

TRAFFICKING IN PERSONS (ESPECIALLY ON WOMEN AND CHILDREN) IN NEPAL

National Report
2008-2009

Office of the Special Rapporteur on Trafficking in Women and Children (OSRT)
National Human Rights Commission (NHRC)
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Foreword

Ever since the Universal Declaration of Human Rights (UDHR) there have been scores of national and international commitments for combating trafficking in persons (TIP). Commitments are followed in right earnest, first, by creating universal legal regime gradually embodying in treaties, conventions and resolutions such as CEDAW, CRC, UN Security Council Resolution 1325 and 1820 and SAARC Convention 2002 in combating trafficking. Secondly, state entities have been putting together the norms for combating trafficking in their national laws, creating at times, special cell within their crime investigation and prosecution Department of Police Organization. The abject poverty within the country and the rising trend of worker's migration for greener pastures abroad is posing serious threat to state's endeavor to confront trafficking menace.

The National Human Rights Commission has been dealing with the problem of TIP especially Women and Children from the very beginning of its inception. The strategic plans of NHRC 2004-2008 and also 2008-2010 consist of combating trafficking in person and regulating the immigration of populations as strategic objectives of the Plan. In addition, its Office of the Special Rapporteur on Trafficking in Women and Children (ONRT 2002-2008) is publishing National Report on Trafficking in Person especially on Women and Children since 2005 along with conducting prevention and protections related activities. This report 2008-09 ranks third in its publications. The analytical presentation of the Report is mainly based on the review of implementation status of Acts and Plan of Action as the effort in combating trafficking of women and children.

The Report agrees that in the absence of study on the situation of trafficking in person, the total number of victims of trafficking is not available on national basis. However, the incepted victims, missing women and children as reported by NGOs, media and cases filed in police and different level of courts provide the existing cases of trafficking of the women and children in the country. This information on the trafficking in person provides the evidence that TIP is now a serious human right issue in Nepal.

The Report has made effort to monitor Foreign Employment Act 2007, Human Trafficking and Transportation (Control) Act 2007, National Plan of Action against Trafficking in Children and Women for Sexual and Labour Exploitation 2002 which show that implementation status of these Acts and plans of Action comes to low-to moderate in the sense that steps has been taken in establishing institutional mechanism, but the programme implementation is not satisfactory enough. Further while monitoring the Way forwards Matrix 2006-07, the report reveals that the status of implementation of

the recommendations of the Way forward is of moderate level. Many of the recommendations have to be continued in 2008-09 especially in the program areas.

I feel the Commitment Chapter of the Report provides the tool of advocacy to draw the attention of the policy makers as a whole. The Report has included commitments from ten dignitaries – policy makers, Human Rt. defenders and UNCST team.

The commitment unilaterally agrees with the increasing problem of human trafficking in the country and more vulnerability of trafficking due to unsafe foreign labor migration. They have realized their respective role and work together in the effort of combating trafficking in person. I am happy with their commitment to join hands with NHRC in this effort.

The Report has been prepared by collecting data and information from respective concerned ministries and department of Government of Nepal and NGOs working in the area. The report tries its best of effort to reveal the situations of trafficking in person especially women and children in national perspective. I would like to extend my thanks to all the partners of this report for their co-operation and valuable information for the report.

The commissioners deserve appreciations for their input to finalize the report. Mr. Bishal Khanal, the secretary-NHRC also deserves acknowledgement for his management and technical support to prepare this report. Ms. Padma Mathema, special Rapporteur on trafficking in person has devoted pain striking effort in designing. Writing and co-coordinating to produce this report. I duly acknowledge her effort to prepare this Report. Strengthening the Capacity of National Human Right Commission -2010 (SCNHRC) also deserves thanks for its technical and financial support to prepare this Report. Dr. Govind Subedi, the consultant to prepare and finalize the draft Report also deserves thanks for his hard work and efforts to prepare the Report in this shape.

I believe that this Report will contribute to provide a reference for monitoring and evaluating policies, Act and programme along with policy references. At the end, NHRC would consider this Report to be fruitful if it would prove to be of any use in monitoring and evaluating policies on combating trafficking in person.

Kedar Nath Upadhaya
Chairperson
National Human Rights Commission

Prologue

We are glad to make public the report on the status of Trafficking of Human Persons in Nepal during the year 2008-2009. The report is prepared by the Office of the Special Rapporteur on the Trafficking of Human Persons of the National Human Rights Commission of Nepal. The transnational trafficking of human persons, especially the children and women has been appeared increasing every year. After thorough analyses of the causes of trafficking and threats and challenges behind it, the report endeavors to bring about the status of those vulnerable people, and propose recommendations to mitigate the problem.

The report has been prepared after thorough studies during the year. We are thankful to all the agencies that include all, governmental, non-governmental, civil society and private sector for their generous support in providing data and information during the studies. In addition we wish to mention here the individuals providing inputs, which helped a lot to enrich the report. Also, I would like to extend thanks to the Ms. Padma Mathema, the Special Rapporteur on the Trafficking of Human Persons of NHRC and her team for their valuable contribution on the preparation of report. We hope that the report would be useful to all concerned and more specifically to those who work on the issues around human trafficking. We expect the success of this publication.

Bishal Khanal
Secretary
NHRC-Nepal

Preface

Trafficking in Person (TIP) is the worst form of violation of human right. It puts the trafficked person in dehumanized situation by violating her/his rights of movement freedom of speech, right to employment and other rights under political, civil economic social and cultural rights. Since they have to live like slave, it can be named as slave of 21st century, though the slavery system as such has been already abolished century back internationally and nationally. The Universal Declaration of Human Right (UDHR) 1948 followed by Conventions on Civic and Political Rights and ESC rights, CEDAW, CRC, Resolutions of 1325 and 1820, Regional SAARC Convention on Anti trafficking 2002 has supported to provide legal instrument to fight against it. Accordingly, national laws and policies are under implementation to combat trafficking.

National Human Rights Commission, a constitutional body of Nepal, is committed to deal with the problem as the issue based concern of human rights violation of the vulnerable population irrespective of sex, race and ethnicity. Based on its mandate and strategic plans, Office of the Special Rapporteur on Trafficking in Persons of NHRC works for the prevention and protection areas for combating TIP. In this context, the report on analysis of the situation of trafficking and monitoring the overall efforts to combat trafficking serves as a tool to measure the impact on the issue to combat TIP.

The Report on TIP especially on women and children has been published first in 2005 and the Second Report has been published in 2006-2007. This Report 2008-2009 is the third in its effort. Along with presenting the situation of trafficking of women and children, the first Report presented the impact of conflict on trafficking as the theme of the Report. It shows that on one hand the conflict has empowered the women in Nepal to come out of the traditional conservative patriarchal based role in the family but on the other hand it also has increased the vulnerability of trafficking to meet the economic responsibility as bread winner of the family. The Second Report presented the increasing foreign labour migration and vulnerability of trafficking including both female and male as the theme of the Report The current Report reveals the implementation status of the Acts, Plan of Action, and the way forward of the 2006-07 Report with an objective to evaluate the efforts on national basis. Nevertheless, it is difficult to present the impact in combating trafficking due to weaknesses in the available information but it presents the status of efforts made by the GoN and other partners including the NGOs/INGOs.

The Report in its second Chapter states that TIP in the country is an increasing problem especially because of the risk of trafficking due to internal migration and foreign labour employment. In addition, sale of organ and child trafficking in circus and cottage industries like embroidery and brick industries

has also not been decreased. Since survey on the extent of situation of trafficking has not been conducted, the estimated data on the national situation of trafficking is not available and annual the number of trafficked person is primarily based on incepted and reported cases in NGOs and the Police which strongly shows that the problem of TIP is the human right violation and criminal issue of concern in the country.

The Report makes the review on the implementation status of Foreign Employment Act 2007, Human Trafficking and Transportation (Control) Act 2007 and National Plan of Action on trafficking 2002. The status of implementation is encouraging in the area of institutional establishment and extension but lacks functional capacity due to the absence of resource and management efficiency. On the whole, the status is low to moderate meaning and activities have been started but it needs strengthening to have impact on combating TIP.

By introducing the Commitment from the decision makers and human right defenders the report aims to create advocacy mechanism to create environment for the effective implementation of the activities to combat trafficking in line with its legal provisions, policy and programs of the GoN.

The Report also monitors the status of the implementation of the Way Forward by areas recommended by the previous National Reports and lead Ministry to implement and make further recommendations accordingly as of findings of the current Report.

The Report has been prepared under the policy direction of the Hon'able Chairperson Mr. Kedar Nath Upadhyaya and Hon'ble Commissioners of NHRC has also contributed to shape this report in this form. We are highly encouraged from their guidance and contribution. Mr. Bishal Khanal, the Secretary of NHRC also deserves special thanks for providing administrative support and also technical input to prepare the report.

The National report is the product of all the stakeholders working for combating trafficking and therefore deserves thanks for their data and information and input along with Comments and suggestions to finalize the Report. I would like to extend my appreciation to the dignified contributors of the Commitment which I feel will support as policy guidelines for combating TIP in Nepal. We would like to extend our hearty thanks to the Ministry of Women, Child and Social Welfare for organizing the consultation meeting jointly with us for the members of National Committee on Anti-Trafficking and other related Ministries to finalize the Report. Mr. Ratna Kaji Bajracharya – joint secretary of the Ministry of Women children and social welfare deserves special thanks for the same for his cooperation in coordinating the meeting. Thanks also goes to Inter Agency Coordination Group (IACG) for organizing meeting for the international development partners including INGO working for combating trafficking for their comments and suggestions to finalize the Report. Mr. Hemang Sharma, National Program Manager of the Strengthening National Human Rights Commission Project 2010 - also deserves our thanks for the support to complete the Report. Dr. Govind Subedi the consultant of this Report deserves special thanks and appreciation for his sincere and hard work to prepare the Report. Thanks also go to Technical Committee of OSRT for their input to prepare the Report starting from designing the concept paper to finalizing the Report.

The participants of GOs, NGOs, INGO and other development partners of the different workshops and consultation meetings in Katmandu, Janakpur and Hetauda deserve sincere thanks for their valuable

information and suggestions for the Report. Ministry of Women, Child and Social Welfare, Ministry of Labour and Transport, Women Development Department, Department of Foreign Employment Promotion, Directorate of Women and Children Service Center, Nepal Police and Office of the Attorney General also deserve thanks for their contribution to prepare the Report by providing the data and information in the respective areas. Especial thanks goes to Mr. Purna Chandra Bhattarri, joint Secretary of Ministry of Labor and Transport, for his expert opinion and information on foreign labor employment.

The staff of NHRC in the central office, regional office and sub-regional office deserves the appreciation for their feedback for the Report. I want to extend my special thanks to Mr. Pradeep Kumar Jha - Director, Janakpur central regional Office and Mr. Prakash Khatiwada, Coordinator of Child Welfare Society, Hetauda for their hard work to coordinate the workshop to include the field-base data for the Report covering 8 and 5 districts respectively. Mr. Kamal Thapa Kshetri- Human Right officer of the OSRT, NHRC deserves hearty thanks for his dedicated hard work in coordination, management and input for the Report from the beginning to finalization of the Report. Thanks also go to Mr. Mithila Hujjeddar, Administrative Assistant for his computer work and Ms. Radha Dahal, Office Assistant for her logistic and other services.

I believe that the Report will serve as a fact based reference to those working for combating trafficking at national and also at international level. Since this report mainly reveals the implementation status and its challenges in the effort in combating TIP, it will support the policy makers, legislative body and general public to take effective steps for strengthening impact based progress in planning, implementation and monitoring of the policies and acts. The Report may have errors but the suggestions from the distinguished readers will through light for its further improvement.

Thanks a lot

Padma Mathema

Special Rapporteur

Office of the Special Rapporteur on Trafficking in Women and Children

Acronyms and Abbreviations

ADB	Asian Development Bank
AGO	Office of the Attorney General
AATWIN	Alliance against Trafficking in Women and Children in Nepal
CBS	Central Bureau of Statistics
CCWB	Central Child Welfare Board
CEDAW	Convention on the Elimination for All Forms Discrimination against Women
CDO	Chief District Officer
CRC	Child Rights Convention
CRPD	Child Protection Desk, NHRC
CMW	UN Convention on the Rights of Migrant Workers and Their Families
CWIN	Child Workers Concerned Center in Nepal
DDC	District Development Committee
DoFEP	Department of Foreign Employment Promotion
FEPB	Foreign Employment Promotion Board
FY	Fiscal Year
GBV	Gender Based Violence
GDP	Gross Domestic Product
GO	Government Organization
GoN	Government of Nepal
HTT Act	Human Trafficking and Transportation (Control) Act 2007
IACG	Inter Agency Coordination Group
ILO	International Labor Organization
INGO	International Non-government Organization
IOM	International Organization for Migration
MIS	Management Information System
MoES	Ministry of Education and Sports
MoFA	Ministry of Foreign Affairs
MoHA	Ministry of Home Affairs
MoLD	Ministry of Local Development
MoLRM	Ministry of Land Reform and Management
MoLTM	Ministry of Labor and Transport Management

MoPH	Ministry of Population and Health
MoWCSW	Ministry of Women, Children and Social Welfare
NCCR	National Center for Children at Risk
NDC	National Dalit Commission
NFE	Non-formal Education
NGO	Non-government Organization
NHRC	National Human Rights Commission
NNAGT	National Network Against Girls Trafficking
NPA	National Plan of Action
NWC	National Women Commission
OSRT	Office of the Special Rapporteur on Trafficking, NHRC
SAARC	South Asian Association for Regional Cooperation
SLC	School Leaving Certificate
TIP	Trafficking in Persons
UN	United Nations
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
VAW	Violence against Women
VDC	Village Development Committee
VHW	Village Health Workers
WCSC	Women and Children Service Center
WDO	Women Development Office

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Executive Summary

The National Human Rights Commission (NHRC), established in 2000, is responsible for the protection, promotion, respect for and enforcement of human rights in Nepal. It has been working against trafficking from its beginning. In its objective 3 of the *Strategic Plan 2008-10*, the Commission has outlined two areas of strategic intervention related to combating human trafficking: recommending amending statutory provisions relating to violence against women and human trafficking and developing regional and international cooperation with organizations working to prevent and control human trafficking and for social reintegration of the survivors.

The Office of the National Rapporteur on Trafficking (ONRT), which was established under a Memorandum of Understanding (MoU) between the Ministry of Women, Children and Social Welfare (MoWCSW) in NHRC in 2002, was renamed as Office of the Special Rapporteur on Trafficking (OSRT) in 2009 and it is a part of NHRC. The OSRT is mandated to monitor the incidence of trafficking; coordinate national, regional and international efforts to combat crime of trafficking; generate high level commitment to efforts aimed at improving the human rights situation of women and children; develop indicators and checklist of monitoring for situation of trafficking in persons; determine focal persons in every district to collect the information on trafficking; develop and maintain a comprehensive and up-to-date national database system on trafficking in persons, especially of women and children and prepare and publish Annual Report of the situation of trafficking in persons.

This National Report 2008-09 is the continuation of the earlier National Reports of 2005 and 2006-2007. This Report aims to examine the situation of trafficking covering the period of 2008 and 2009, critically analyze the implementation status of the trafficking and foreign labor migration laws including the National Plan of Action (NPA) against Trafficking for Commercial Exploitation and Labor exploitation.

This Report utilizes the definition of human trafficking of Palermo Protocol, definition developed by OSRT-NHRC in 2006 and the Human Trafficking and Transportation (Control) Act 2007 (HTT Act). Considering these definitions, the definition of trafficking can be viewed as the combined process of the following: the action of recruitment or transportation or transfer or harboring or receipt of persons; by means of the threat or use of coercion or abduction or fraud or deception or abuse of power or giving payments/benefits to a person in control of the victim and for the purpose of exploitation - prostitution or pornography or violence/sexual exploitation or forced labor/forced soldiers or involuntary servitude or debt bondage or slavery/similar practices or illegal removal of organs.

The Report has been prepared using secondary and primary data. Secondary data has been collected from various annual reports, other relevant reports and publication of the GOs, NGOs and civil society. Primary data were collected through self-administered questionnaire to the key stakeholders; interview with key stakeholders; consultation meetings with GOs, I/NGOs; written commitments from the policy makers, decision-makers, law makers and human rights defenders and workshops held outside of the Kathmandu valley. The Report is organized in Seven Chapters including this Chapter as following

On Situation on Trafficking in Persons

Findings of the situation of trafficking indicate that there is no aggregated data on TIP which makes us to rely on the different sources. Thus, the magnitude of TIP figure varies by sources and there is no recent data on the cross-border trafficking in Nepal. The earlier estimates provided by ILO indicate that about 12,000 children under 18 years were trafficked annually to India for the purpose of sexual exploitation. According to the CCWB, 2216 children have been recorded as missing in Balbalika Khoj Talas Kendra; 3258 women have been recorded as missing in Directorate of WCSC in between 1998 and 2008; and 3164 and 322 persons were intercepted and rescued by different national level NGOs in the FY 2008/09.

