lack of organized psychosocial rehabilitation and support network programs in hospitals and rehabilitation centers.

Similarly, it is found that the respondents in the different institutions studied have different understandings about the customer-controlled health recovery plan.

Figure 15: Beneficiary Controlled Health Recovery Plan Institutionally



Source: Field Study, 2023

The individuals having general knowledge about consumer-controlled health recovery plans in institutions and rehabilitation centers are 33 percent, while 11.1 percent indicated they were unaware. Additionally, 46.5 percent of clients in private hospitals and 31.7 percent in government hospitals reported either not knowing about these plans or choosing not to disclose their knowledge. This indicates that a substantial number of people lack information about rehabilitation and support networks, including the "Sathi Sangi" program. Organizations often appear to neglect tailoring rehabilitation initiatives to individual needs and have not given adequate attention to community reintegration.

Given this situation, it is crucial to develop and implement comprehensive psychosocial rehabilitation programs that address individual needs and integrate persons with mental health issues or psychosocial disabilities into the community. Furthermore, investing in enhancing the capacity of collaborative networks and promoting cooperation between hospitals and community.

Standard 2.4: Psychotropic medication is available, affordable and used appropriately

The study gathered participants' insights and opinions on the ongoing availability of psychotropic medications and their accessibility across different levels of society. This has raised concerns about the effectiveness and quality of these medications. There are also issues with ensuring that clients are properly informed about the timely review of their medications, including potential side effects and correct usage, which has led to various challenges in health recovery. Additionally, participants highlighted problems related to the distribution and procurement of government-provided free medications, which impacts the accessibility for persons with psychosocial disabilities in remote areas. Figure 16 illustrates the participants' views on the continuous availability, financial accessibility, and proper use of psychotropic drugs.

Case Study Four: Skill Development for Reintegration

Hari and Rekha, both residents of an institution in Pokhara, have found respite from the challenges of homelessness, including food insecurity and inadequate shelter. Their health has gradually improved, and they are actively engaged in gardening and maintaining cleanliness within the institution, which has positively influenced their daily routines and overall well-being.

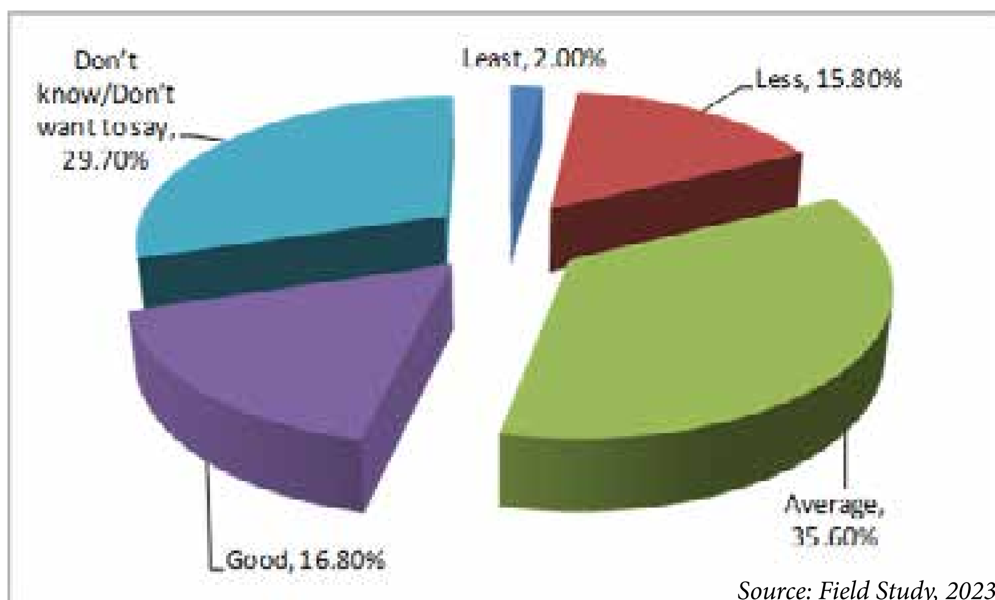
However, both individuals recognize the necessity of acquiring additional skills to secure their future independence. They believe that if the institution offered training programs tailored to their interests, aspirations, and abilities, it would significantly enhance their potential for reintegration and self-sufficiency.

Hari explains, “I work in the garden here to keep myself occupied, but if I had the opportunity to learn more skills, I could return to my home and community after rehabilitation and support myself. Becoming self-reliant is essential for me.”

Rekha shares a similar perspective. While she currently performs cleaning tasks within the institution, she acknowledges that this skill alone is inadequate for securing employment in the broader community. She adds, “I need more skills for this. I’ve become proficient in cleaning here, but to find work and achieve self-reliance, I require further training.”