The five-year average number of trafficking cases registered in the Nepal Police for the period of FY 2004/05 to FY 2008/09 is 109 with five-year average number of 140 survivors.

The overall 5-year average number of trafficking cases (FY 2003/04 – FY 2007/08) in all layers of courts comes out to be 410 with 111 for the Supreme Court, 87 for the Appellate courts and 212 for the district courts.

According to CCWB data collected from its Monitoring of the Child Rights Indicator Forms from 53 districts in the Nepali in FY 2007/08 is 112 numbers of events of sexual violence against children.

The magnitude of girls and women in cabin, dance restaurants, massage parlors and Dohari varies from one study to another. According to Nepal Police, there are about 20,000 to 25,000 girls and women engaged in commercial sex work illegally in about 500 dance, bar, cabin restaurants, massage parlors alone in Kathmandu valley. Terre des hommes (2009) estimated a total of 11,000 to 13,000 girls and women working in this industry while MoWCSW (2008) estimated it to be 30,000 to 40,000.

There are also indications that trafficking of boys also takes place from remote district such as Humla to Kathmandu. According to the progress report of CCWB 2008, the CCWB in partnership with the Nepal Police and NGOs rescued 22 children from a 'Rehabilitation Center', Thankot, Kathmandu in June 2007. These children were sheltered in inhumane condition: lack of food, no admission in school, congested and un-sanitary state including affected by malnutrition.

Some of the key dynamics of trafficking in persons evolved from the workshops in Hetauda and Janakpur are : trafficking takes place across the district; Dalit, Janjati and marginalized groups are the most vulnerable groups; trafficking of men especially in foreign employment is taking place; most vulnerable age group for trafficking is the adolescent girls including young women who desired to go for foreign employment; traffickers use different routes including unofficial border points; traffickers are relatives, neighbors to whom the survivors believe; trafficking takes place for multiple purposes; the root causes of trafficking are poverty, illiteracy, unemployment, gender discrimination and social exclusion including high aspiration of Nepali young people.

Existing counter-trafficking database system adopted/maintained by different organizations in Nepal on trafficking related data are the following i) database available in assessing the status of law enforcement, ii) database available in assessing the status of prosecution and execution of trafficking, iii) database available in assessing the status of protection of trafficked survivors and persons vulnerability to trafficking, iv) Information system related to prevention of trafficking, and vi) database available in assessing the status of foreign labor migration.

Evidence suggests that the dynamics of trafficking have been changing in Nepal. Trafficking encompasses now human trafficking not just of women and children. India once regarded as the destination country of girls and women trafficking for commercial sexual exploitation has now become both as the destination country as well as a transit route for trafficking of Nepalese women and men to the Gulf States and South-East Asia. At the same time, there has been rapidly increasing internal trafficking of girls and women in entertainment industry like cabin bars, dance and *Dohori* restaurants and massage parlors mainly located in urban and semi-urban areas in Nepal.

Some of the challenges to combat trafficking evolved are the following: protection of the rights of adult female workers in the entertainment establishments; regulating Inter-country adoption of children; educating parents on the child rights to prohibit them sending children for circus performance and other exploitative jobs; strengthen the DC on trafficking as functional institution; encouraging NGOs and INGOs in launching livelihood programs as well awareness related programs; establishing data system to monitor the situation of trafficking at the national level and conducting periodic surveys or Rapid Assessment to understand the trafficking situation.

On Foreign Labor Migration and Trafficking

Foreign labor migration has become an important source of income in Nepal. It contributed to 21.8 per cent of GDP in FY 2008/09; solved to some extent the youth unemployment problem in the country and it is also attributed to sharp decline in poverty amidst the conflict, violence and impunity in the country. On the other hand, unsafe foreign labor migration has become one of the major arena for exploitation and challenges for the protection of human rights of migrant workers including their families.

Nepal has opened up 107 countries for foreign employment as of December 2009. Nearly 1.5 million people have left for foreign employment except India taking permission from DoFEP and nearly the same number is guesstimated went via India – thus accounting roughly 2.5 to 3.0 million Nepali in foreign employment except India. The magnitude of female migration is estimated to be about 9 to 10 per cent of the total migrants according to IOM and FAO Rapid Assessment Survey of 2009. Data from the informal sources such as provided by the Non-Residence Nepalese (NRN) Conference reveals that there are about 140,500 females. Of them, 45 per cent alone are in Saudi Arabia, followed by in Malaysia (11%), Israel (11%), Lebanon (10%), Oman (8%), United Arab Emirates (6%), Kuwait (5%), Qatar (3%) and Bahrain (1%).

Among those who left from taking permission from DoFEP, two-thirds are in the Gulf countries and one-third is in the East and South East Asia. The share of the migrants in the developed countries like Europe, USA and Australia has also been increasing over the years. The major labor receiving countries during the entire period Qatar (30%), Saudi Arab (19%), UAE (13%) in the Gulf region and Malaysia (32%) in the East and South East Asia.

Vulnerability of trafficking and exploitation is related with how the workers left for work at abroad. Vulnerability is high if the migration takes place at the individual basis and via India. In FY 2008/09, of the 217 thousands Nepali engaged for work at abroad, nearly 21 per cent went on the individual basis.

By gender, 64 per cent of the female workers went through the individual basis – revealing that they are at high risk of exploitation in the country of destination.

The nexus of foreign labor migration and trafficking can be assessed by exploring the extent of knowledge on the whole processes of foreign labor migration – pre-departure, during departure, working abroad and returning home.

With respect to knowledge on pre-departure processes, according to WOREC (2009) study, only 37 per cent potentially migrants know about the name of the Government agency that gives the labor permit; 38 per cent know about the requirement of pre-departure orientation training and 54 per cent know that their intended country of destination was opened up by the Government. Similarly, a few women know about the essential documents such as passport, visas, medical fitness certificate, health insurance certificate, contract paper and labor permit.

Major sources of information about the foreign employment are the informal channels rather than the formal channels, namely, recruiting agencies. Of the sample of 130 returnee migrants in the survey conducted by UNIFEM and People's Rights Forum, 85 per cent went abroad for work through agents, relatives and neighbors and 46 per cent did not know the information about the destination country in which they were going. Nearly one-fourth (24%) proportion of the workers paid to the agents or recruiting agencies before they receive calling visa or visa; more than three-fourth did not receive any payment receipt; 60 per cent of those who received payment receipt did not have the receipt stating the purpose. Only 77 per cent of the migrant workers did not know the rights of migrant workers; 74 per cent did not know about their rights to free legal treatment that is provided by the government; 89 per cent did not know that Foreign Labor Employment case is the state case. The study also showed the problem during departure. For example, 35 per cent of migrant workers reported they were not directly brought to the working place in the destination country. With regards to working condition at the destination country, three fourth of the migrant women had gone to work as domestic workers; 45 per cent were not paid the salary promised in Nepal and many of them had to work more than 12 hours daily and 20 per cent reported that they were abused and harassed and another 2 per cent reported that they were sexually exploited.

Assessment of the implementation status of Foreign Employment Act 2007 suggests that there is **moderate-to-high** level of state compliance in provisions relating to establishment and strengthening of structure; **low to moderate** in provisions related to regulation, moderate in transparency and accountability of recruiting agencies and the GoN; **moderate** in provisions related to non-discrimination and equity; **low-to-moderate** in provision relating to protection of workers and **low** level of state compliance in provisions relating to monitoring, investigation and prosecution.

With respect to law enforcement, the Foreign Employment Act 2007 makes provisions of penalties of any persons or recruiting agencies convicted for cheating a worker in relation to foreign employment. The DoFEP is entitled to receive any complaints, investigate the case, issue the warrant paper, arrest the accused, ask for bail or leave the accused without bail, proceed the trial and decide whether to file a case in the district court or not. In the FY 2007/08 and 2008/09, there were 505 and 506 cases of complaints registered on the individual basis and 436 and 359 cases of complaints registered on the institutional basis in DoFEP, respectively. Note that none of the complaints registered against institutional basis were forwarded to the courts.

The responses to the judiciary in relation to violation of Foreign Employment Act 2007 have been evaluated based on the review of 30 cases decided by the courts in the FY 2004/05 drawing data from

UNIFEM and People's Forum (2009). In overwhelming majority of cases (93%), accused are individuals, rather than the recruiting agencies (7%). There is delay in investigation as well as decision by the court. On the average, a case requires to be decided 458 days from first registration of the complaint in the DoFEP to the decision by the court. Among the cases, 73 per cent have been convicted while another 27 per cent have been acquitted. The main basis of the court verdict appears to be based on evidence, rather than on the analysis of the advocate's argument in the subject.

The National Report has also examined the ratification or accession status of the CMW and the ILO fundamental conventions by the major destination countries of Nepali workers to understand the labor and human rights that the Nepali workers may enjoy in the destination country. It is found that none of the major destination countries of Nepali workers such as Malaysia, Qatar, Saudi Arab, UAE, Bahrain, Kuwait, Oman, Israel, Hong Kong and South Korea are the party of the CMW. Similarly, many of these countries have not ratified the ILO fundamental conventions related to freedom of association and collective bargaining, elimination of forced and compulsory labor and elimination of discrimination in respect of employment and occupation. For example, Afghanistan, Kuwait, Malaysia and Qatar which are the major destination countries of Nepali workers have not ratified conventions related to elimination of discrimination in respect of employment and occupation.

The challenge for policy makers and program implementers is how to protect workers' rights in both country of origin and country of destination as well as in country of transit like India. In this direction, amendment of the Act and Regulation, effective implementation of the Act and campaign to the international communities to pressurize the major destination countries to ratify the CMW and ILO fundamental conventions are the emerging challenges.

Monitoring of Anti-Trafficking Activities

Nepal has remained in Tire 2 since 2004 .Several GOs, multilateral and bilateral agencies, national level NGOs and local level NGOs have been conducting activities related to prevention, protection and legal services. With regard to GOs, several Ministries and Departments have been contributing to prevention of trafficking in women and children through their different programs. The leading organizations in this relation are: Ministry of Women, Children and Social Welfare, Ministry of Education and Sports, Ministry of Health and Population, Ministry of Home Affairs, Ministry of Labor and Transport, Ministry of Land Reform and Management, Ministry of Foreign Affairs, National Dalit Commission, National Women Commission and Poverty Alleviation Fund.

Similarly, several bilateral and multilateral agencies including INGOs have been supporting the anti-trafficking initiatives in all three areas of interventions: prevention, protection and prosecution. Among the major ones are the following: United States Agency for International Development (USAID) Nepal, the Asia Foundation, Plan International Nepal, the Lutheran World Federation Nepal, Save the Children, International Organization of Migration (IOM), ILO, UNIFEM, Terre des hommes, IACG group, Free the Slaves (FTS) – US, American Bar Association Rules of Law Initiatives, the World Education.

There are many I/NGOs working to combat TIP in Nepal. Many have carried out different prevention related anti-trafficking programs like law and policy intervention; awareness to the potentially victims and vulnerable communities; workshops/interactions, rallies and symposium; income generating activities and mobilization of prevention homes and vigilance at the key border points including in the bus parks, highways and means of transport. In relation to safe migration, the NGOs have provided safe migration information by establishing information desk in some CDOs. In addition NGOs also provide orientation to students and teachers, orientation training to girls and women and advocacy to the key stakeholders related to safe migration at local and district levels.

Maiti Nepal provided safe migration information to 47,961 migrants, 272 persons from CDO, 1,830 students and teachers, 11,355 vehicles intercepted, 98 girls and women received special training on safe migration and 540 people received training on safe migration. WOREC provided 12,756 persons with safe migration information and 10,812 people were provided with special orientation on safe migration in the FY 2008/09. Pourakhi has been providing safe migration information through weekly radio program, formation and mobilization of listener clubs on safe migration at the community level, referral services, legal support and psychosocial counseling.

In relation to protection aspects, data from ABC Nepal, Maiti Nepal, WOREC, Shakti Samuha, Women Skill Creation Center and People's Rights Forum are available for the FY 2008/09. Altogether, 3,164 women and children were intercepted; 322 rescued/repatriated, 343 provided rehabilitation services, 26 provided temporary shelter, 279 reintegrated, 22 rescued from brothels and 10 from sexual exploitation by these organizations. With regards to legal services provided by these organizations, 2801 number of trafficking victims/migrants received legal aid/support, 8 cases filed in the Nepal Police, 93 cases filed in the courts, 29 cases related to rape filed in the courts and 40 cases related to labor filed in the Department of Foreign Employment and Promotion.

The study monitors the GOs and NGOs efforts in combating trafficking at the district level based on two workshops held in Hetauda and Janakpur. In all the districts from which the participants attended (see name of the districts in Methodology), WCSC and DC on trafficking and Committees against Gender Based Violence (GBV) have been established. With regard to NGOs/civil society working in the districts, some NGOs work exclusively in combating trafficking such as Maiti Nepal and Shakti Samuha while others have integrated anti-trafficking activities in their broader women's empowerment, child rights and single women programs. These GOs/NGOs have run various programs related to prevention, protection and legal aid/support activities. The major protection activities include border surveillance, interception, and rescue, providing temporary shelter to the survivors, receiving application of missing women and children and searching for the missing persons. The legal aid/support activities implemented are legal help and advice, registration of cases in the police, forwarding the cases to file in the court, creation of pressure to the concerned authorities to compensate the survivors and panelize the culprits or traffickers accordingly.

With regards to the criminal justice response to trafficking, the five-year average (2003/04 to 2007/08) number of trafficking cases filed in the Supreme Court is 111; the 5-year average conviction and pending rates are 44 per cent 76 per cent, respectively. In the appellate courts, the 5-year average number of cases registered comes out to be 87. The 5-year average success rate and pending rates are 48 per cent and 61 per cent respectively. In the district courts, the 5-year average number of trafficking cases registered is 212 and the 5-year average success and pending rates are 65 per cent and 60 per cent, respectively.

Media has widely responded to combat TIP especially women and children. In addition, they have widely covered the story of fraud, deception and exploitation in relation to foreign employment. Many bilateral and multilateral agencies including NGOs support also support Radio programs, FM stations in many district for informative and awareness raising message to combat trafficking. Electronic media has aired different discussions, interaction programs on anti-trafficking and safe migration issues and also provided the hotline number to the survivors/informants. Similarly, many leading National Dailies have provided priority in combating trafficking and curtailing unsafe foreign labor migration.

Despite these efforts, there are challenges to combat trafficking: minimizing the irrelevant political pressure to facilitate in bringing the culprits in the legal action; strengthening the capacity of social

institutions; introducing the cost subsidization policy in the media; directing the prevention related programs to address the root causes of trafficking; strengthening the institutional capacity of NC and DCs and introducing effective reporting and monitoring mechanism for the output oriented programs.

Monitoring of Implementation Status of Anti-Trafficking Laws and Policies

Nepal is a party of several human rights instruments including the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The government has ratified the CEDAW and CRC Optional Protocols in 2002; Forced Labour Convention (No. 29) in 2002, Abolition of Forced Labour Convention (No. 105) in 2007, Minimum Age Convention (No. 138) in 1997 and signed the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption 1993 in 28 April 2009. Similarly, Nepal is a party of SAARC Trafficking Convention including other less formal regional arrangements that address human trafficking. In addition, the government has participated in a number of international conferences pertaining to the advancement of women, children, and human rights.

The Interim Constitution of Nepal 2063 (2007) is the overarching legal framework that prohibits human trafficking and confers certain fundamental rights for women and children. With respect to law, Nepal has enacted Human Trafficking and Transportation (Control) Act, 2007. The key features of the Act are the following: defining and criminalizing human trafficking and transportation offences as per the requirements of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000; incorporating several measures to strengthen the effective investigation and prosecution of trafficking offences; establishing proportional penalties and a more stringent penalty structure for several aggravating factors; seeking to protect the rights of trafficking victims and provide victim assistance; allowing the property of offenders acquired as a result of human trafficking offence to be seized and applying to extraterritorially to anyone committing an offence against a Nepali citizen.

The GoN has made moderately compliant with the General Principles set forth in the SAARC Convention; the government recognized trafficking of women and children as a serious crime and made legal as well as policy commitments to suppress the crime. On the other hand, the government has made limited progress in establishing and/or implementing formal bilateral, multilateral, and regional agreements with other member states.

Assessment of HTT Act 2007 reveals that the level of state compliance relating to establishing and strengthening the structure is moderate while it is low-to-moderate with respect to provisions relating to offence, investigation and punishment and provision relating to protection of survivors.

Assessment of the NPA against Trafficking in Children and Women for Sexual and Labor Exploitation in 1998 (2001 revised) suggests that in three intervention areas (namely, Policy, research and institutional development; Legislation and enforcement; Awareness creation, advocacy, networking and social mobilization), the level of achievement can be said **moderate**. In case of program intervention areas of health and education, and income and employment generation, there have been program interventions on the part of MoES, MoPH, MoWCSW including other Ministries and Departments. It is difficult to assess the contribution of such programs objectively due to the lack of data. In program intervention areas of rescue and reintegration and trans-border, regional and international issues, the GoN has initiated some programs and can be said to be **low-to-moderate**. In case of monitoring and evaluation, the level of achievement can be said to be **minimum** mainly because of the lacking of unified and national level reporting system to know the trafficking situation and program interventions in the country.

There are several challenges in order to effectively implement the trafficking laws and NPA. They include: strengthening the capacity of investigative authority, prosecutors as well as the executors; meeting the provisions relating to protection of workers; amending the HTT Act to ensure the investigation and prosecution of internal trafficking cases; revising the NPA by addressing the emerging dynamics of trafficking in Nepal; prioritizing the implementation and monitoring of combating TIP.

Commitments on Combating TIP: Line Ministries, CA Members, National Women Commission, Human Rights Defenders and UNSCT

Institutional/individual commitments have been incorporated in this Report to understand the perception on combating trafficking, facilitate mobilization of stakeholders and generate the advocacy for the effective implementation of the laws, policies and programs. Commitments were received from Deputy Prime Minister and MoFA; Minister of HoA; Minister of LoTM; Minister of WoCSW; CA members (Mrs. Arzu Rana and Sapana Pradhan-Malla), Chairperson of National Women Commission; Human Rights Defenders (Shusil Pakurel and Mandira Sharma) and UNCST in Nepal. The following query was made: perception on TIP as the major violation of human rights and violence against women; perception on situation of TIP in Nepal; linkage between foreign labor migration and trafficking; perception on trafficking laws and their implementation status; strategies needed for effective implementation of the laws; opinion to materialize these laws; perceived role from the dignitaries/institutions to combat trafficking and expectation from NHRC for supporting you.

TIP is regarded as one of the important concerns of VAW and violation of human rights. Trafficking deprives of dignity, life, freedom, equality of human beings. All the commitments agree that severe situation of TIP due to political instability, impunity and violence. It is agreed that trafficking takes place for various purposes and streams of trafficking are internal, cross border to India and beyond. Involvement of multi-layered agents in the foreign employment process is the evidence that many migrant workers are not safe from exploitation and trafficking. The dignitaries/institutions assess that law enforcement status is weak.

Several strategies for effective implementation of the legislation in combating trafficking and enhancing safe migration have been suggested. The major ones include: mass awareness campaign; establishing a mechanism for registration of girls and women leaving in every VDC; focusing on prevention activities; increasing capacity of right holders and duty holders; enhancing support system to the trafficking victims/survivors: building regional coordination especially with Indian border Police; establishing effective policing, tight immigration system and more cooperation with civil society and CBOs. Each commitment shows that there is need of combined efforts of all political parties, civil society, human rights organizations for combat trafficking. All the dignitaries/UNCST expects that the OSRT-NHRC should monitor the incidence and implementation status of anti-trafficking efforts in Nepal.

These commitments enrich this National Report as it brought together views of key line Ministries, organizations and human rights defenders to combat trafficking and role of each of the key stakeholders.

In summary, in FY 2007/08 and 2008/09, some achievements have been made in combating trafficking, especially in areas of enacting laws. However, protection of woman migrant workers possesses greater challenges as huge flow migration is in the unorganized sectors in countries with no ratification of CMW. Anti-trafficking interventions have not even developed as cross-cutting issues among the key line agencies but the effort of NGOs, civil society and women collectivities is of immense in prevention, protection and legal aid services.

This Report presents the Way forward in Matrix form by reiterating the intervention areas including information needs. :

- Prevention- Reorient Economic, Social and Anti-Trafficking Policies from Human Rights and Gender Perspectives
- Protection: Adoption and Effective Implementation of a Comprehensive 4Rs Policy
- Prosecution: Reorienting the Law Enforcement and Judiciary System from Human Rights and Gender Perspectives
- Information Needs: Strategies for Acquiring Primary and Secondary Data



Introduction

The National Human Rights Commission (NHRC), established in 2000 under Human Right Commission Act 1997, was elevated as constitutional body by the Interim Constitution of Nepal 2007 from the earlier statutory status. The Commission is responsible for the protection, promotion, respect for and enforcement of human rights in Nepal. It has been working to combat trafficking in persons (TIP) from its beginning. In its objective 3 of the *Strategic Plan 2008-10*, the Commission aims to 'advocate for the collective rights including the rights of women, children, persons with disability, senior citizen and other disadvantaged groups focusing on gender and caste equality and empower these deprived and denied groups by eliminating all forms of exploitation and discrimination existing in society' (NHRC, 2008:12). Under this objective, the Commission has outlined two areas of strategic intervention related to combating human trafficking. One is related to recommendation of amending statutory provisions relating to violence against women and human trafficking by analyzing compatibility of national laws; continuing consultation with key stakeholders for the prevention and control of human trafficking; reviewing of labor laws in line with the rights of overseas migrant workers and developing policy guidelines on rescue, reparation, rehabilitation and reintegration of victims and survivors of human trafficking. Second strategic intervention to combat human trafficking and enhancing safe migration is related to developing regional and international cooperation particularly to NHRC India, Human rights organizations of South Asian Association for Regional Cooperation (SAARC) and gulf countries including other national, regional and international organizations working to prevent and control human trafficking and for social reintegration of the survivors.

The Office of the National Rapporteur on Trafficking (ONRT) was established under a Memorandum of Understanding (MoU) between the Ministry of Women, Children and Social Welfare (MoWCSW) and the NHRC in 2002, and it was renamed as Office of the Special Rapporteur on Trafficking (OSRT) in 2009 and it is a part of NHRC. The OSRT is mandated to monitor the incidence of trafficking; coordinate national, regional and international efforts to combat crime of trafficking and generate high level commitment to efforts aimed at improving the human rights situation of women and children.

In order to fulfill its objectives, the OSRT has several responsibilities. It is mandated to i) develop indicators for situation of trafficking in persons; ii) determine focal persons in every district to collect the information on trafficking; iii) develop checklist to monitor trafficking in persons; iv) develop and maintain a comprehensive and up-to-date national database system on trafficking in persons, especially

of women and children and vi) prepare and publish Annual Report of the situation of trafficking in persons.

Accordingly, ONRT-NHRC has already published Annual Reports on *Trafficking in Persons Especially Women and Children* 2005 and 2006-2007. The National Report 2005 focused on situation of trafficking in persons in Nepal, conflict and trafficking, initiatives for combating trafficking, legal framework against trafficking, and media and trafficking. Similarly, the National Report 2006-2007 focused on i) situation of trafficking in persons in Nepal, ii) foreign labor migration and trafficking, iii) monitoring of initiatives of anti-trafficking activities, iv) legal framework, law enforcement status and judicial responses to trafficking, v) status of rescue, repatriation, rehabilitation and reintegration and vi) the role of media in combating trafficking. In both the Reports, the way forward has been dealt as a policy steps that needs to be addressed for dealing with the challenges to combat trafficking.

1.1. Purpose of the National Report 2008-09

This National Report 2008-09 is the continuation of the earlier National Reports. It aims to examine the situation of trafficking covering the period of 2008 and 2009, critically analyze the implementation status of the trafficking and foreign labor migration laws including the National Plan of Action (NPA) against Trafficking for Commercial Exploitation and Labor exploitation. In a way, the overall strategic approach of the Report is to present the implementation status of the Acts and programs to combat trafficking in women and children thereby create the environment of official effort for the same. The specific objectives of the Report are as follow:

- To assess the general situation and emerging trends of the status of trafficking in Nepal (trafficking of women and children, men, foreign labor migration- internal as well as cross-border)
- To critically review the implementation status of trafficking act, foreign employment act and NPA
- To critically analysis the commitments of the decision-makers (law makers, experts and human rights activists)
- To recommend the policies and program required for combating trafficking in the changing context of Nepal.

1.2 Definition of Human Trafficking

This Report utilizes the definition of human trafficking of United Nations (UNs) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 supplementing the UN Convention against Transnational Organized Crime (here after Palermo Protocol), definition developed by OSRT-NHRC in 2006 and the Human Trafficking and Transportation (Control) Act 2007 (HTT Act).

Palermo Protocol defines human trafficking as,
Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The consent of the victim of trafficking in persons to the intended exploitation set forth in paragraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

In line with the Palermo Protocol, the ONRT-NHRC (now OSRT-NHRC) developed a definition of trafficking and used it in National Reports 2005 and 2006-07. The definition brought conceptual clarity on trafficking on persons in the Nepalese. The definition reads:

Trafficking is illicit and clandestine movement of person/s within and across national borders for buying, selling, recruitment, transportation, transfer, harboring or receipt; by means of threat or the use of violence or other forms of coercion, of abduction, of fraud or deception, of the abuse of authority, or of position of vulnerability, or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any kind of exploitation; and exploitation shall include, at a minimum, non-consensual sex work or exploitation of the prostitution of others or other forms of sexual exploitation, forced or bonded labor, fraud marriage, camel jockeys, slavery or practices similar to slavery, whether for pay or not, servitude or involuntary servitude (domestic, sexual, or reproductive), or the removal of organs, adoption, or other illegal (ONRT, 2006: 10).

In line with the definition of OSRT and Palermo Protocol, the Government of Nepal adopted HTT Act 2007. The act distinguishes human trafficking and human transportation and awards the different measures of punishment. According to it, the following acts shall be deemed to have committed human trafficking:

- a) To sell or purchase a person for any purpose,
- b) To use someone into prostitution, with or without any benefit,
- c) To extract human organ except otherwise determined by law,
- d) To go for in prostitution

And, the following acts shall be deemed to have committed human transportation:

- a) To take a person out of the country for the purpose of buying and selling,
- b) To take anyone from his /her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurements, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or custodian and keep him/her into ones custody or take to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation.

Considering these two definitions, the definition of trafficking can be viewed into three elements:

- i) processes/acts,
- ii) the ways/means used to commit those processes/acts and
- iii) purposes/goals. Therefore, trafficking in persons is:

- The action of recruitment or transportation or transfer or harboring or receipt of persons
- By means of the threat or use of coercion or abduction or fraud or deception or abuse of power or giving payments/benefits to a person in control of the victim
- For the purpose of exploitation: prostitution or pornography or violence/sexual exploitation or forced labor/forced soldiers or involuntary servitude or debt bondage or slavery/similar practices or illegal removal of organs.

Therefore, this Report utilizes the notion of human trafficking that if one condition from each of these categories (action, means and purpose) is met, the result is human trafficking. For example, if a person is recruited (action) by means of use of fraud (means) in forced labor situation (goal), the act is understood as human trafficking. Similarly, if a person is transported (action) by use of coercion for the purpose of producing pornography, the act is understood as human trafficking and the like. Trafficking in persons can have multiple purposes as described above. Children are understood as all persons under 18s as defined by International Labor Organization (ILO) Worst Forms of Convention 1999. Women are understood as all females irrespective of their marital status.

1.3 Methods of Study

This study uses both secondary and primary data. Secondary data have been gathered through desk review:

- Relevant reports from MoWCSW and CCWB
- Annual reports of Attorney General Office, Nepal
- Annual reports of the Supreme Court of Nepal
- Annual and other relevant reports of NHRC
- Data records of the Department of Employment and Promotion about the number of foreign labor migrants
- Relevant report from I/NGOs
- Relevant reports of Nepal Police, Interpol-Nepal

Primary Sources

1. **OSRT-NHRC** developed a format to collect information on anti-trafficking activities carried out by different GOs and NGOs and the format was sent them requesting to respond it. Among the 40 organizations in which the format was sent, about 30 organizations responded. The information provided by GOs and NGOs was used in preparation of this Report.
2. **Individual consultation** – the Consultant, Special Rapporteur and Program Officer of OSRT visited different GOs/NGOs to collect information. The aim of the individual consultation was to understand the programs of anti-trafficking, perception on combating trafficking, strength of the programs as well as challenges to combat trafficking in persons in Nepal. Among others, the following organizations were visited:
 - Ministry of Women, Children and Social Welfare
 - Ministry of Foreign Affairs
 - Ministry of Home Affairs

- Central Child Welfare Development Board
 - Department of Foreign Employment and Promotion
 - Department of Foreign Employment Promotion Board
 - Department of Immigration
 - *Balbalika Khojtalas Kendra Nepal*
 - Child Helpline - Nepal
 - Women and Children Service Directorate (WCSD), Police Headquarter
 - The Supreme Court and the Office of the Attorney General
 - ABC Nepal, ATWIN, CWIN, Maiti Nepal, NNAGT, Pourakhi, People's Rights Forum, SAATHI, Samanata, Shakti Samuha and WOREC.
3. **Consultation Meetings:** Five consultation meetings was held in Kathmandu intending to get feedback in the draft report with i) the Hon'ble Chairperson and Commissioners, NHRC, ii) NHRC staff iii) GOs and National Committee against Trafficking and iv) representatives of Inter-Agency Coordination Group (IACG) and v) representative of NGOs. Each of the consultations meeting provided credible feedback and new insights to improve the Report. The relevant feedback has been incorporated in the Report.
4. **Written Commitments:** OSRT-NHRC developed a format to understand the perception on trafficking, linkage between trafficking and foreign employment, challenges to combat trafficking, expected role of the OSRT-NHRC among the law makers, policy makers and human rights advocates. The format was sent to Hon'ble Ministers, Hon'ble members of Constituent Assembly, Chairperson of National Women Commission including the human rights defenders requesting them to provide the written commitments. The written commitments have been presented in Chapter 6 with analysis.
5. **Workshops:** A two-day workshop was conducted in Hetauda and Janakpur. In Hetauda, representatives of five districts, namely, Chitwan, Makawanpur, Parsa, Bara and Rautahat were present. In Janakpur, representing eight districts, namely, Udayapur, Saptari, Siraha, Mahottari, Dhanusa, Sarlahi, Sindhuli and Ramechhap were present. The participants in the workshops were from Women Development Officers (WDO), Nepal Police of Women and Children Service Center (WCSC), District Child Welfare Board (DCWB), District Education Office, District Attorney Offices, Journalists, NGOs, women groups (Appendix 1.1).

In each of the workshop, four sessions were conducted: opening session, presentation of the draft report to the participants by the National Rapporteur and the Consultant to get feedback, reporting of participants' individual organization about anti-trafficking activities and group work. In the opening session, the Chief Guests were Chief Justice of Hetauda Appellate Court in Hetauda and the Justice of Janakpur Appellate Court in Janakpur, respectively.

1.4 Organization of the Report

This Report is organized in 7 Chapters. **Chapter 1** outlines the purpose and methods of the study. **Chapter 2** reviews the situation of trafficking at the national and regional levels. **Chapter 3** discusses the linkage between foreign labor migration and trafficking. **Chapter 4** reviews the

anti-trafficking programs and activities carried out by Government, UN agencies, NGOs and INGOs in the FY 2007/08 and 2008/09. **Chapter 5** critically assesses the implementation status of HTT Act 2007, NPA against Trafficking of Women and Children for Sexual and Labor Exploitation. **Chapter 6** brings out the Commitments of individuals and institutions to combat trafficking and the **final Chapter** draws the conclusion of the Report, assesses to what extent recommendations forwarded by the National Reports of 2005 and 2006/07 have been fulfilled and purposes way forward in a consolidated matrix.



Situation of Trafficking in Persons

This Chapter critically brings the changing dynamics of the trafficking in persons and reviews the dimensions of trafficking and existing reporting status of trafficking in persons. Finally, it draws the emerging challenges in relation to situation of trafficking in persons.

2.1 Changing Dynamics of Trafficking

Trafficking in girls and women in Nepal for commercial sexual exploitation has a long history as suggested by antidotal evidences (Mathema, 2007). In recent years, an increasing number of persons including boys and men are being trafficked for multiple purposes. Internal and cross-border trafficking flows are increasingly reported – suggesting the changing dynamics of trafficking vis-à-vis changing socio-economic and polity in Nepal (Box 2.1).

During the Rana Regime (1847-1951), there are instances of internal trafficking of girls and women and cross-border trafficking initiated during Panchayat period (1960-1989), which continued to grow. Since the mid-1980s, growth of carpet, garment and *pasmina* industries was the major economic achievement in Nepal. These industries integrated the Nepal's economy into the world economy but the growth of these industries remained till the mid 1990s and started declining mainly due to the effect of conflict and political instability in the country.

The social consequence of growth of these industries was to increase tremendous rural to urban migration, especially women and children. The carpet industry alone employed more than 300,000 people with half constituting of children aged 5-16 years (CWIN, 1993). The poor working conditions and meager wages in these industries made the workers especially women and children vulnerability to further exploitation. A large number of children were enslaved within the factories as well as the industry became the transit center for trafficking in girls and boys to India.

Box 2.1 Changing dynamics of trafficking in Nepal

Period	Socio-economic context	Trafficking survivors	Forms of trafficking/ exploitation	Types of trafficking
During Rana Regime (1846-1950)	Feudal social structure	Girls and women (housemaids, concubines)	Servitude, slavery and sexual exploitation	Internal
Post Rana period and Panchayat Regime (1950-1990)	Multi-party but feudal social structure Party less political system	Girls and women who were servitude of Rana families Girls and women from the surrounding hills of the Kathmandu valley	Sex work	Cross-boarder (India)
Late 1980s-mid-1990s	Booming of carpet and garment industry Increase in rural-urban migration	Girls and women Boys Girls and women	Labor and sexual exploitation Labor exploitation Sex work	Internal Internal & cross border (India) Cross-border (India)
Mid-1990s >	Internal armed conflict, displacement Collapse of carpet, garment and <i>pashmina</i> industry	Children Adolescent girls and women	Labor and sexual exploitation Sex work	Internal (dance, bars, cabin restaurants, massage parlors) Cross-border (India)
2000>	Foreign labor migration Post conflict political instability and armed violence in Tarai region	Girls and women and men	Labor and sexual exploitation	Cross-border (Middle East, South East Asia and other developed countries)

Source: ONTR-NHRC, 2008.