The experiences of Hari and Rekha underscore the importance of institutions not only providing immediate relief but also focusing on long-term skill development. By investing in capacity-building and vocational training, institutions can better support individuals in achieving sustainable reintegration and long-term self-sufficiency within society.

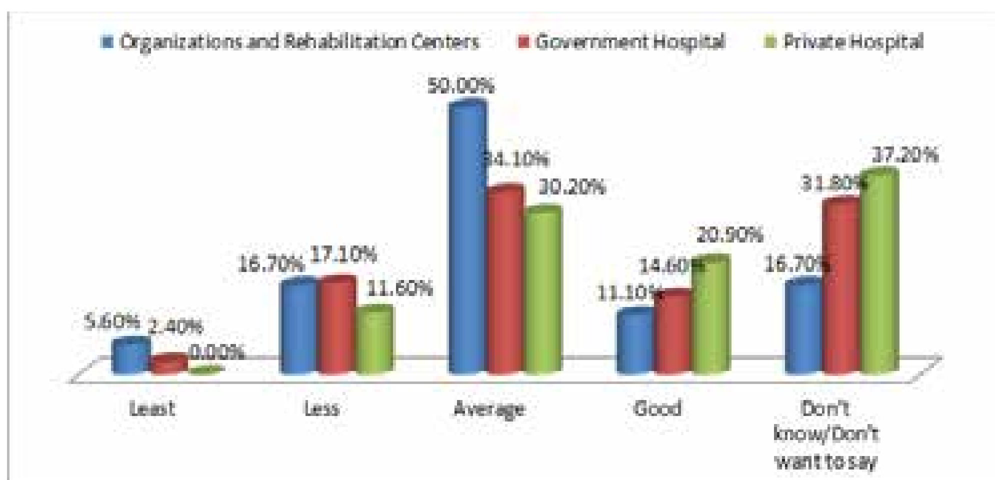
Figure 16: Beneficiaries' views on Continuous availability, financial accessibility and proper use of psychotropic drugs



Source: Field Study, 2023

According to Figure 16, most of the respondents, i.e. 35.60 percent, answered that the condition of constant availability of psychotropic drugs, financially accessible and appropriate or correct use is normal. Likewise, 29.70 replied that he did not know about it or did not want to tell. Similarly, the answers given by the respondents in different institutions are shown in Figure 17.

Figure 17: Continuous Availability, Financial Accessibility and Proper use of Psychotropic Drugs Institution



Source: Field Study, 2023

The current situation regarding the continuous supply and proper use of psychotropic drugs appears to be satisfactory. However, there is a notable lack of regular reviews and adjustments tailored to patient needs. Issues such as medication mismanagement, inadequate re-evaluation, and long-term dependence are prevalent.

A detailed analysis of the data indicates that consistent review and adjustment of drug management according to service users' needs are crucial. This requires the implementation of clear and stringent guidelines for monitoring and managing psychotropic drug use. Additionally, policy reforms, increased investment in mental health infrastructure, and extensive training for healthcare professionals are needed. Ensuring the highest possible level of physical and mental health is not only a constitutional right but also a fundamental human right that all stakeholders must uphold. Furthermore, comprehensive psychosocial rehabilitation programs tailored to individual needs should be introduced. By establishing protocols for the regular review and adjustment of psychotropic medication and enhancing awareness and understanding of mental health issues and rights among both healthcare providers and the general public, it is possible to better ensure clients' rights to the highest attainable standard of physical and mental health.

c) The Right to Exercise Legal Capacity and the Right to Personal Liberty and Security

The CRPD highlights the importance of equal legal recognition and respect for the inherent dignity of persons with mental health issues and psychosocial disabilities. However, current laws and practices in Nepal hinder the recognition of persons with psychosocial disabilities as capable decision-makers. These misconceptions often result in families or professionals making decisions for persons with psychosocial disabilities without their consent.

Data was gathered based on four standards to assess the implementation of the right to exercise legal capacity and individual freedom and security. These standards include: 3.1 Prioritizing client preferences regarding the location and type of treatment; 3.2 Ensuring procedures and safeguards are in place to prevent detention and treatment without free and informed consent; 3.3 Allowing service users to exercise their legal capacity and providing necessary assistance for this; and 3.4 Guaranteeing beneficiaries' rights to privacy and access to their personal health information.

Case Study Five: The Spirit That an Institution Couldn't Constrain

Lok Kumar Sharma, a resident of Tulsipur Sub-Metropolitan City, found himself living on the streets due to financial hardship and family issues. One day, a local organization (name withheld) took him in and provided shelter, offering food, bedding, and a roof over his head. Despite these provisions, Lokkumar soon felt a profound sense of confinement. The shelter, though physically comfortable, felt like a prison to him, and he experienced a constant feeling of unease and incompleteness. Unable to tolerate this, he made the decision to escape. Scaling the high walls topped with iron barbed wire, he fled, but was quickly apprehended by the institution's volunteers and brought back.