Another broader process that increased the vulnerability of trafficking in girls and women is the heightened armed conflict between the Maoists and the State forces during 1996 and 2006. The conflict led to the mass displacement, abduction and killings, especially from the countryside. By 2005, the internally displaced persons were estimated to be in the range of 180,000 to 231,000 (Caritas Nepal, 2005), of which majority constituted of children and young people. They were forced to leave their villages due to the threats of coming into cross fire, abduction, arrest, torture, sexual assaults and fear of forced recruitment in armed group. As women and girls left their villages in search of security and livelihood, they became increasingly vulnerable of trafficking and exploitation because of the lack of skills, education and resources.

Even in the post-conflict situation, violation of civil, political, economic, social and cultural rights including rights to survival is noticeable as suggested by NHRC data that 1137 and 677 complaints were received by NHRC in the year of 2007/08 and 2008/09 (Table 2.1). Killings, disappearance/abduction, torture, threats, injury and displacement including violation of women's and children's rights are noticeable. The main perpetrators of human rights violation are the Maoists, state and other armed groups including the individuals. In addition to the violation of human rights, there are substantial number of complaints received in relation to violation of child rights and women rights. This situation leads to the vulnerability of trafficking in children and women.

Table 2.1 Complaints received in NHRC, FY 2007/08 and 2008/09

Complaint areas	July 2007-June 2008	July 2008-June 2009
1. Killings	249	73
2. Disappearance and abduction	254	112
3. Torture and inhuman activities	163	70
4. Biting	0	12
5. Threats	75	42
6. Abuse or harassment		32
7. Casualties in bomb blast	7	2
8. Displacement	53	40
9. Civil and political rights	8	17
10. Economic, social and cultural rights	36	38
11. Seizure of property	52	33
12. Children's rights	79	23
13. Women's rights	47	44
14. Jail/illegal imprisonment	17	28
15. Judicial administration	42	0
16. Prison related	7	0
17. Others	65	97
Total	1137	677

Another broader process that increased the vulnerability of trafficking in persons is the increase opportunity of foreign employment. After the turn of the Century, Nepalese economy has greatly integrated in the world labor market through supplying of laborers (Please refer to Chapter 3 for detail analysis).

2.2 Dimensions of Trafficking in Persons

Drawing on the preceding analysis and the recent study by Shakti Samuha among the trafficking survivors (Case 2.1), trafficking in persons in Nepal can be categorized into i) internal trafficking, ii) cross border trafficking (India) and iii) cross-border trafficking (excluding India) in terms of destination of trafficking. All of these types of trafficking in persons have three forms of trafficking i.e. trafficking for commercial sexual exploitation, labor exploitation and trafficking for entertainment and other purposes. Each type and form of trafficking has age and gender dimension. Children are victims of trafficking both internally as well as cross-border to India for sexual and labor exploitation and other purposes. Women are victims of trafficking in all three types of trafficking and for all purposes of trafficking especially for sexual exploitation.

Case 2.1 Situation of Trafficking: a Survey among the Trafficking Survivors

Shakti Samuha carried out a study among the trafficking survivors in 2008. A total of 463 trafficking survivors participated in the research process with 157 from Central Region, 88 from Eastern, 62 from Western, 77 from Midwestern, and 73 from Far Western. Survivors came from 50 districts. The participants even came from the Mountainous districts such as Jumla, Humla, Kalikot and Mugu which are known as districts free from human trafficking. Majority of research participants were of 23 to 30 age groups (27%).

Among the research participants, two-thirds were rescued or returned and 22% were intercepted in the process of trafficking. Nearly two-fifth were trafficked after 2003, 32% in between 1990 and 2003 and 28% in between 1950 to 1990.

One-third of the participants were trafficked at the age of 12 to 18 years; 26% at the age of 19 to 22 years and 15% in under 12s.

Fifty six per cent of the trafficked survivors were trafficked in different cities of India while 31% were trafficked to Gulf Countries and 12% within Nepal.

About 46 per cent spent 2 to 5 years in trafficked state.

Thirty two per cent of the trafficked survivors were trafficked for sexual exploitation, 27% for circus performance, 22% for domestic work and 19% for restaurant work, massage parlor, and factory labor.

Only 9% of the trafficking survivors interviewed filed the cases in the Police.

Source: adopted from Shakti Samuha, 2008

2.2.1 Cross-Border Trafficking of Girls and Women for Commercial Sexual Exploitation

It is difficult to analyze the magnitude and processes of trafficking more comprehensively and precisely due to the lack of scientific data. This lacking exists mainly for three reasons (ONRT, 2008a). First, there is no centralized database system for trafficking in persons. Second, there is inadequate coordination between and among actors within the country and third, it is difficult to generate scientific data due to social stigma attached to trafficking as majority of trafficking involves for sexual exploitation. This limitation should be borne in understanding the magnitude and processes of trafficking that follow.

Magnitude of Trafficking

Lack of national data on the magnitude of trafficking in persons can be agreed as a problem and makes us to rely on different sources. Different sources like newspapers, research based on a particular location and articles provide some estimates of number of girls and women trafficked

to Indian brothels (Table 2.2 and Case 2.3). These sources vary in their methodology adopted and their coverage and they do not largely cover the entire countries situation. In 1997, CWIN study revealed that there were about 160,000 girls and women trafficked for commercial sexual exploitation in different cities in India. In 2001, an ILO Rapid Assessment estimated 12,000 children under 18s are annually trafficked to India for commercial sexual exploitation (KC et. al., 2001). STOP provided an estimate of 5000-7000 girls and women trafficked for the purpose of sexual exploitation annually in India. In 2005, Asmita estimated far lower number of girls and women trafficked to different brothels in India. The study argued that the number of trafficked persons might have declined due to the increased awareness, strict laws and regulations, and proliferation of NGOs aiming to stop trafficking. In the FY 2008/09, the number of girls and women intercepted from different border points and rescued from India and Gulf countries comes out to be 3,500 as per the five leading NGOs (Maiti Nepal, ABC Nepal, WOREC, Shakti Samuha and Women Skill Center After). This figure may range 5,000 to 6,000 annually if all the data were available from other NGOs working to combat TIP.

Table 2.2 Estimates of trafficking in persons, Nepal

Source	Nature and extent of trafficking
CWIN, 1997	153,000 women and children trafficked to Indian brothels (20% of them below 16 years of age)
ILO-IPEC, 2001	12,000 children under aged 18s trafficked to India annually for commercial sexual exploitation
STOP/Maiti Nepal, 2002	5,000-11,000 women and girls trafficked annually for brothel based prostitution
STOP, 2002	5,000-7,000 girls and women trafficked to India annually for brothel based prostitution
Population Council, New Delhi, 2002	200,000 girls and women trafficked to India for sex industry
Asmita, 2005	22,600 girls and women trafficked from Nepal to Mumbai, Delhi, Kolkotta, Pune and other cities
Easter Benjamin Trust (EBT), 2007	600 children trafficked to India for circus performance
Directorate of WCSC, 2007	2,216 missing children from various regions in Nepal between July 2007 and June 2008
Directorate WCSC, 2007	3,258 missing women in Kathmandu valley between 1998 and 2007
Different NGOs*, 2008/09	3164 and 322 intercepted and rescued by different national level NGOs in FY 2008/09

Source: ONRT, 2008.

Note * ABC Nepal, Maiti Nepal, WOREC, Shakti Samuha and Women Skill Center.

Case 2.2 Suntoli trafficked for commercial sexual exploitation to India

Suntoli was sold in a brothel in Kolakatta, India.

She shared her story how she ran away the brothel. She said, 'It was an evening that there was nobody in the flat in which I was kept for a week. I took the rope and tied it in a rod inside the hole and catching the rope I came out.

As I escaped from there, one of the victims in the brothel suggested me not to go to nearby Police Station because the cops there are bribed by the brothel owner and whoever goes for rescue in the police station they are brought back to the brothel. So, I decided not to go there and started running the whole night through jungle and farmlands. The next day, I reached to Nandkumar Police Station and asked them for help. But nobody understood me. Fortunately I found a Nepali man working in the nearby furniture shop. He told me not to argue with the police officers and took me to his rented flat. He treated me very well and he took me to Kolakatta Nepal Consulate office. Later with the initiation ABC Nepal I was brought to Nepal. I have filed the case against the culprit in the court.

Source: summarized the case obtained from ABC Nepal, 2008

Number of Trafficking Crimes in the Directorate of Women and Children Service Center (WCSC), Nepal Police

The five-year average number of trafficking cases registered in the Nepal Police for the period of FY 2004/05 to FY 2008/09 is 109 with five-year average number of 140 survivors (Table 2.3). This suggests that the overall number of trafficking cases over the years is far lower as the extent of the problem reported in the media and other places. This is also corroborated due to the fact that only 91 per cent of the 463 trafficking survivors interviewed by Shakti Samuha (2008) did not file complaint against traffickers because of lack of awareness about filing complaints, fear of social stigma, threatening from criminal and fear of family hatred and lack of proof.

Yet the data reveal that the number of trafficking cases and number of survivors registered in the Directorate of WCSC have been increasing over the years, and among the trafficking survivors, children under or equal to 16 years constitutes for more than one-thirds.

Table 2.3 Distribution of trafficking cases and trafficking survivors over the years

Fiscal year	Number of trafficking cases	Number of trafficking survivors			Per cent of trafficking survivors		
		<=16 years	>16 years	Total	<=16 years	>16 years	Total
2004/05	72	29	66	95	30.5	69.5	100.0
2005/06	97	43	74	117	36.8	63.2	100.0
2006/07	112	50	97	147	34.0	66.0	100.0
2007/08	123	35	110	145	24.1	75.9	100.0
2008/09	139	87	110	197	44.2	55.8	100.0
5-year average number	109	49	91	140	34.8	65.2	100.0

Source: data obtained from the Directorate of WCSC, Nepal Police, and Kathmandu

Table 2.4 shows the distribution of trafficking cases recorded in the FY 2008/09 in Directorate of WCSC by development regions and districts. A total of 139 trafficking cases were filed in the WCSC from 36 districts. Among the trafficking cases, the highest number was registered in eastern and central development regions, followed by west, mid-west and far-west development regions. In the eastern region, out of 19 districts, trafficking cases were filed in 9 districts.

Table 2.4 Number of trafficking cases in the FY 2008/09

Development region	District in which trafficking cases registered	Total No. of districts	Number of trafficking cases	%
Eastern	Illam (1), Jhapa (6), Morang (3), Sunsari (16), Terhthum (2), Bhojpur (1), Saptari (1), Siraha (2) and Udayapur (1)	9 out of 16	33	23.7
Central	Sarlahi (2), Sindhuli (1), Ramechhap (2), Rautahat (5), Bara (5), Parsa (5), Makawanpur (2), Chitawan (5), Nuwakot (6), Sindhupalchowk (1)	10 out of 19	34	23.7
West	Kaski (6), Sanjya (1), Tanahu (2), Rupandehi (4), Nawalparasi (5), Kapilbastu (3) and Palpa (3)	7 out of 16	24	18.0
Mid-west	Jajarkot (1), Banke (11), Surkhet (3), Bardiya (4) and Dang (2)	5 out of 15	21	15.8
Far-west	Kailali (5), Baitadi (1) and Kanchanpur (5)	3 out of 9	11	7.9
Kathmandu valley	Kathmandu (15), Lalitpur (1)	2 out of 3	16	10.8
Total		36 out of 75	139	100.0

Source: data obtained from Directorate of WCSC, Kathmandu

Note: figures in the parentheses refer to the number of trafficking cases in the corresponding district.

Number of Trafficking Crime Cases in the Courts

Number of trafficking cases registered in the courts in Nepal as presented in Table 2.5 for the period of 5-year of FY 2003/04 to FY 2007/08 reveals that a far lower number of trafficking cases are registered in the courts than that of thousands of cases believed to be. The overall 5-year average number of trafficking cases (FY 2003/04 – FY 2007/08) in all layers of courts comes out to be 410 with 111 for the Supreme Court, 87 for the Appellate courts and 212 for the district courts. However, data reveal that the number of trafficking cases registered in the courts has increased from 347 in FY 2003/04 to 447 in 2007/08 - an increase by about 29 percentage points during the five year period.

Table 2.5 Number of trafficking cases registered in the courts of Nepal

Year	The Supreme Court	Appellate Courts	District courts	Total	Index Year 2003/04 = 100.0
2003/04	131	43	173	347	100.0
2004/05	117	73	203	393	113.3
2005/06	102	94	183	379	109.2
2006/07	112	129	245	486	140.1
2007/08	93	97	257	447	128.8
5-year average number	111	87	212	410	

Source: Annual Reports of the Attorney General's Office, Nepal (2003/04 (060/61 BS); 2004/05 (061/62 BS); 2005/06 (062/63 BS); 2006/07 (063/64 BS) and 2007/08 (064/65 BS).

Processes of Trafficking

Both male and female are the victims of trafficking as evidence from data of Directorate of WCSC (Table 2.6). More than 80 per cent are females and a substantial proportion of trafficking victims constitutes children under 17s. In FY 2007/08, of the total trafficking survivors, nearly one-fourth were children under 17s and the comparable figure was 44 per cent in the FY 2008/09. Yet almost half the trafficking survivors constitutes in the age range of 17-25 years.

Table 2.6 Number of trafficking survivors in the FY 2007/08 and 2008/09

Characteristics	FY 2007/08				FY 2008/09			
	Female	Male	Total	% of total	Female	Male	Total	% of total
Age groups								
< 17	31	4	35	24.1	81	6	87	44.2
17-25	63	9	72	49.7	85	8	93	47.2
26-35	21	4	25	17.2	50	7	57	28.9
36 and above	5	8	13	9.0	4	3	7	3.6
Education								
Illiterate	25	1	26	17.9	5	0	5	2.5
Literate	73	21	94	64.8	161	15	176	89.3
Secondary	18	2	20	13.8	7	2	9	4.6
SLC and above	4	1	5	3.5	6	1	7	3.5
Occupation								
Agriculture	70	14	84	57.9	148	15	163	82.7
Service	6	3	9	6.2	1	0	1	0.5
Business	1	4	5	3.4	2	0	2	1.0
Wage labor	23	1	24	16.6	22	2	24	12.2
Study	20	3	23	15.9	6	1	7	3.6
Marital status								
Married	41	12	53	36.6	37	11	48	24.4
Unmarried	79	13	92	63.4	142	7	149	75.6
Social groups								
Brahman	8	3	11	7.6				
Chhetri	13	6	19	13.1				
Others	87	14	101	69.7				
Dalits	12	2	14	9.7				
Development Region								
Eastern					38	6	44	22.3
Central					45	3	48	24.4
West					39	3	42	21.3
Mid-west					32	4	36	18.3
Far-west					9	2	11	5.6
Kathmandu valley					16	0	16	8.1
Total	120	25	145	100.0	179	18	197	100.0
Row %	82.8	17.2			90.9	9.1		

Source: data obtained from Directorate of WCSC, Kathmandu in 2009.

An overwhelming majority of trafficking survivors are literate only (65% and 89% in the FY 2007/08 and 2008/09 respectively) and there are cases of trafficking survivors from secondary or SLC or higher educational level – indicating that victims of trafficking can be an educated person. Majority of trafficking survivors came from agricultural occupation while others were engaged in wage laborers, service, business and students. Both married and unmarried were the victims of trafficking but more than two

thirds are unmarried persons. Trafficking cross across the caste/ethnic groups as Brahman, Chhetri including Janjati, Dalit, Madheshi all are the victims of trafficking.

The characteristics of trafficking survivors can also be examined drawing on the study of WOREC (2008) on situation of violence against women in Nepal based on data generated in the FY 2007/08. Of the total 742 cases of violence against women recorded in WOREC office, 1.1 per cent or 8 cases were trafficking survivors¹. The age of the trafficking survivors ranges from 14 to 35 years and there are two girls under 16s. Majority of trafficking survivors are Janjati, followed by Dalits including others (Brahman/Chhetri). It is also evident that married women are also the victims of trafficking. Half the trafficking survivors are illiterate. In terms of occupation, majority of trafficking survivors were engaged in wage laborer non-agricultural sector. Seven in 8 trafficking survivors have mental consequence of trafficking.

Data also show some indication of means used to lure the girls and women, purpose of trafficking and types trafficking in Nepal (Table 2.7). Threats or coercion constitute the major means of trafficking (45%), followed by false promises, luring including using drugs, false marriage and false visits. Generally, three types of trafficking have been reported involving cross-border (India), cross-border (excluding India) and internal trafficking. Majority of the trafficking victims were categorized as 'non-stated category'. Data reveal that trafficking takes place for different purposes like for prostitution, labor exploitation and organ transplantation but extent of the trafficking is not known because of the majority of cases stated as 'not stated category'.

Table 2.7 Distribution of trafficking survivors by means/types/purpose of trafficking in FY 2008/09

Category	Number	Percent
Means of trafficking		
Using of drugs	9	4.6
False promises	48	24.4
False marriage	2	1.0
False visits	1	0.5
In the name of relative visit	1	0.5
Luring	47	23.9
Threats or coercion	89	45.2
Types of trafficking		
Internal	15	7.6
Cross-border (India)	76	38.6
Third country (excluding India)	2	1.0
Not stated	104	52.8
Purpose of trafficking		
Prostitution	55	27.9
Labor exploitation	3	1.5
Organ transplantation	1	0.5
Forced marriage	0	0.0
Not stated	138	70.1
Total	197	100.0

Source: data obtained from the Directorate of WCSC, Kathmandu

¹ Other cases were of domestic violence (58.5%), followed by social violence (22.5%), rape (11%), murder/attempted murder (3.5%), sexual violence (1.5%) and others (1.8%) and trafficking (1.1%).

Characteristics of the Accused Persons

Data of Directorate of WCSC can also be used to understand the characteristics of accused persons for trafficking in persons (Table 2.8). A total of 170 and 201 persons were accused of trafficking in persons in the FY 2007/08 and FY 2008/09 respectively. Both years' data reveal that more than two-thirds of the accused persons are males and nearly one-thirds are females. Majority of accused persons falls in the age range of 26-35 but there are also few children as accused persons. This holds in the both fiscal years.

An overwhelming majority of accused persons comes from just literate category and majority of them are engaged in agriculture including in diverse non-agricultural occupations like service, business and wage labor including the students. Accused persons come from across the caste/ethnic groups despite an overwhelming come from non-Brahman/Chhetri and Non-Dalits. According to the development regions, the highest proportion of the accused persons come from eastern, followed by central, west and other development regions.

Table 2.8 Number of trafficking accused persons in the FY 2007/08 and 2008/09

Characteristics	FY 2007/08				FY 2008/09			
	Female	Male	Total	% of total	Female	Male	Total	% of total
Age groups								
13-16	0	0	0	0.0	1	2	3	1.5
17-25	8	26	34	20.0	47	20	67	33.3
26-35	33	58	91	53.5	51	21	72	35.8
36 and above	15	30	45	26.5	44	15	59	29.4
Education								
Illiterate	4	11	15	8.8	0	2	2	1.0
Literate	36	89	125	73.5	126	55	181	90.0
Secondary	13	8	21	12.4	8	1	9	4.5
SLC and above	3	6	9	5.3	9	0	9	4.5
Occupation								
Agriculture	25	54	79	46.5	105	43	148	73.6
Service	8	14	22	12.9	5	0	5	2.5
Business	12	23	35	20.6	3	3	6	3.0
Wage labor	10	21	31	18.2	27	11	38	18.9
Study	1	2	3	1.8	3	1	4	2.0
Social groups								
Brahman/Chhetri	11	25	36	21.2				
Others	43	79	122	71.8				
Dalits	2	10	12	7.1				
Development Region								
Eastern					35	11	46	22.9
Central					32	9	41	20.4
West					26	15	41	20.4
Mid-west					20	12	32	15.9
Far-west					13	3	16	8.0
Kathmandu valley					17	8	25	12.4
Total	56	114	170	100.0	143	58	201	100.0
Row %	32.9	67.1	100.0		28.9	71.1	100.0	

Source: data received from the Directorate of WCSC, Kathmandu, 2009.

2.2.2 Cross-Border Trafficking of Children for Circus Performance

Trafficking in children especially of girls for circus performance in India has been widely known from some of the central hill and Tarai districts in Nepal. Esther Benjamin Trust (EBT) estimated that there are about 200 to 300 children trafficked to Indian circus. Another estimate provided by Women Skill Creation Center – a local NGO in Makawanpur district – revealed that there are more than 700 children who are trafficked for circus performance for the last five years from Basamadi, Churiyamai, Hadikhola Village Development Committees (VDCs) and Hetauda Municipality alone. Of the total 69 child trafficking survivors interviewed in these four VDCs and one Municipality, 55 per cent were trafficked for the purpose of circus performance and remaining trafficked to for work in merchants, stone quarrying, hotels and restaurant and domestic work.

Analyzing 233 children rescued in between 2004 and 2007 by EBT, trafficking for circus performance takes place when children are very young (almost 90% are trafficked by 12s); it mainly affects girls over boys (93% girls vs. 7% boys); it originates mainly from the poverty stricken area and it overwhelming engulfs the socially disadvantaged groups (80% for Janjati, 12% for Dalit vs. 7% for Chhetri/Brahmans).

Trafficking in children for circus performance initiates from the parents' consents or by the false promises offered to parents by the middle person (Case 2.3). Parents take advance or loan from the middle person, and they also know that their children are working in a circus but they do not know where it is. Initially, girls have to work for five years in the circus and during this period, they are not allowed to come out from the circus. Neither they can visit their parents nor do their parents. These children are reported to perform different plays. Plays are so dangerous that if one commits any wrong during the performance, he/she can run the risk of being injured and sometimes would also die. The children are often scolded, tortured and made enslaved. They are paid little according to their volume of work (CWIN, 2006).

Case 2.3 Geeta trafficked at her 12 with the parent consent in circus performance

Geeta, 29, from Kavre district, was trafficked to a circus in India when she was 12s. She was trafficked by an agent with the consent of her parents. She worked about 13 years in Kohinoor circus in India. Initially, she received Rs. 50 monthly and later she was promised to pay Rs. 1,200 monthly. But she did not receive the money herself. The broker received her salary and provided little to Geeta. During her 13 years in the circus, there was no contact with her family in Nepal. In February 2009, her senior Nepali circus girl came in Nepal and informed about Geeta's situation to her parents. With the help of her brother and a social organization, she was rescued from the circus with her total earning of Rs. 38,000. Now-a-days, Geeta is staying with her brother in Hetauda.

Source: summarized the case from Women Skill Creation Center, Hetauda, 2009

2.2.3 Internal Trafficking of Girls and Women in the Entertainment Industry: the Cabin and Dohori Restaurants, Dance Bars and Massage Parlors

The business of cabin and *Dohori* restaurants, dance bars and massage parlors has emerged as a lucrative business and as an entertainment hub exclusive for males where women and girls are forced to fulfill the fantasies of their clients including sex. As early as 2009, there are an estimated 1,000 to 1,200 cabin restaurants, 150-180 dance bars, more than 200 massage

parlors (in Thamel, Kathmandu) and approximately 50 *Dohori* restaurants in Kathmandu valley only (Terres des hommes, 2009). The majority of cabin restaurants are small establishments often closed to the outside, and the cabin restaurants provide the services for customers with privacy in which they entertain with waitress. Entertainment may range from simply conversation to kissing and touching, to masturbation or oral sex. *Dohori* establishments are venues in which customers are entertained by Nepali music and dance while consuming food and alcoholic beverages. Although sex does not usually take place in *Dohori*, customers may make arrangements with waitresses to meet for sex after their working hours. Dance bars provide customers with the entertainment of girls and women dancing with scanty apparel or nude in Hollywood or Bollywood music and songs. Massage parlors provide ‘traditional health services’ and majority of them also provide services of masturbation, oral sex or intercourse.

This business is mainly located in Kathmandu, other urban areas including the headway of the main Highways. The inflow of women and girls in this business is mainly contributed by the openness and casualness of the local sex industry; the collapse of the carpet, garment and *pashmina* industries in Nepal; massive displacement of young rural people during armed conflict during 1996-2006; an increase in the consumerism culture and rapidly changing social norms among young people (Terre des homes, 2009 and Subedi, 2009).

The magnitude of girls and women in this entertainment industry varies from one study to another. According to Nepal Police, there are about 20,000 to 25,000 girls and women engaged in commercial sex work illegally in about 500 dances, bar, cabin restaurants, message parlors alone in Kathmandu valley. Terre des hommes (2009) estimated a total of 11,000 to 13,000 girls and women working in this industry while MoWCSW (2008) estimated it to be 30,000 to 40,000. The earlier studies such as New Era (2003) and CREPA (2002) showed 4,000 to 5,000 and 2,000 to 3,000 sex workers alone in Kathmandu valley respectively (Table 2.9).

Table 2.9 Estimates of female workers in entertainment industry

Source	Nature and extent of female workers in the entertainment industry
Ramesh Prasad Kharel, DSP and Chief of Kathmandu Municipality Police Gorkhapatra, May 13, 2010	20,000 – 25, 000 women including girls in the age range of 13 to 15 are involved in commercial sex work alone in Kathmandu valley There are about 500 places in Kathmandu valley – dance, bars, cabin massage parlors from which commercial sex work is conducted
Terre des hommes, 2009	6,000 to 7,000 women and girls working in cabin restaurants 3,400 to 4,000 in women and girls dance bars 900 to 1,100 in women and girls <i>Dohori</i> restaurants 750 to 850 in women and girls massage parlors 3,500 to 4,000 children in sex work (can be considered as survivors of trafficking as per HTT Act 2007)
MoWCSW, 2008	30,000 to 40,000 female workers in cabin, dance and massage parlors in Kathmandu valley
New Era, 2003	4,000 to 5,000 sex workers in the Kathmandu valley including street sex workers
CREHPA, 2002	2,000 to 3,000 women and girls in the entertainment industry

Who are these workers? According to study of Shakti Samuha (2008a)², one-third of the workers were under 18s, one-fifth were illiterates and more than half (53%) had had less than SLC level education; 56 per cent were never married; 28 per cent were from the family with no parents. According to Terre des hommes (2009), approximately one child for every three entertainment workers in Kathmandu valley or 3,500 to 5,000 children are sex workers in this entertainment industry.

Linkage of Entertainment Industry with Trafficking

Majority of female workers are at high risk of sexual abuse, harassment, forced prostitution, rape (single or group) in the entertainment industry although not all workers are sex workers in this industry. On the same token, neither all sex workers are the survivors of trafficking.

Studies indicate that one third to nearly half entered the sex industry as children (Shakti Samuha, 2008a and Terre des hommes, 2009). According to HTT Act 2007, all children who are brought into commercial sexual exploitation are considered as survivors of trafficking and adults who end up in sex industry with fraud, deception, coercion or enticement or allurements are also the trafficking survivors. However, adults who enter the sex industry willingly or knowingly are not the survivors of trafficking. Studies also indicate that sometimes female workers in this industry is not allowed to leave the work until they replace another girl or woman, they are also forced into indebtedness. Further, dance bars, cabin restaurants, *Dohori* and massage parlors are the sites of local recruiting agents as well as international traffickers. Thus, the industry is both the destination of internal trafficking and transit point for trafficking of girls and women for sexual exploitation to other countries particularly to Gulf States and Hong Kong. In terms of destination of internal trafficking, Shakti Samuha (2008a) study indicated that although many of girls end up in the job through their peer influence including boyfriends (67%), there are indications that these girls are lured by agents/brokers by promising the good salary and provision of lunch facility. The main criterion for the recruitment in this entertainment industry is not the working skill, but rather beauty, age and marital status. Similarly, according to MoWCSW (2008) study, more than half of the female workers have been approached by the pimps with an assurance of providing better jobs in countries like Hong Kong, Saudi Arab and Dubai.

Working Conditions of Girls and Women in the Entertainment Industry

The working condition of the girls and women is miserable, inhumane and unhealthy. Of the 300 girls and women working in the Entertainment Industry interviewed by Shakti Samuha (2008a), 28 per cent is to satisfy the customers, 82 per cent are forced to do the 'additional work' like sexual entertainment; 78 per cent experienced different forms of sexual abuse or harassment and an overwhelming majority is sexually abused by the clients, owners including the male coworkers (Table 2.10).

In terms of working hours, more than three-fourth are forced to do work more than the Nepali standard working hours daily; 96 per cent involved in the overtime work not paid and more than two-thirds earn salary less than US \$ 40.0 monthly – a salary which is even not adequate to pay the house rent in Kathmandu. Thus, the girls and women are forced to engage in sexual business to earn a good living.

² The study was carried out in 120 cabin and dance restaurants and massage parlors in Kathmandu valley by interviewing 300 female workers.

Table 2.10 Situation of working girls and women in cabin/dance restaurants, *Dohori* and massage parlors Kathmandu valley, 2008

Categories	Per cent
Sexual harassment, abuse and violence	
% of girls whose daily duty is to provide the customer's companion	28.0
% of girls who are forced to do the additional work (sit with customer in cabin, have sex and sexual entertainment with the client)	81.9
% of girls experienced sexual harassment during work	78.0
% of girls reporting sexual harassment by the client among those who experienced the sexual violence	93.6
% of girls treated not respectfully (insulting or evil or sexually harassing) by the owner	48.0
% of girls treated not respectfully (sexual harassment, insulting, like commodity) by the clients	95.0
% of girls treated not friendly by the male coworkers	47.0
% of girls forced to adopt bad habits (drinking, smoking, sex and others)	35.7
Working hours and remuneration	
% of workers with more than 8 working hours	76.0
% of girls required to work overtime	61.0
% of girls who do not get overtime remuneration	96.0
% of girls who have monthly salary of less than Rs. 2,500 (US \$ 40)	67.7
Total number of women and girls interviewed	300

Source: summarized from study of Shakti Samuha, 2008a.

Further, the dignity, honor and respect of these working girls and women are grossly violated. Almost one-half are treated vulgarly by the owners, almost all by the clients and even the male coworkers use the degrading words and abuse them. Nearly 36 per cent of the girls and women are forced to either drink alcohol, smoke, or have sex without condom. Another study by CWIN Nepal (2006) indicates that these girls and women's lives have been at stake due to the false marriage, illegal cohabitation and intercourse without using condom, forced to drink alcohol or use smoking. These workers are denied from the rights to work in the safer environment, particularly from rights of sexuality and control over their bodies and they are ostracized.

Several consequences of sex work have been reported (Terre des hommes (2009). The major impacts include: risk of trafficking, sexual exploitation, psychological malaise, social stigmatized, sexual harassment, forced prostitution, rape and harassment, arrest and abuse by police. In term of psychological and mental impact, of the 63 sex workers who were provided counseling by Terre des hommes during December 2008 to October 2009, half fear from family and community. Other psychological impacts include: feeling humiliation, worried, confusion, anxiety, low self-esteem, sadness, depression, restlessness, frustration, insomnia and aggression. Other problems these workers face include sexual harassment like lascivious stares, sexual comments, groping the body, unwanted kissing, and pressuring the girls or women to provide sex. Forced prostitution is another impact on the working girls and women in this industry. Studies indicate that about half to three quarters of female workers are forced to do additional duties – sex with the customers either inside a cabin or at a guest house. Rape is another impact of female workers in this industry. According to a New Era (2006) study, nearly one third of establishment based sex workers (not including the street sex workers) in the Kathmandu

valley reported being raped in the previous year (cited in Terre des hommes, 2009). Rape can be single or gang rape. Gang rape may be committed after agreeing for sexual service with an individual. These workers also face harassment, arrest and abuse by Police and everyday security both in the working place and out – returning from work late at night both from Police and from men and street boys who threaten them, steal their money or mobile phones or beat them.

Legal Measures to Protect the Female Workers in the Entertainment Industry

The Supreme Court has issued *Guideline for the Control of Sexual Exploitation among Female Workers in Dance and Bar Restaurants and the Like Business, 2065 (2008)*, aiming to regulate the work at restaurant and massage parlors and protect the rights of girls and women working there. The silent features of the Guideline are the following:

- The Guideline shall be enforceable until the Parliament or Constitutional Assembly does not formulate Law related to regulate the business in dance, bar and the like businesses in the country.
- The Guideline makes the mandatory provision to register the business in CDO offices and submit the details of workers (females and females) working in the business to Police and CDO office.
- Operation of the business shall not disturb the neighbors through sound pollution, noises and any other ways.
- The working place shall be safe, non-hazardous.
- The Guideline protects the female workers from work at night and safe transport from working place to the living place at night.
- Business holders shall publish ‘Things Cannot be Done’ – in its notice board by the clients.
- The Guideline outlaws any form of abuses to working females: sexual abuse, sexual exploitation and other forms of discrimination.
- The Guideline outlines the duties and responsibilities of the business holders and the clients to protect the rights of the female workers by outlawing any acts that impedes the dignity of the female workers.
- The Guideline makes the provision of complaint handling by the Police or by the Committee and prosecution to the accused and close-down of the business if the provisions and measures stated in the Guideline are violated.
- The Guideline provisions to establish a three members District Monitoring and Prosecution Committee with the chair of CDO and District Police Chief and WDO (or LDO were WDO is not available) as members to monitor and supervise regularly the cabin, dance restaurants and the like business.