Inside the shelter, Lok Kumar was severely beaten, leaving his body bruised and battered. However, the physical punishment only strengthened his resolve. After a brief period of silence, he made another attempt to escape, this time succeeding. He walked for five to six hours along a paved road until exhaustion and hunger overtook him. Desperate, he began asking strangers for spare change, hoping for a little assistance.

It was late November when a passerby approached him and asked, "Aren't you ashamed to beg when you are so fit and strong?" Lok Kumar responded, "I'm not begging, I'm looking for work. I just want to go home." The man then offered him a job, saying, "Work for me, and I will pay you and feed you." Lok Kumar accepted the offer and spent the next two days harvesting rice, earning NPR 1,600. With this money, he returned to his village, feeling a sense of pride and accomplishment.

Today, Lok Kumar lives with his family, leading a life of dignity and self-respect. He is a father to two growing sons, and now, instead of worrying, he dedicates his time to thoughtfully planning their future. This case highlights how, under the pretense of care, some institutions may subject individuals to unjust punishment. It underscores the importance of proper oversight and accountability to ensure that such incidents do not recur.

Standard 3.1: Prioritizing client preferences regarding the location and type of treatment

In this study, only 1.6 percent of respondents felt that their preferences for treatment location and type were given top priority. Conversely, 25.6 percent believed their preferences were considered to a moderate extent, while 52.4 percent either were unsure or chose not to respond. This indicates a notable discrepancy in how customer priorities are respected. Additionally, 5.6 percent of institutions/rehabilitation centers, 1.6 percent of government hospitals, and 1.6 percent of private hospitals reported placing high importance on the service recipient's opinion. Meanwhile, 51.9 percent, 41.5 percent, and 61.2 percent, respectively, were unsure or unaware of this aspect. Overall, it appears that organizations, as a whole, may give more consideration to customer priorities compared to hospitals. However, there is a notable shortage of adequate psychosocial support staff.

Additionally, 62.9 percent of service users were uncertain or did not respond regarding their treatment preferences, while 53.6 percent of helpers or family members and 51.2 percent of service providers were also unsure or unaware of this issue. This suggests that the voices of persons with mental health issues or psychosocial disabilities are not adequately heard, and their legal rights are not being fully respected.

Standard 3.2: Free and Informed Consent

In this study, 56.5 percent of respondents were unaware of treatment procedures carried out without client consent, indicating a lack of knowledge about whether such treatments occur. Many respondents appeared to be unaware of the necessity for free and informed consent. This lack of awareness can lead to potential violations of human rights.

Table 1: Different Perceptions among the Institutions, Beneficiaries and Service Providers

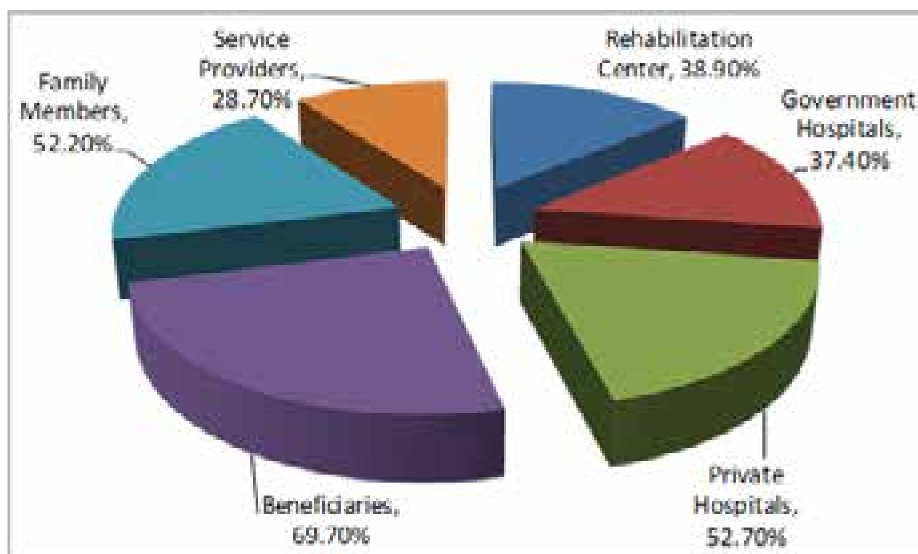
Rehabilation Center	Government Hospital	Private Hospital	Beneficiarine	Family Member	Service provider
55.60	46.30	67.40	76.50	58500.00	48.80

The table above indicates that clients in private hospitals have a better understanding of informed consent and free treatment, with 67.4 percent being knowledgeable, compared to those in government hospitals, where only 46.3 percent are informed. Additionally, 76.5 percent of service users are aware of these concepts, while just 48.8 percent of service providers have the same level of awareness. This highlights the need to incorporate informed consent into legal frameworks and underscores the importance of providing effective education and implementation processes for both service users and providers.