2.2.4 Missing Women and Children and Trafficking

There is common tendency to category missing persons as ‘missing women’ or ‘missing children’ and there have been little efforts to establish linkage between missing persons and trafficking. In reality, majority of missing cases fall under trafficking (Nair and Sen, 2005, ONRT, 2008). This Report attempted to analyze the missing women and children based on data received from WCSC and National Center for Children at Risk (NCCR).

Magnitude of Missing Women

One of the indicators of trafficking is the missing number of women reported in WCSC (Table 2.11). The average annual number of missing women for the period of FY 1998/99 to FY 2006/07 was 465. Overall, the percentage of women missing increased by 10 percentage points during the period. More than 6 in 10 missing women are untraced (women remain missing out of the total missing women). Moreover, the proportion of untraced women has been increasing from 61 per cent in FY 1998/99, to 74.5 per cent in FY 2003/04 and to 84 per cent in FY 2006/07. Majority of missing women are likely to be trafficked for the purpose of sexual exploitation.

Table 2.11 Number of women reporting missing, Kathmandu Valley

Year	No. of women reported missing	No. of women continue to remain missing	Untraced rate
1998/99	440	268	60.9
1999/2000	555	400	72.1
2000/01	541	352	65.1
2003/04	396	295	74.5
2004/05	405	276	68.1
2005/06	436	314	77.5
2006/07	485	368	84.4
Yearly average	465	325	
%change] (1998/99-2006/07)	+10.2	+ 37.3	

Source: data received from WCSC, Valley Police, and Kathmandu

Magnitude of Missing Children

Table 2.12 presents the data on the total number of children under 18s reported missing by regions in the years FY 2007/08 (for six months) and FY 2008/09 (one year) recorded in NCCR. The major sources of complaints of missing children registered in NCCR in the FY 2008/09 are the Nepal Police (82% of the missing children cases), Helpline No. 104 (12%), individual application (4%) and through different organizations (2%).

The reported number of missing children in the FY 2007/08 and FY 2008/09 were 1,355 and 2,216 respectively. Analyzing the data, the following inferences can be made. First, a large number of children continued to be missing in Nepal. Second, the reported number of missing boys outnumbers girls. This may be due to the fact that numbers of missing girls are underreported either in Police or in the concerned organizations. Third, the untraced rate has increased from 36 per cent in FY 2007/08 to 41 per cent in FY 2008/09 – revealing the fact that vulnerability of trafficking in children has increased. Fourth, among the five development regions, the highest proportion is from central development region, especially in the Kathmandu valley for the both years (76% in the FY 2006/07 and 67% in the FY 2008/09).

Table 2.12 Percentage distribution of missing children by regions and sex

Regions	Dec 2007-June 2008				July 2008-June 2009			
	Boys	Girls	Total	Untraced rate	Boys	Girls	Total	Untraced rate
Eastern	14.3	13.1	12.2	31.7	2.6	6.0	4.1	91.2
Central	65.0	71.5	76.0	15.0	78.2	65.3	67.6	
Western	7.6	5.3	3.7	11.2	7.2	12.2	9.3	80.2
Mid-western	7.4	5.9	4.9	14.4	8.0	10.4	9.0	96.0
Far-western	5.8	4.2	3.1	11.2	4.1	6.0	4.9	97.2
Total	100.0 (59.1)	100.0 (40.9)	100.0	36.0	100.0 (56.7)	100.0 (43.3)	100.0	41.1
No. of missing children	801	554	1355		1257	959	2216	

Source: Annual Reports of NCCR, 2007/08 and 2008/09

Missing children come from all age groups including very tender age (Table 2.13). The vulnerability of exploitation of the missing children depends upon their age and sex. Girls are much vulnerable to be sexually exploited and prone to be trafficking for commercial sexual exploitation while for boys, trafficking mainly takes place for labor exploitation. In terms of age, younger children face difficulty both because of their low mental and physical maturity.

Table 2.13 Percentage distribution of missing children by age and sex

Age group	Dec 2007-June 2008			July 2008-June 2009		
	Boys	Girls	Total	Boys	Girls	Total
0-7	21.0	14.6	18.2	16.0	14.6	15.4
8-10	15.6	9.7	13.1	20.0	28.3	23.4
11-13	32.7	23.3	28.6	20.6	19.7	20.2
14-16	24.9	35.3	29.4	25.1	19.9	23.0
17-18	5.9	17.1	10.7	18.4	17.5	18.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
No. of children	801	554	1355	1257	959	2216

Source: Annual Reports of NCCR, 2007/08 and 2008/09

2.2.5 Internal Trafficking of Children (Boys) from Humla District

A research based study carried out by *Nepal Weekly* in late 2006 exposed the fact that a large number of children are being trafficked from Humla - a mid-western mountain district in Nepal. The report stated that about 1,000 children's parents are unknown about the situation of their children. These children are trafficked giving false promises of providing good education in Kathmandu and Nepalgunj. The trafficking racket collected about Rs. 10,000 for each child from the parents and also collected money from the 'rehabilitation center' where children are handed over. Some of these centers work as a transit center for international adoption of children.

According to the progress report of CCWB 2008, the CCWB in partnership with the Nepal Police and NGOs rescued 22 children from a 'Rehabilitation Center', Thankot, Kathmandu in June 2007. These children were sheltered in inhumane condition: lack of food, no admission in school, congested and un-sanitary state including affected by malnutrition. All children were boys in the age range of 5 to 11 years. Of the 22 children, 14 were under 10s. Of them the total

rescued children, 17 were reintegrated with their families, three referred to CWIN rehabilitation center and two to Child Homes on the recommendation of the District Child Welfare Board.

2.2.6 Sexual Violence against Children

The CCWB collected data on the number of events of sexual violence against children, number of survivors and number of cases filed in the courts from its Monitoring of the Child Rights Indicator Forms from 53 districts in the Nepali in FY 2007/08 (Table 2.14). Accordingly, a total of 112 numbers of events of sexual violence were reported with 640 numbers of victims. An overwhelming majority of them were girls. The highest numbers of survivors reported in Kailali (347) and Nawalparasi (210) districts. Other districts in which number of events of sexual violence reported were Bajura (16), Chitawan (14), Sindhupalchowk (11), Palpa (9), Banke (9), Bhaktapur (9), Udayapur (8) and other districts (7). Data also reveal that 74 cases of crime against children were filed in the district courts like Nawalparasi (13), Chitawan (11), Udayapur (6), Sindhupalchowk (9), Banke (2), Bardiya (7), Rupandehi (2), Kaski (6), Lamjung (6) and other districts (28). Of the total cases filed in the courts, 19 cases were decided. Note that although the number of sexual violence events filed in the courts is substantial compared to the total number of events reported (103/112), the number of survivors potentially being provided legal justice is far lower compared to the total number of survivors (109/640).

Table 2.14 Distribution of number of events of sexual violence against children, 2007/08

Categories	No. of events	Number of victims			No. of cases filed in the courts	
		Total	Girls	Boys	In the courts	Decided
Number events and victims	112	640	638	2		
Number of cases/victims registered in the courts	103	109	106	3	74	19

Source: CCWB, 2009, pp. 81-83.

2.2.7 Inter Country Adoption of Nepali Children and Trafficking

There is no study to understand the linkage between inter country adoption of Nepali children and TIP. However, several media reports and knowledgeable persons working in child protection claim that children are trafficked in the name of adoption. In consultation meeting with the GOs in Kathmandu, one of the staff of CCWB reported that many of the adoption cases of children end up as trafficking of children. Similar news can be read in many daily newspapers that some of the 'Child Homes' gave ads in daily newspapers and in electronic media in Kathmandu while the children in the 'Child Homes' are mostly from the remote areas with no access to the newspapers or electronic media. Thus, parents or relatives do not have access to such information and if the parents or relatives do not come to claim the child in the stipulated time, the child can be recommended for adoption.

According to the CCWB Annul Report of 2008/9, the number of children adopted in foreign country from 1993 to 2008 constituted of 2,234.

The GoN adopted 'Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien' in 2008 to regulate adoption of Nepali children and control for trafficking. Accordingly, orphan child and voluntary committed child who have stayed at least 90 days in a

child welfare home, orphanage children's organization can be granted for adoption to a foreigner. According to the provision, an orphan child is a foundling child found by the police or found in a hospital or a child whose father and mother are not traced or a child whose father and mother both are dead. The orphan child should be certified by the CDO. In admitting a voluntarily committed child, the child welfare home, orphanage or the Children's Organization shall have to keep the records of the documents showing the following matters:

- Name, age, identifying marks, birth registration certificate and recently taken photograph of the child,
- Name, address of child's father and mother and cause of commitment,
- If the father or mother or both have brought child for voluntary commitment, photocopy of their Nepali citizenship certificate,
- Where the guardian has brought the child for commitment, deed of the appointment of guardian and photocopy of his/her Nepali citizenship certificate.
- A recommendation made by the concerned local body disclosing the economic, social and cultural status of the father and mother of the child.

Before granting a child for adoption, several processes have to be done as:

- Send the records of the child to the Police Headquarter and the same information to be published in Gorkhapatra or a daily newspaper of national circulation
- The first publication shall be of 15 days and if nobody claimed for that child second publication of the same information with 10 days duration
- If nobody shall claim the child in Nepal Police, CDO or CCWB or DCWB, the orphan child can be recommended for adoption and forwarded to CCWB and MoWCSW.

2.2.8 Illegal Extraction of Human Kidney: Evidence from Kavre District

There have been media reports that trafficking of human organs has been taking place in Nepal. Chhid – Nepal, a NGO, have established empirically that there has been massive illegal extraction of kidney from Kave district in Nepal.

Chhid-Nepal conducted a survey among the victims of kidney extraction in Kavre district from May to July, 2009. It estimated that there are nearly 300 victims of kidney extraction in the district. Among them, there are about 100 victims alone in eight VDCs, namely, Hokse, Jamdi, Mahadevsthan, Anaihot, Baluwa, Panchakhal, Jaisethok and Patlekhola VDCs. In its survey, many victims did not show up because of the threats from the traffickers, shy, social prestige and fear of prosecution. The organization was able to collect the details information of 69 victims and provided food, clothes, medicine of Rs. 500,000 and Rs. 500 for each victim.

The detailed characteristics of the victims have been summarized in Table.... Among them, male accounts for 43 and female accounted for 26 persons. The victims come from all the major caste/ethnic groups in Kavre district. The highest proportions are Tamang, followed by Dalit and Brahman/Chhetri. There are also Newars, Danuwars and Sunuwars. The detailed data were collected from 11 VDCs and the highest proportion of victims are from Hokse VDC (43.5%), followed by Jamdi (13%), Panchakhal (12%) and Mahadevsthan (10%).

Table 2.15 Distribution of victims of illegal extraction of kidney, Kavre district, Nepal

Categories	Male	Female	Total	Per cent
Caste/ethnic groups				
Tamang	14	6	20	29.0
Dalit	11	8	19	27.5
Brahman/Chhetri	11	8	19	27.5
Newar	3	2	5	7.2
Danuwar	3	0	3	4.3
Sunuwar	0	1	1	1.4
Not stated	1	1	2	2.9
VDCs/Locations				
Hokse	18	12	30	43.5
Jymadi	6	3	9	13.0
Panchakhal	5	3	8	11.6
Mahadevsthan	7	0	7	10.1
Baluwa	2	4	6	8.7
Jaisethok	3	1	4	5.8
Lamidada	0	1	1	1.4
Meche	0	1	1	1.4
Anaikot	0	1	1	1.4
Kavre	1	0	1	1.4
Sipa	1	0	1	1.4
Age groups				
20-29	5	6	11	15.9
30-39	18	12	30	43.5
40-49	10	4	14	20.3
50 and above	3	2	5	7.2
Not stated	7	2	9	13.0
Marital status				
Married	40	26	66	95.7
Unmarried	3	0	3	4.3
Occupation				
Agriculture	24	21	45	65.2
Wage labor	7	2	9	13.0
Service	7	0	7	10.1
Sewing	3	1	4	5.8
Business	1	2	3	4.3
Driving	1	0	1	1.4
Literacy status				
Literate	11	9	20	29.0
Illiterate	32	17	49	71.0
Total	43	26	69	100.0

Source: Chhid-Nepal, data file (Survey conducted from May to July, 2009)

Data reveal that the victims were in the age range of 20 to 82 years. By broad age group, the highest numbers of victims are in the age range of 30-40. Overwhelming majority victims are married persons. In case of females, all the victims are married. The victims originate from different occupational groups: agriculture, wage laborers, sewing, business, service and driving. Almost two-thirds are engaged in agriculture and another 13 per cent are in wage labor. Data reveal that 71 per cent of the victims are illiterate.

2.2.9 Glimpses of Situation of Trafficking in Central Tarai Region: Evidence from Workshop

Participants of workshop held in Janakpur were requested to bring out the local situation of trafficking in their concerned districts. A guideline was provided to discuss the trafficking issues considering the magnitude, prone area/VDCs, most vulnerable caste/ethnic groups, most vulnerable gender and age groups, mode of transport used, means used to lure the survivors, nature of the criminal groups, purpose of trafficking, factor leading to trafficking, challenges in combating trafficking and suggestions to combat trafficking (Table 2.16).

Some of the key dynamics of trafficking in persons evolved from the workshop are the following:

- Data on trafficking in each district is not systematically collected or compiled, and thus, it is difficult to estimate the magnitude of trafficking in persons. As per the NPA on Trafficking, the major role of maintaining data on trafficking at the district level is of DC on trafficking but none of the DC has maintained such data.
- Trafficking takes place across the district but there are still pocket areas which are much prone to be trafficking in each district.
- Dalit, Janjati and marginalized groups are the most vulnerable groups while other groups are also the victims of trafficking.
- In addition to trafficking of women and children, trafficking of men especially in foreign employment is taking place.
- Most vulnerable age group for trafficking is the adolescent girls including young women who desired to go for foreign employment.
- Traffickers use different routes including unofficial border points, and some traffickers also use the truck to transport girls from one truck to another.
- Traffickers are relatives, neighbors to whom the survivors believe and it is reported that they are often well equipped with the recommendation letter either from the VDC or political parties – which makes it difficult to intercept the survivors.
- Trafficking takes place for multiple purposes such as sexual and labor exploitation, forced marriage and circus performance. In Dahnusa, participants raised the issue that one child was made bonded labor in Sitamadi, India and in Saptari participants reported that poor girls are married by providing advance to parents and brought to India, and they run the risk of selling to old men in Kanpur and other big cities.
- The root causes of trafficking are poverty, illiteracy, unemployment, gender discrimination and social exclusion including high aspiration of Nepali young people.
- The key challenges evolved from the workshop to combat trafficking include: open border, political protection of the traffickers, impunity, threats to survivors and witnesses, withdrawal of cases in between the process of police investigation or court proceeding due to threats, lack of awareness on safe migration, low priority placed on trafficking agenda by the governments and not effective enforcement of trafficking laws. Further, other challenges are related to implementation of anti-trafficking and safe migration programs by GOs and NGOs. In each district, an institutionalized coordination effort to combat trafficking among NGOs and GOs is lacking and much of the NGOs program focus on awareness programs without proper integration of livelihoods and welfare programs such as income generation, free health services to the trafficking survivors, education and skill development. If there is no alternative of livelihood, vulnerability of re-trafficking or re-victimization cannot be avoided.

Table 2.16 Summary of situation of trafficking in persons, central Tarai and two central hill districts

Parameters	Dhanusa	Mahottari	Ramechhap	Sarlahi
Magnitude	2 persons (one male and one female) in FY 2008/09	10 women and 5 men in FY 2007/08	One woman	Intercepted 19 persons in FY 2007/08
Prone areas/VDCs	Lakar, Balha Saghara, Singhyahi Maharana VDCs	Gausala, Gauribasha and north side of district	Ramechhap, Manthali, Bhatauli, Tilpung, Lakhanpur, Gaushawara, Banti, Chuchure	10-15 VDCs in west of district head quarter linked to highway
Most vulnerable ethnic groups	Dalits (Chhamar, Dom, Mushahar)	Dalits and Janjatis	Majhi, Tamang, Sarki, Sherpa and Sunuwar	Dalits, Janjati and others
Most vulnerable age group	5 to 16 years girls	10 to 25 years girls	10 to 22 years girls	5 to 45 years
Trafficking route	Jayanagar, Jatahi, Vitamod (India)	Vitamod, Samshi and Matihani	Sindhuli to Tarai and to India to Third countries	Gorakhkali, Tribhuvan Nagar, Phenahara, Madhuwan Gaoun, Sangrampur Bhadsar, Bahadurpur, Yanaha, Khutaunar and Balara
Mode of transport	Motor cycle, Bus and Railways	Bus and Rickshaw	Bus, truck and plan	Truck, Bus, Rickshaw, Tata-sumo
Means used to lure the survivors	Promises of employment, marriage, threats, coercion, stigmatized by using photo	Different promises	False marriage, promise of employment, help to borrow loan, give gifts	Threats, coercion, false marriage and promise of employment
Nature of the criminal group	Agents	Own relatives	Own relatives	Agents, those working at abroad
Purpose of trafficking	Sexual exploitation Labor exploitation Forced marriage	Sexual exploitation Labor exploitation Forced marriage	Sexual exploitation Labor exploitation Forced marriage	Sexual and labor exploitation Forced marriage and removal of organs
Factors leading to trafficking	Poverty, dysfunctional family, unemployment and illiteracy	Political pressure, Illiteracy, poverty, unemployment, weak law enforcement,	Lack of opportunity, unemployment, poverty and geographical difficulty, lack of awareness	Poverty Illiteracy Lack of public awareness
Challenges in combating trafficking	High aspiration, open border Police not effective and decisive Political pressure	Open border	Political pressure, lack of awareness, dependency Insecurity	Political pressure, threats, promises of money Withdrawal of cases due to threats
Suggestion to address the problem	Strike law enforcement Regulate border Increase awareness	Increase employment Compulsory education Information Booth	Increase employment Economic empowerment Effective enforcement of laws	Increase public awareness Incorporate trafficking issues in school curriculum

Contd. Table 2.16

Parameters	Sindhuli	Siraha	Udayapur
Magnitude	9 persons in FY 2008/09	15 persons in FY 2008/09	21 persons (including 13 children) intercepted in FY 2008/09
Prone areas/VDCs	Kapilakot, Sithauli, Beldhari, Kamala Municipality	VDCs in the north side and VDCs of border area of the district	Rampur, Katari, Tribeni, Risku, Balmata, Murkahi, Rauwa, Panchawali, Odale
Most vulnerable ethnic groups	Magar, Tamang and Dalit	Dalits and marginalized groups	Dalit, Janjati and others
Most vulnerable age group	14 to 18 years and 25 to 31 years	10 to 35 years	8 to 40 years
Trafficking route	Bardibash	Marar, Jayanagar, Bariyarpatti and Thadi	Rampur Thokashila, Mainamaini (Chatara), Tribhuvan Municipality (Jaljale, Lalpatta)
Mode of transport	Bus and truck	Bus, Rickshaw and on foot	Bus, motor-cycle and truck
Means used to lure the survivors	Threats and promises of foreign employment	Promises of employment and marriage, propaganda for religions Show big city and earn a lot	False love, false marriage Good promises: give to mobile set, clothes and gifts Take to visit the places
Nature of the criminal group	Own relatives	Agents and own relatives	Own relatives, males and females, agent group
Purpose of trafficking	Sexual exploitation Labor exploitation	Sexual and labor exploitation, Forced marriage	Sexual exploitation, Labor exploitation Forced marriage and Circus performance
Factors leading to trafficking	Poverty Illiteracy Unemployment	Political instability, religious organizations, high aspiration, poverty and Illiteracy	Weak law enforcement and political protection to the criminals, demonstration effects to the young people, gender discrimination and poverty
Challenges in combating trafficking	Lack of employment opportunity Not access to information to every family Poverty Increase in aspiration of becoming rich	Open border Unemployment Poverty Marriage relation between Indian and Nepali people Weak law enforcement	Difficult to identify agents Threats from underground armed groups Not adequate evidence for filing the case Survivors are threatened to withdraw the case No adequate protection of the survivors by the state Lack of voice of the survivors
Suggestion to address the problem	Increase employment opportunity Political stability Effective law enforcement	Management of border Establishment of counseling centers Effective law enforcement Amend in law and policies Capacity building of NGOs/Police	Effective enforcement of laws Establish safe house, child home Establish counseling center in each VDC Establish WCSW and community police DC on trafficking should be gender inclusive Make functional District GBV and gender inclusive

Source: Based on Janakpur Workshop, April 3-4, 2010.

2.3 Existing Counter-Trafficking Database System for Combating Trafficking in Persons

Following the study conducted by Mathema (2007a) and ONRT-NHRC (2008a) on the "Developing a Reporting System for Combating Trafficking in Persons, Especially Women and Children in Nepal" counter-trafficking database system adopted/maintained by different organizations in Nepal, the existing database system was discussed under the six heading.

1. Database available for assessing the situation of trafficking in Nepal
2. Database available in assessing the status of law enforcement (Directorate of WCSC and Interpol)
3. Database available in assessing the status of prosecution and execution of trafficking (Office of the Attorney General and the Supreme Court)
4. Database available in assessing the status of protection of trafficked survivors and persons vulnerability to trafficking (child protection desk –NHRC, the NCCR, Child Helpline-Nepal, and different NGOs)
5. Information system related to prevention of trafficking (different NGOs, INGOs)
6. Database available in assessing the status of foreign labor migration (Dept of Labor and Employment Promotion, the Department of Immigration, the Supreme Courts of Nepal).

As situation analysis of trafficking encompasses a complex typology of trafficking. It calls for disaggregated data in terms of types of trafficking, forms of trafficking and age-sex composition of survivors. While some data or studies are available in this direction, they are limited in their coverage and also lack rigorous analysis.

Directorate of WCSC and Interpol maintain data on law enforcement. The Directorate of WCSC is established to deal with the crime against children and women. The Directorate of WCSC at the Police Head Quarter receives data from the District Police Office and other WCSCs. The data system within the Directorate of WCSC has three problems: i) there is delay or omission of reporting at the Police Head Quarter, ii) the WCSC has no centralized computerized data networking system and iii) the Directorate of WCSC's data lack disaggregated data in many aspects. Interpol Nepal has maintained data on missing persons but its reporting system also suffers from the same problems as of Directorate of WCSC.

The Supreme Court and the OAG are the two main sources in assessing the status of prosecution and execution of trafficking cases. Both offices have developed websites and also publish their Annual Reports covering some information about prosecution and execution of trafficking cases. Yet their reporting systems have not matched the standard to meet the required information to comprehensively analyze the responses of judiciary to trafficking.

Several organizations have been involving to protect the trafficked survivors and persons vulnerability of trafficking. The CRPD-NHRC maintains data on the rights of violation of children but its coverage appears to be low compared to the extent of the problem. The NCCR has maintained database on the 'missing children' and 'found children' and has a good reporting system. The database of NCCR, however, suffers from the problem that it largely covers data from the Kathmandu valley although it is considered to be a national center. Child Helpline Nepal also maintains records of children at risk. As it operates only in some of the towns like Kathmandu,

Biratnagar, Hetauda, Pokhara and Nepalgunj, a large number of children at risk might have been out of the ambit of its reporting system.

Similarly, several NGOs provide a wide range of services for the protection of children. They maintain data and produce trimester, half-yearly and yearly reports. NGOs/INGOs database has three problems: i) they only cover their command area; ii) some NGOs are reluctant to provide data for public use; iii) there is risk of reporting the same survivor by the two or more organizations (duplication problem).

Regarding the information required for assessing the prevention efforts of trafficking, it is recommended that factors leading to demand for and supply of trafficking have to be addressed. Although various GOs, NGOs and international organizations have contributed in this direction, the database available from these organizations often cover only their working areas and also lack uniformity in reporting.

With regard to maintaining data on foreign labor migration, the DoFEP initiated maintaining data records. Yet the DoFEP has to include several indicators in its information system. A well-functioning reporting system of the Department of Immigration has yet to develop.

Besides, there are other MIS maintained by MoES, MoPH, MoLD, CBS and SAARC Gender Database which are important sources of monitoring of trafficking. Caution must be borne in mind that these MIS have not been designed for monitoring of trafficking situation, but rather they have been designed for solving their own problems.

2.4 Emerging Challenges

Nepal has faced the grave violation of human rights due to immunity, breakdown of law and order. Evidence suggests that the dynamics of trafficking - processes, purposes, types, modus operandi, means of coercion and tricks - have been changing in Nepal. Trafficking encompasses now human trafficking not just of women and children. India once regarded as the destination country of girls and women trafficking for commercial sexual exploitation has now become both as the destination country as well as a transit route for trafficking of Nepalese women and men to the Gulf States and South-East Asia. This new trend has emerged especially after the second half of 1990s, which is contributed by several factors including the economic liberalization and integration of Nepalese labor market into the world market; the weak enforcement of the trafficking and foreign employment related laws and policies; adverse consequences of 10 years armed conflict and persistently high unemployment, poverty, exclusion and discrimination entrenched in the Nepalese society. At the same time, there has been rapidly increasing internal trafficking of girls and women in entertainment industry like cabin bars, dance and *Dohori* restaurants and massage parlors mainly located in urban and semi-urban areas in Nepal.

In this changing dynamics of trafficking, this Chapter concluded the following emerging challenges to combat trafficking:

- Protect the rights of adult female workers in the entertainment establishments and remove child sex workers in the context of increasing aspiration of young people in 'consumer culture' and rapidly changing social norms among young people.

- Regulate the Inter-country adoption of children as per the Hague Convention requires effective monitoring mechanisms among MoWCSW, OSRT-NHRC, CCWB and Nepal Police, which is currently lacking.
- Educate the parents on the child rights to prohibit them sending children for circus performance and other exploitative jobs. Poverty and ignorance on the part of the parents are the causes of the parents consent on trafficking of children especially in circus performance and labor exploitation.
- Strengthen the DC on trafficking as functional institution to deal with trafficking related areas with human, physical and financial support.
- Encourage the NGOs and INGOs to launch livelihood programs to address the poverty of the people in addition to awareness related programs.
- Establish data system to monitor the situation of trafficking at the national level. Although there are some forms of counter-trafficking database systems maintained by different organizations, these database systems cannot be termed as well-functioning MIS as they only provide partial, fragmented, inconsistent, irregular and incomparable information/data on trafficking.
- Conduct periodic surveys or Rapid Assessment to understand the trafficking situation including magnitude, processes and causes of trafficking as a tool to combat TIP.



Foreign Labor Migration and Trafficking

This Chapter deals with the situation of foreign labor migration in Nepal and explores the linkage of it with the vulnerability of trafficking and exploitation. It also critically evaluates the implementation status of Foreign Employment Act 2007; law enforcement and judicial responses in relation to violation of the Act. It further examines the status of legal protection of the rights of Nepal workers in the major destination countries by examining the ratification state of CMW and ILO fundamental conventions. The final section brings out the challenges to protect the rights of workers.

Migration, smuggling, trafficking and exploitation are not overlapping concepts. Migration is defined as process of movement by people from one place to another with an objective in mind and is a complex process (Nair and Sen, 2005), and migration is the fundamental rights of human beings. Smuggling is the transport of persons with their consent to another country through illegal means, and exploitation is a key element in trafficking whereas it is not the important character of smuggling (ECPPC, 2003). Trafficking in persons is defined as the movement of a person under a situation of deceit, forced, threat, debt bondage involving exploitation and violation of human rights of the person. Understanding the relationship between migration and trafficking facilitates designing effective strategies to combat trafficking without violation of the rights of migrants, especially of woman migrants in the context of Nepal.

In case of foreign labor migration in Nepal, trafficking can occur into different life-cycle of migrant laborers: pre-departure, during departure and working at the destination country. The nature of movement of people varies from a particular region to another region. For example, smuggling of persons is widely cited in media mostly to Europe, North America and South and South East Asia including in the former USSR countries. The initial movement in these regions is voluntary migration. But this voluntary migration becomes a form of trafficking when the person is deceived into situation of bonded labor or servitude or any other form of violation of human rights. In case of labor migration to Gulf countries, the initial movement, process of transformation and working conditions all may involve some elements of trafficking. But the problem here is that the person who was initially trafficked may choose to remain in the work situation that she was initially trafficked into because of the no viable alternative available to the person.

Foreign labor migration has become an important source of income in Nepal. It contributed to 21.8 per cent of GDP in FY 2008/09. It has tremendously contributed to solve the unemployment problem as well. According to the Nepal Labor Force Survey 2008, each year four hundred thousand youth require employment. In the FY 2008/09, for example, nearly 250,000 youth got the foreign employment. Third, the contemporary sharp decline in poverty amidst the conflict, violence and impunity is largely attributed to the foreign employment.

On the other hand, foreign labor migration has become one of the major arena for exploitation and challenges for the protection of human rights of migrant workers including their families.

3.1 Magnitude of Foreign Labor Migration

The DoFEP has maintained records of those going abroad for work through institutional basis (recruiting agencies) since FY 1993/94 (2050/51 BS) and it has maintained the records of those foreign labor migrants who go on the individual efforts since 2006. Nearly 1.43 million people are in the foreign labor migration as of December 2009. Note that this set of data does not provide information about those going for foreign employment via India. It is believed that nearly 1.5 million people in foreign employment destined via India. Thus, currently there are nearly 3 million Nepalese workers in different countries except India.

Nepal has opened up 107 countries for foreign employment as of December 2009 (Appendix 3.1). Examining the trends, foreign labor migration can be visualized into three distinct phases (Table 3.1). They include i) early phase (1993/94 – 1999/00), ii) second phase (2000/01 – 2005/06) and iii) current phase (2006/07 – 2008/09). In the early phase of labor migration, the average annual number of laborers was 11,749. In the seven year period, the tempo of foreign labor migration was minimal accounting for 5.7 per cent of the total documented migrant laborers.

Table 3.1 Number of foreign labor migrants, 1993/94 to 2008/09

Phase	Year	Total number	Average annual number	% of the total foreign labor migrants
First phase	1993/94 -1999/00	82,241	11,749	5.7
Second phase	2000/01 -2005/06	676,434	112,739	47.3
Current phase	2006/07 -2008/09	673,549	224,516	47.0
Total		1,432,224		100.0

Source: Data file from DoFEP, Kathmandu, 2009.

The second phase is the phase in which violence was heightened in the country which ended in April 2006. Throughout the second phase, the number of laborers increased considerably in every year and the average annual number of laborers in this period was 112 hundred thousands. The latest phase represents the period after the peace agreement between the Maoist and the State, and average annual number of laborers in this period is 224 hundred thousands.

Trends

Table 3.2 presents the trends of foreign labor migration by country and regions of destination, according to the phases of migration. During the first phase, the migration flow was primarily in the Gulf countries (94%) while there were about 2 per cent of migrants destined to East and

South East Asia. In the second phase, the number of migrants increased in both Gulf countries and in the East and South East Asia, and the share of the East and South East Asia reached to 44 per cent of the total migrants.

In the third phase, the share of migrants destined to Gulf countries increased to 72 per cent and the share of the East and South East Asia reduced to 25 per cent. Considering the entire period, two-thirds of the migrants are in the Gulf countries, and nearly one-thirds is in the East and South East Asia. The share of the migrants in the developed countries like Europe, USA and Australia has also been increasing over the years. The major labor receiving countries during the entire period are Qatar (30%), Saudi Arab (19%), UAE (13%) in the Gulf region and Malaysia (32%) in the East and South East Asia.

Table 3.2 Distribution of foreign labor migrants by phase of migration, according to region and country of destination

Country	First phase (1993/94-1999/00)		Second phase (2000/ 01-2005/06)		Current phase (2006/07-2008/09)		For the whole period	
	Number	Percent	Number	Per cent	Number	Percent	Number	Percent
Gulf countries	77405	94.1	371899	55.0	483664	71.9	932968	65.2
Qatar	21241	25.8	183245	27.1	221322	32.9	425808	29.7
Saudi Arab	44399	54.0	103104	15.2	130422	19.4	277925	19.4
UAE	8311	10.1	70814	10.5	102202	15.2	181327	12.7
Bahrain	1572	1.9	4099	0.6	12659	1.9	18330	1.3
Kuwait	1710	2.1	7793	1.2	6699	1.0	16202	1.1
Oman	172	0.2	639	0.1	7382	1.1	8193	0.6
Israel	0	0.0	2205	0.3	2978	0.4	5183	0.4
South Asia	117	0.1	594	0.1	4682	0.7	5393	0.3
Afghanistan	0	0.0	431	0.1	3120	0.5	3551	0.2
Maldives	117	0.1	163	0.0	1562	0.2	1842	0.1
South East Asia	1572	1.9	298779	44.2	165259	24.6	465610	32.5
Malaysia	411	0.5	295621	43.7	159653	23.7	455685	31.8
Hong Kong	940	1.1	2712	0.4	625	0.1	4277	0.3
Macau	221	0.3	446	0.1	1161	0.2	1828	0.1
South Korea	0	0.0	0	0.0	3820	0.6	3820	0.3
USA/Russia	2	0	407	0	1026	0.1	1435	0.1
USA	2	0.0	255	0.0	934	0.1	1191	0.1
Russia	0	0.0	152	0.0	92	0.0	244	0.0
Others	3145	3.8	4755	0.7	18918	2.8	26818	1.9
Total	82,241	100.0	676,434	100.0	673,549	100.0	1,432,224	100.0

Source: Data file from DoFEP, Kathmandu, 2009.

How the Workers Go?

According to the Foreign Employment Act 2007, a Nepali can go abroad for work in two ways: through the institutional basis and on the individual basis. In the former case, the recruiting agencies manage all the formalities required to send a worker in a foreign country while in the latter case, it is the individuals who manage all the requirements. According to an Officers in the DoFEP, those who go through the individual basis, they would be responsible themselves for the nature of work, working hours, salary and other social benefits. Those who go through the institutional basis are entitled to complain to the DoFEP if the said working condition is not met in the destination country. However, in both cases, if the workers die in the destination country or have to be rescued, the Foreign Employment Promotion Board (FEPB) will manage for it.