Standard 3.3: Use of Legal Capacity

The study revealed that 43.1 percent of individuals were unaware of the support available for exercising the legal capacity of persons with psychosocial disabilities. The understanding of legal capacity among various service providers and respondent categories is illustrated in the figure below.

Figure 18: Use of Legal Capacity



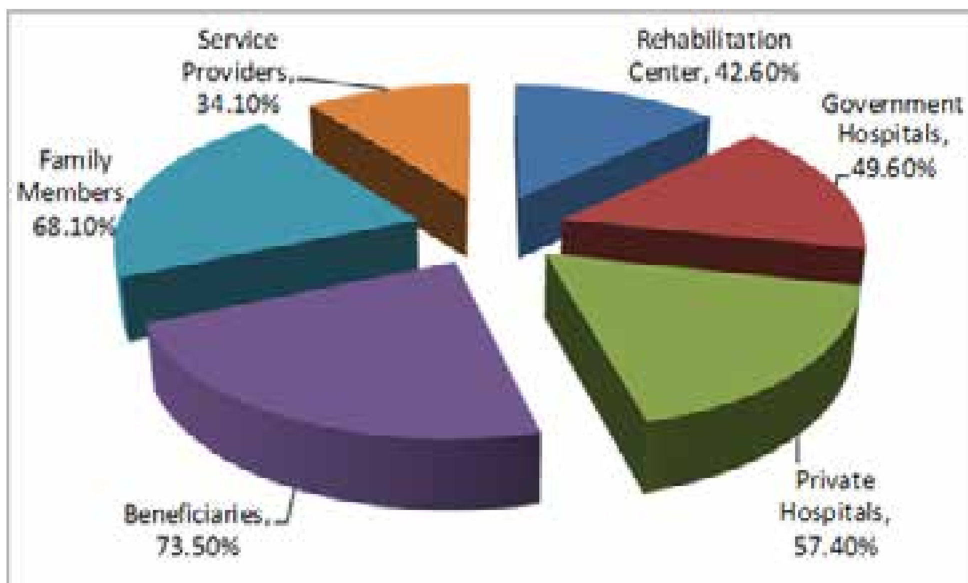
Source: Field Study, 2023

According to the above figure, 69.70 percent of service users are aware of the use of legal capacity, while 52.20 percent of family members and only 28.70 percent of service providers are aware of this. Similarly, 52.70 percent of the respondents in private hospitals, 38.90 percent in rehabilitation centers and 37.40 percent in government hospitals were found to be aware of this provision. This clearly highlights the need for a robust system to respect and support the legal capacity of persons with mental health problems or psychosocial disabilities. Many service providers have failed to maintain legal capacity without establishing essential security mechanisms. This highlights systemic weaknesses and lack of support for individuals to effectively exercise their legal capacity.

Standard 3.4: Access to rights to privacy and access to their personal health information

More than 50 percent of the respondents interviewed were unsure about the privacy and access to personal health information of clients with mental health problems or psychosocial disabilities. which reflects important concerns regarding maintaining the privacy of individuals and providing access to information (Figure 19).

Figure 19: Privacy and Access to Information



Source: Field Study, 2023

Figure 20 shows that 73.50 percent of beneficiaries are aware of privacy and health information, while only 34.10 percent of service providers are aware of this. Similarly, the highest number of respondents i.e. 57.40 percent of the clients in private hospitals were found to be knowledgeable about this, while 49.60 percent of those in government hospitals and 42.60 percent of respondents in rehabilitation centers were found to be knowledgeable about privacy and health.

The data above reveals a significant lack of awareness and implementation of privacy standards among mental and psychosocial service providers. This highlights the urgent need to improve policies and practices concerning privacy and access to information. To better uphold the rights to legal capacity, personal freedom, and security, several immediate improvements are necessary.

Firstly, national laws should be aligned with the CRPD to ensure the recognition of the legal capacity and preferences of persons with psychosocial disabilities. Secondly, there is a need for education on the importance of free and informed consent and legal capacity for clients, service providers, and family members. Thirdly, capacity-building programs should be established to enhance the skills, knowledge, and competencies of mental health professionals, ensuring they respect the legal rights and preferences of service users. Fourthly, strong procedures must be put in place to protect privacy and ensure access to personal health information. Finally, to promote accountability and transparency, a complaint mechanism should be established and effectively operated, allowing service users to file complaints and seek resolutions.

d) Rights Against Torture, Cruel, Inhuman, or Degrading Treatment, and Exploitation, Violence, and Abuse

The CRPD, 2006 highlights the protection of persons with psychosocial disabilities from torture, cruel, inhuman, or degrading treatment, as well as from exploitation, violence, and abuse. However, current practices in Nepal often neglect the voices of those with mental health issues or psychosocial disabilities, with a troubling tendency to attribute violence, torture, and abusive behavior to the individuals themselves. To investigate the prevalence of such mistreatment and violations, a questionnaire was developed, and data was gathered from respondents in this study. The data was assessed based on two standards:

Standard No. 4.1 ensures that clients are protected from verbal, mental, physical, and sexual abuse, as well as from physical and emotional neglect. Standard No. 4.2 stipulates those procedures like ECT, psychosurgery, or other drug-related treatments that might cause permanent or irreversible effects, whether performed within the service provider's institution or referred to external institutions, must not be misused and can only be conducted with the client's free and informed consent.

Case Study Six: The Search for the Lost Identity

Many individuals who are brought to free-service institutions often have little or no knowledge of their own identities. These individuals are typically found on the streets and taken in without the ability to provide any information about their family, address, or personal history. While the institutions offer immediate relief, such as food and shelter, their assistance frequently stops at this point, with little effort made to address the deeper needs of these individuals.

Chhaya was one such individual, rescued from the streets. She reported that her family lived near the Bypass area in Kathmandu, and during conversations, it was clear that images of her village and family remained vivid in her mind. However, the institution showed little interest in her story. The staff dismissed her attempts to share her background, showing no inclination to trace her origins or reconnect her with her family.

Chhaya had a daughter and a husband. Her relationship with her husband was abusive; he frequently beat her when under the influence of alcohol. Reflecting on her past, Chhaya remarked, "Even my husband's beatings felt better than staying in this institution. At least, there, I had a sense of belonging."

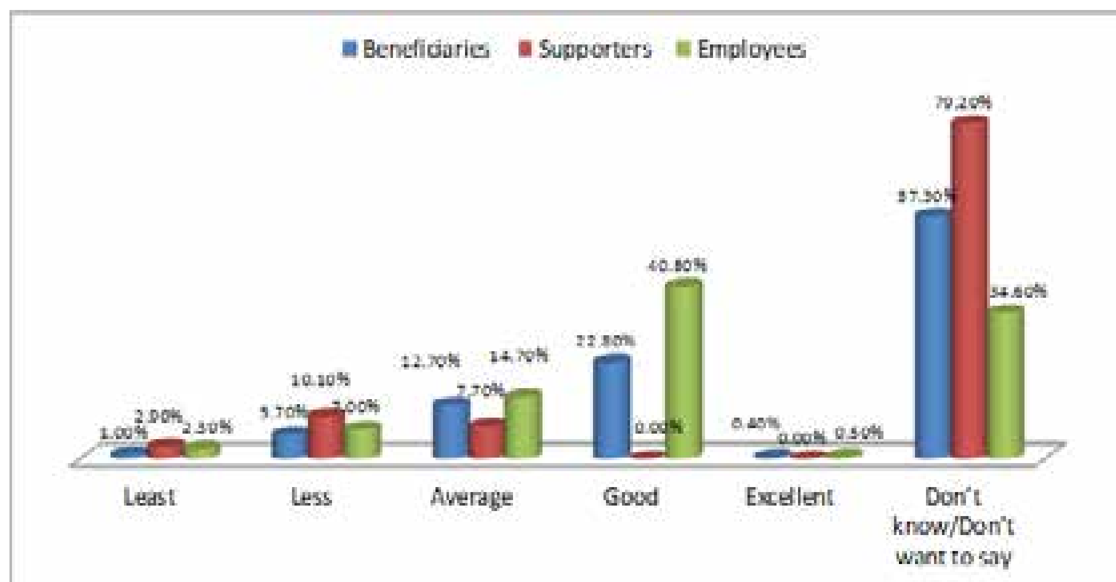
Now, Chhaya feels a profound sense of hopelessness. “Will I ever see my daughter’s face again?” she wonders. She regrets ending up on the streets, lamenting, “If I had stayed at home, I wouldn’t have lost my daughter and family.”

This case underscores the importance of family and community, and highlights the emotional and psychological toll that insensitivity and neglect by institutions can have on individuals like Chhaya. It reveals how such institutions, despite offering basic care, often fail to support individuals in reconnecting with their families or rebuilding a sense of belonging.

Standard 4.1: Freedom from Abuse and Neglect

A considerable portion of respondents in the study, specifically 57.3 percent of service recipients and 79.2 percent of family members or caregivers, either chose not to comment on incidents of abuse and neglect or indicated they were unaware of such issues. This suggests a possible lack of awareness or fear of repercussions related to discussing problems within the organizations they interact with. Only a few respondents reported instances of abuse, including verbal, mental, physical, and sexual abuse, as well as neglect within service provider organizations. This information is detailed in the figure below.

Figure 20: Freedom from Abuse and Neglect



Source: Field Study, 2023

The large number of respondents who reported being unaware of abuse and neglect suggests either a significant awareness gap or fear of potential repercussions for speaking out. The study revealed a notable difference in perceptions between service providers and service recipients concerning abuse and neglect, with service providers generally presenting only positive aspects. This disparity highlights the need for enhanced training and education for all employees to better identify and prevent abuse and neglect, and to foster a culture of szafety and respect.

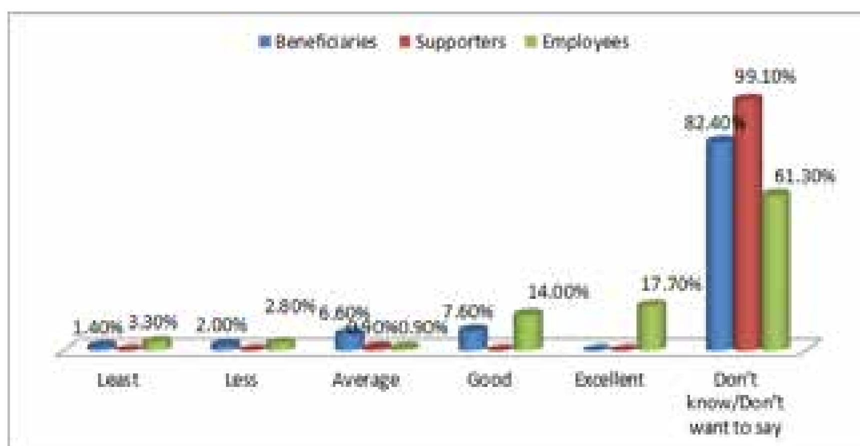
Analyzing the findings from the study, it is evident that improving conditions related to freedom from abuse and neglect requires addressing three key areas. Firstly, there needs to be a focus on training and awareness. Comprehensive training programs should be implemented for all staff members, including security and cleaning personnel, to help them recognize, prevent, and report instances of abuse and neglect. Additionally, initiatives should be introduced to raise awareness among beneficiaries and their families about their rights and the mechanisms available for reporting abuse or neglect.

Secondly, a clear, confidential, and accessible complaint mechanism should be established and developed for cases of abuse and neglect. This mechanism should include regular reviews to ensure that complaint records are meticulously maintained and addressed. Thirdly, fostering a culture of person-centered care requires prioritizing the dignity and respect of service users. Additionally, there should be ongoing inspections and evaluations to ensure adherence to these principles.

Standard 4.2: Intended Use of ECT and Drug-Related Procedures

An overwhelming number of respondents, i.e. 82.4 percent beneficiaries, answered that they did not want to comment on ECT or that they did not know about it (Figure 21).

Figure 21: Respondents'' responses on use of ECT



Source: Field Study, 2023

The table above highlights a clear lack of transparency in the use of ECT (Electroconvulsive Therapy) and indicates a general lack of awareness among consumers. It appears that psychiatrists exert more control over the informed consent process in ECT decision-making than the clients themselves. Many service users and their families reported either not knowing about ECT or choosing not to comment, which underscores the low level of awareness regarding informed consent. Additionally, the continued use of unmodified ECT in Nepal disregards human rights considerations.

Based on the information gathered and discussions with experts during the study, three key issues need to be addressed to improve the use of ECT and other drug-related procedures. First, informed consent must be properly managed; this involves clearly explaining the risks, benefits, and alternatives of ECT and other irreversible treatments to service users and establishing a systematic approach for obtaining informed consent. Second, regulatory oversight needs to be strengthened to ensure that ECT and other irreversible procedures are used only as a last resort. Third, to protect the rights and dignity of persons with psychosocial disabilities, there is an urgent need for enhanced training, improved informed consent processes, and strict regulatory compliance. Addressing these issues will contribute to a more humane and respectful care environment, leading to better health outcomes and dignified support for clients.

Chapter 4
Conclusion and Recommendation

4.1 Conclusion

Persons with mental health issues or psychosocial disabilities have the right to a standard of living equal to that of others, including access to appropriate and sufficient service facilities. However, the scarcity of adequate services in Nepal forces many of these individuals to remain at home, reside in rehabilitation centers, or live on the streets. This lack of quality healthcare often leads to a diminished quality of life for persons with psychosocial disabilities.

This study assessed various aspects of service providers' facilities, including building quality, maintenance, restroom conditions, cleanliness, food quality, sleeping arrangements, and bathing facilities, as well as key issues such as freedom and privacy. While some organizations have well-maintained buildings, they frequently fail to make these facilities accessible and respectful to persons with physical disabilities.

Government and private hospitals, as well as other organizations and rehabilitation centers, generally lack facilities that are friendly to persons with disabilities. Although buildings often have ramps and elevators for wheelchair access, they typically do not ensure that toilets, showers, and kitchens are accessible to all persons with disabilities. Basic needs such as food, clean drinking water, and a comfortable sleeping environment are often neglected. The physical conditions of these service providers, such as peeling paint, wall stains, rust, uncomfortable iron beds, and poor maintenance, reveal a disregard for the needs of clients with mental health issues or psychosocial disabilities.

Furthermore, overcrowded rooms, inadequate disaster preparedness, and unsanitary conditions in hospitals and institutions demonstrate a lack of concern for the well-being of persons with mental health problems or psychosocial disabilities. Additionally, the NHRCN study team faced obstruction from one governmental and one non-

governmental service providers when attempting to inspect facilities and interact with service users. This obstruction indicates that the rights of persons with mental health issues or psychosocial disabilities to a decent standard of living are being violated.

This study highlights a significant shortage of skilled professionals, such as psychologists, psychotherapists, psychiatric nurses, and social workers, in the Bagmati and Gandaki provinces. Psychiatrists are often scarce and highly valued, which is insufficient for providing comprehensive care and services given the current situation in Nepal.

While the Ministry of Health and Population has been offering training programs for health workers to address the shortage of mental health service providers, these programs have proven inadequate. There is an urgent need to increase the number of trained professionals in mental and psychosocial health by developing curricula that incorporate the CRPD. Furthermore, outdated attitudes among psychiatrists, who often exclude clients from treatment planning, have led to a lack of regular monitoring and medication reviews by service providers.

The high travel and treatment costs for individuals in remote rural areas have obstructed access to proper medical care. Consequently, there is a growing tendency for people to rely on outdated prescriptions without undergoing necessary treatment management and regular assessments. Additionally, the complex process and shortage of skilled professionals create challenges in the procurement and distribution of medicines at the community level.

The health insurance program does not effectively support persons with mental health issues or psychosocial disabilities. Problems accessing medications and navigating complex insurance claims procedures further complicate their situation. Rehabilitation efforts are also limited; many are only treated at home, with insufficient attention to the challenges that arise post-discharge. There is a notable lack of support for the reintegration of persons with psychosocial disabilities into their communities, indicating a violation of their health rights.

Persons with mental health issues or psychosocial disabilities frequently encounter significant barriers in exercising their legal rights and personal freedoms. They are often

placed in institutions or rehabilitation centers without their voluntary consent, with their thoughts, wishes, and expectations frequently disregarded. The absence of informed consent in treatment and inadequate legal protections against forced institutionalization exacerbate these issues.

To ensure that persons with mental health problems or psychosocial disabilities can make decisions about their own lives and treatment, Nepal has not yet developed and implemented a decision-making system that includes supported decision making. Such a system would help establish their legal rights and provide a structured approach to addressing practical issues they face in their daily lives.

Similarly, the use of force and inhumane treatment in the care of persons with mental health issues or psychosocial disabilities is widespread. Reports of physical abuse, excessive medication, and the administration of unmodified ECT without adequate documentation underscore the urgent need for reform.

4.2 Recommendation

Based on a study of mental health rights in Gandaki and Bagmati provinces, along with a review of state policies, programs, and the implementation of national and international laws in Nepal, the following recommendations are proposed for the GoN, social organizations, civil society, and service providers to uphold the health rights of persons with mental health issues or psychosocial disabilities:

a) To the Federal Government

1. To develop necessary policies and programs for protecting the rights of persons with psychosocial disabilities collaborating with various organizations working in the field of mental health and psychosocial disability rights.
2. To ensure implementation of existing laws and regulations regarding the rights of persons with mental health problems or psychosocial disabilities.
3. To ensure recognition of the legal capacity of persons with mental health problems or psychosocial disabilities.

4. To allocate and implement budget with priority for the promotion, protection, and treatment of psychosocial issues, similar to other health sectors.
5. To develop community mental health services by mandatorily connecting hospital services with community services. To manage mental health problems in the long term, not just through treatment.
6. To ensure universal access to mental health services and provide free medication and treatment.
7. To develop and mobilize skilled professionals at the community level to provide comprehensive psychosocial support.
8. To ensure the inclusion of content on human rights and psychosocial disability rights in university curricula and training/orientation programs provided by governmental and non-governmental organizations.
9. To make the supply and distribution system simple and accessible while arranging free distribution of regular medications used by persons with mental health problems or psychosocial disabilities.
10. To conduct promotional programs to reduce stigma and misconceptions regarding mental health problems or psychosocial disabilities.
11. To formulate necessary policies for the development and effective implementation of supported decision-making systems.
12. To provide information to service users, their families, and supporters about available social security allowances and other benefits, and community rehabilitation structures in Nepal.
13. To provide necessary training to healthcare providers on quality rights and to make post-training mentoring and monitoring of health workers more systematic.
14. To make the monitoring and supervision of services provided by service providers more effective.
15. To ensure necessary programs, budget, and human resources for effective mental health service delivery at the service provider institutions.
16. To arrange different posts of mental health professionals including psychiatrists, counselors, psychiatric nurses, social workers, occupational therapists, etc., for quality mental health care.
17. To ensure continuous monitoring of potential human rights violations in healthcare provider institutions (government, private, and organizational) and ensure justice.

18. To arrange basic mental health services from primary level health institutions, specialist mental health services from provincial level hospitals, and specialized mental health services from federal level hospitals.
19. To arrange informed consent by providing information about the benefits and risks of Electroconvulsive Therapy (ECT) to the concerned person and their family.

To the Provincial Governments

1. To create and implement necessary policies and programs for rehabilitation within the family and community respecting the rights of persons with psychosocial disabilities, by coordinating and collaborating with various organizations working in the field of mental health and psychosocial disability rights.

2. To allocate and implement budget with priority in the areas of promotion, protection, and treatment of psychosocial issues, similar to other health sectors.

3. To develop community mental health services by mandatorily connecting hospital services with community services, and to manage mental health problems in the long-term basis, not just through the treatment.

4. To ensure universal access to mental health services and provide free medicine and treatment facilities.

5. To develop and mobilize skilled professionals at the community level to provide comprehensive psychosocial support.

6. To make health insurance programs more effective and accessible for persons with psychosocial disabilities.

7. To conduct promotional activities to reduce stigma and misconceptions regarding mental health problems and psychosocial disabilities.

8. To formulate necessary policies for the development and effective implementation of supported decision-making systems.

9. To make the monitoring and supervision of services provided by service providers more effective.

To the Local Governments

1. To create and implement necessary policies, plans, and programs to ensure the rights of persons with psychosocial disabilities by coordinating and collaborating with various organizations working in the field of mental health and psychosocial disability rights.

2. To ensure the inclusion of content on human rights and psychosocial disability rights issues in school curriculum, and training and orientation programs provided by governmental and non-governmental organizations.

3. To collect disaggregated data of persons with mental health problems or psychosocial disabilities.

4. To provide information on available social security allowances and other facilities in Nepal, and community rehabilitation structures to service users, their families, and supporters.

5. To provide necessary training on quality rights to health service providers.

6. To raise awareness among family members and stakeholder agencies regarding the rights of persons with mental health problems or psychosocial disabilities.

7. To include the rights of persons with mental health problems or psychosocial disabilities in the curriculum from school level.

To the Service Providers

1. To provide services by recognizing persons with mental health problems or psychosocial disabilities as Rights Holders providing services using rights-based approach rather than welfare-based approach.

2. To provide and facilitate services that support optimal achievable psychosocial well-being.

3. To facilitate meetings, dialogue, and communication with family and friends while individuals with mental health problems or psychosocial disabilities are receiving services.

4. To respect the right of service users to give informed consent when choosing treatment options whenever possible.

5. To regularly provide simple and clear information about alternatives to the medical including the negative impacts of medical treatment, and procedures.

6. To conduct regular training for all staff of service provider organizations on the Convention on the Rights of Persons with Disabilities 2006, Rights of Persons with Disabilities Act 2018, and other human rights issues.

7. To ensure the right to receive information and communication, right to alternatives and choices, and right to freedom from coercion.

To the Social Organizations/Civil Society

1. To treat and advocate for persons with mental health problems or psychosocial disabilities from a rights-based approach rather than a welfare-based approach.

2. To coordinate and collaborate with governments at all levels as per the necessity while reintegrating persons with mental health problems or psychosocial disabilities into the community.

3. To ensure and regularly monitor minimum standards of hygiene, food, and accommodation that respect the right to dignified life for persons with mental health problems or psychosocial disabilities.

4. To pay attention to the privacy of persons with psychosocial disabilities when conducting institutional activities.

5. To invest in developing skills and capabilities of persons with psychosocial disabilities so they can live independently in the community.

6. To make necessary arrangements for family and community reintegration for individuals who wish to return to their own community or home.

7. To monitor potential human rights violations by service providers and individuals.

8. To emphasize raising awareness and sensitivity about the rights of persons with mental health problems.

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