Table 3.3 Distribution of foreign labor migrants, FY 2008/09

Basis of sending	Number			Percent		
	Male	Female	Total	Male	Female	Total
Institutional	169644	3065	172709	81.4	35.2	79.5
Individual	38808	5647	44455	18.6	64.8	20.5
Total	208452	8712	217164	100.0	100.0	100.0

Source: Data file from DoFEP, Kathmandu, 2009.

Data in the year of FY 2008/09 reveal that of the 217 thousands Nepali engaged for work at abroad, nearly 21 per cent went on the individual basis. By gender, 64 per cent of the female workers went through the individual basis while this figure is just 19 per cent in case of the male workers (Table 3.3). Thus, female migration involves largely of informal channels, and at high risk of exploitation in the country of destination.

Magnitude and Flow of Female Migration

The magnitude of female migration is estimated to be about 9 to 10 per cent of the total migrants according to IOM and FAO Rapid Assessment Survey of 2009 (cited in Bhattra, 2010). There is wide gap in the record of Government and the estimated figure of female migrants. According to the data of DoEFP, 22197 females left for foreign countries from FY 1992/93 to FY 2008/09. However, data from the informal sources such as provided by the Non-Residence Nepalese (NRN) Conference reveals that there are about 140,500 females in different countries as of December 2009 (Table 3.4).

Table 3.4 Estimated number of woman migrants by country of destination as of December 2009

Countries	Number	Per cent
Saudi Arabia	63,000	44.8
Malaysia	15,000	10.7
Israel	15,000	10.7
Lebanon	14,000	10.0
Oman	11,000	7.8
United Arab Emirates	9,000	6.4
Kuwait	7,600	5.4
Qatar	4,000	2.8
Bahrain	1,900	1.4
Total	140,500	100.0

Source: Bhattra, Purna Chandra (2010): A Paper 'Human Trafficking and Foreign Employment' Presented in the Consultation Meeting for the Preparation of National Report 2008-09 or OSRT-NHRC.

The wide gap between the Government record and the NRA data reveal that an overwhelming majority of females have left for abroad via India and thus they are undocumented migrant workers – without proper travel and work permit documents, and are involved in domestic or unorganized sectors. Thus, they are the most risk of trafficking and sexual or labor exploitation.

According to the NRA data, there are nine countries in which female migrants exceed more than 1000. Of the estimated 140,500 female migrant workers, 45 per cent alone are in Saudi Arabia, followed by in Malaysia (11%), Israel (11%), Lebanon (10%), Oman (8%), United Arab Emirates (6%), Kuwait (5%), Qatar (3%) and Bahrain (1%).

3.2 Nexus of Foreign Labor Migration and Vulnerability of Trafficking and Exploitation

The nexus between foreign labor migration and the vulnerability of trafficking/exploitation has been analyzed based on two study reports. The United Nations Development Fund for Women (UNIFEM) and People’s Forum published a research report in 2009 entitled *Effectiveness of Laws and Legal Enforcement Mechanism to Ensure Safe Foreign Labor Migration for Women*. The study was conducted to understand the situation of woman labor migrants including the legal enforcement and responses to judiciary in case of the fraud or exploitation. The study collected information from 50 returnee migrants (47 women and 3 men) from Kathmandu and Pokhara and reviewed 30 verdicts of the courts. Another study carried out by WOREC-Nepal (2009) interviewed 114 persons (103 men and 11 women) who came to issue the passports in the Chief District Office (CDO) in Sunsari, Morang, Udayapur, Siraha, Dhanusa and Dang districts in mid-2009.

Knowledge on Foreign Labor Migration Processes

There is large number of people who are unaware on the requirements in relation to foreign labor migration. For example, as presented data in Table 3.5, only 37 per cent potentially migrants know about the name of the Government agency that gives the labor permit; 38 per cent know about the requirement of pre-departure orientation training and 54 per cent know that their intended country of destination was opened up by the Government.

Table 3.5 Knowledge on foreign labor migration process among potentially migrants

Categories	Male	Females	Total
% of potentially migrants knowing about the Govt. agency to give labor permit	38.6	18.2	36.6
% of potentially migrants knowing that the GoN has opened up the country of intended destination	59.2	9.1	54.4
% of potentially migrants knowing to receive pre-departure orientation training required	40.6	18.2	38.4
% of potentially migrants knowing visa required	73.8	54.5	71.9
% of potentially migrants knowing medical certificate required	74.8	45.5	71.9
% of potentially migrants knowing insurance required	46.6	18.2	43.9
% of potentially migrants knowing agreement paper required	53.4	18.2	50.0
% of potentially migrants knowing labor permit latter required	52.4	27.3	50.0

Source: summarized from WOREC, 2009.

The essential documents needed to travel/work documents in relation to foreign labor employment include passport, visas, medical fitness certificate, health insurance certificate, contract paper and labor permit by the DoFEP. Among these required documents, seven in 10 potentially migrants know visa and health certificate (each) is essential. While people are less aware on the documents like health insurance, contract paper and labor permit needed for work in a foreign country. Note that in each of the indicators, it is the females, Dalits and Muslims who are relatively unaware compared to other groups.

Process of Recruitment

What are the sources of information about the foreign labor employment? Of the sample of 130 returnee migrants in the survey conducted by UNIFEM and People’s Rights Forum, 85 per cent went abroad for work through informal sources like agents, relatives and neighbors and 46 per cent did not know the information about the destination country in which they were going (Table 3.6). These indicators reveal that informal channels are predominant in the recruitment process of the foreign employment. According to the Foreign Employment Act 2007, the workers shall take pre-departure orientation with details of the destination country like culture, law and services. This liability is of the recruiting agencies. The very low percentage of migrants getting information from formal channel suggests either one or all of the following: no systematic information system of the government; little knowledge of migrants regarding the process of recruitment; little access to the government information system; little faith of the migrants in the government agencies and no effective monitoring of the recruiting agencies.

Table 3.6 Summary of the process of recruitment

Indicators	Percent
% of workers who contacted individuals/agents/relatives in relation to foreign employment (informal sources – irregular migration)	85
% of workers who did not know the information about the destination country	46

Source: summarized from UNIFEM and People’s Forum, 2009

Table 3.7 summarizes to what extent the workers are aware on the requirement of foreign employment. A remarkable proportion of the workers (24%) have paid to the agents or recruiting agencies before they receive calling visa or visa; more than three-fourth did not receive any payment receipt; 60 per cent of those who received payment receipt did not have the receipt that mentions about the payment made for the purpose to go abroad for work. Note that payment receipt is mandatory to file complaint against the fraud or exploitation in relation to the foreign employment according to the Foreign Employment Act 2007 and the receipt must explicitly mention that the payment made for the purpose of going at abroad for work. Data reveal that 48 per cent of the total respondents did not take any labor permission – suggesting that they might have been destined to a third country via India.

Table 3.7 Summary of status of preparation before going to abroad for work

Indicators	Percent
% of workers paid to the agents or recruiting agencies before receiving the visa	24
% of worker did not get payment receipt	76
% of workers who received the receipt reporting that the receipt did not mention about payment for going foreign country	60
% of workers who did not seek the labor permission from the Department of Foreign Employment Promotion	48
% of workers who did not take any training before departure	67
% of workers who faced problem during departure	32
% of workers who did not do insurance	72

Source: summarized from UNIFEM and People's Forum, 2009

While the pre-orientation training is mandatory for going abroad to work, evidence show that two-thirds of the migrants do not take any such training. This means that recruiting agencies or agents provide fake certificate of pre-orientation training to the workers. Further, more than three-fourth of the informants did not have the insurance. Many of the informants reported that they faced problem during their travel either at the native airport or during the travel or at the recruiting agencies or at the DoFEP.

Knowledge to Workers about the Rights of Migrants Workers

Table 3.8 provides the some of the indicators to evaluate the extent of knowledge on foreign employment. Accordingly, only 77 per cent of the migrant workers did not know the rights of migrant workers; 74 per cent did not know about their rights to free legal treatment that is provided by the government; 89 per cent did not know that Foreign Labor Employment case is the state case. Further, half of the migrant workers signed in the agreement paper other than with the recruiting agencies. Among those who signed in the agreement paper, half signed in other than recruiting agencies and more than four-fifth signed in a contract paper written in other than Nepali languages. These all indicators divulge the fact that Nepali workers barely understand the legal provisions set forth in the Foreign Employment Act. As a result, they are likely to be exploited and their cases filed in the DoFEP become weak due to the lacking of the evidence even if they are cheated.

Table 3.8 Summary of knowledge to workers about the rights of the migrant workers

Indicators	Percent
% of workers did not know the rights of migrant workers	77
% of workers who did not know the rights of legal treatment or complaints to be made for compensation in the foreign employment promotion office if cheated	74
% of workers who did not know the foreign employment case is the state case	89
% of workers who signed the agreement other than at the recruiting agency	50
% of workers signed in the contract paper other than Nepali language	83

Source: summarized from UNIFEM and People's Forum, 2009

Problem during the Departure

Migrant workers face several types of problem during the departure (Table 3.9). A majority of migrant workers are reported to be see-off by the agents in the airport, not by the relatives and

friends. This reveals that a large majority of the migrant workers are depending entirely on agents for foreign employment. It is also revealed from the data that workers are not sent directly to the promised country of destination. Similarly, 35 per cent of migrant workers reported they were not directly brought to the working place in the destination country. This is the situation in which the workers run the risk of exploitation, abuse and withdrawal of passports, detention and arrest.

Table 3.9 Summary of problem faced during departure

Indicators	Percent
% of workers who were see off in the airport by the agents	47
% of workers who were not directly landed in the said country	25
% of workers who were taken in the agency in the destination country, not in the working place	35

Source: summarized from UNIFEM and People's Forum, 2009

Working Condition at the Destination Country

Four indicators have been summarized from the study of UNIFEM and People's Forum (2009) to understand the working condition of women at the destination country. Three fourth of the migrant women had gone to work as domestic workers (Table 3.10). This shows that women are overwhelmingly engaged domestic work which falls in an informal, unorganized and unprotected sector and are at risk of abuse, harassment and sexual exploitation (Case 3.1). Forty five per cent of the woman migrant workers were not paid the salary promised in Nepal and many of them had to work more than 12 hours daily and were not paid with overtime salary.

Table 3.10 Summary of working condition at the destination country

Indicators	Percent
% of women placed in domestic work	74
% of women reported not getting the promised salary	45
% of workers reported abuse and harassment	20
% of workers reported sexual violence	2

Source: summarized from UNIFEM and People's Forum, 2009

Case 3.1 Sexual exploitation of woman migrant workers in destination countries

Kalpana, an unmarried woman, was working in a small tea restaurant at Inaruwa. One day, she met with Basu and Mustakim in that restaurant, they persuaded her to work in Saudi Arabia as a domestic worker. She went to India on May 2008. She stayed there as a prisoner at hotel in Mumbai for 5 months. She flew to Saudi Arabia after 5 months from India using fraud passport. She started working in a home and their small restaurant at day time and forcefully sex work at night. Due to unsafe sex work, she got pregnant. Then she was kicked out from that home without salary. She worked in next home but she was again out from home after 6 days because of her pregnancy.

When she had no way, then she went to agent's office in Saudi Arabia, she was beaten there blaming she could not do her job well. She tried to contact with Nepali agents, but the agents

refused to talk. She was then totally helpless. At the same time, she met with Nepali people, with the help of them, she returned back Nepal with 7 months pregnancy.

Now she is in safe shelter of WOREC Nepal where she was supported through legal, medical, psychosocial counseling. Three perpetrators were arrested and case is continuing.

Sexual exploitation of Nisha in Lebanon

Nisha, 21, from a village of Sunsari district is a married woman from Dalit community. Because of poor economic condition of her maternal family, she could not get education. She got married with drunker husband and had a son. Her husband beat her, so she left him and stayed with relatives doing domestic work.

She was agreed to go to Lebanon for foreign employment to do domestic work through local agent named Kamal via India. All expenses were paid by the agents even for making passport.

From the day when she reached Lebanon, she was raped by her house owner. She was regularly sexually abused by her master and also by his friends. After some days, she contacted the agents to rescue from that place but he refused. She was also physically tortured.

After sometimes, she met with a Nepali woman. With the help of that woman, she returned to Nepal through police. She was in safe shelter of WOREC.

Source: WOREC-Nepal

Condition of Rescued Women in Nepal

There is no aggregated data on how many number of woman migrant workers have been rescued from Gulf countries. Different NGOs have maintained their own data. As discussed in Chapter 4, a total of 322 women and children were rescued from different countries in the FY 2008/09. Note that this figure only includes the number of women and children rescued by ABC Nepal, Maiti Nepal, WOREC, Shakti Samuha and Women Skill Center. This figure may be far lower as there are other organizations including Nepal Police, district level organizations, MoLTM and MoFA also involved in rescuing migrant workers.

Discussion with the PAURAKHI, WOREC, SAATHI, People's Rights Forum, Shakti Samuha including other concerned organizations in Kathmandu, Janakpur and Hetauda shows that the rescued women have developed physical, psychological and mental and social problems. Loneliness, anxiety, irritation, sadness, feeling of regret are some of the psychological problems to these women. Some rescued women are also reported to be pregnant due to forced sex in the destination country by the employers, agents and others.

The following two cases (Case 3.2) are representative of how some migrant women are facing problems when they returned to Nepal. In the first case, the Sunita had to undergo abortion. As there is no free abortion service to the trafficking survivors, they have to afford money themselves. At the same time, undergoing abortion is also socially stigmatized even if it is the legal pregnancy. In this case, Sunita's maternal house incurred the cost of abortion by selling a couple of ox so that her husband and his family do not know about it and can be avoided the risk of divorced or

separation from her husband. In the second case, Mandira did not manage 'safely abortion' when she returned from Saudi Arab – resulting separation from her husband.

Case 3.2 Consequences of sexual exploitation to returnee women

Sunita (name changed) in Saramati VDC in Jhapa returned from Kuwait. She was sexually exploited by her household owner and when the wife the household owner knew that she was pregnant, she was sent back to Nepal. When she came back in Nepal, her pregnancy was of five months. She had undergone abortion in Siliguri, West Bangle, by selling a couple of oxen of her maternal house.

Mandira (name changed) returned from Saudi Arab to her house in a village of Jhapa district and gave birth within five months of her return. The child was not accepted by her husband and his family. She was disserted by her husband and thrown out from house.

Source: reported by a staff of Shakti Samuha of Jhapa district.

Human Rights Watch (2008) studied the domestic workers situation in Saudi Arabia from Indonesia, Sri Lanka, the Philippines and Nepal and provided a set of recommendations to protect the rights of the domestic workers rather than ending the migration.

Recommendations for Saudi Arabia

- Reform the visa sponsorship system so that workers' visas are no longer tied to individual sponsors, and they are able to transfer employment or leave the country at will;
- Adopt the proposed annex to the 2005 Labor Code extending labor protections to domestic workers, ensure these equal those provided other workers, and create a timeline and tools for implementation;
- Cooperate with labor-sending countries to monitor domestic workers' working conditions, facilitate rescues, ensure recovery of unpaid wages, and to arrange for timely repatriation;
- Improve the facilities and protocols for the centers for domestic workers operated by the Ministry of Social Affairs;
- Cooperate with labor-sending countries to notify them about detained nationals and to create shelters for survivors of abuse, including medical care, counseling, and legal aid; and
- Establish mechanisms for regular and independent monitoring of labor agencies and recruitment practices, including through unannounced inspections.

Recommendations for Countries of Origin

- Improve services, including quality of shelters, availability of counseling, and numbers of trained staff, for migrant domestic workers at embassies and consular offices in Saudi Arabia.
- Strengthen the regulation and monitoring of recruitment agents, including through unannounced inspections and effective complaints mechanisms.
- Expand public awareness-raising programs for prospective migrant domestic workers and enhance pre-departure training programs.

Human Rights Watch (2008) *'As If Am Not Human' Abuses against Asian Domestic Workers in Saudi Arabia* .

Source: <http://www.hrw.org/sites/default/files/reports/saudiArabia07081.pdf>, Accessed on June 13, 2010

3.3 Implementation Status of Foreign Employment Act 2007

The provisions embodied in the Foreign Employment Act 2007 can be categorized into i) provisions relating to establishment and strengthening of structure; ii) provisions related to regulation, transparency and accountability of recruiting agencies and the GoN; iii) provisions related to non-discrimination and equity; iv) provision relating to protection of workers and vi) provisions relating to monitoring, investigation and prosecution. Box 3.1 summarizes the level of compliance by the GoN.

Level of compliance has been assigned as low, low-to-moderate, moderate, moderate-to-high and high. Low compliance implies that the provisions embodied in the Act have not been implemented at all or implementation is highly unsatisfactory. Low-to-moderate level of compliance refers to the movement towards satisfactory condition. Moderate compliance refers that the provisions have not been fully realized, but they are at the state of satisfactory level. Moderate-to-high level of compliance refers to the movement towards highly satisfactory state both in terms of number of implementation mechanisms and their enforcement status. The high level of compliance refers to the provisions in the Act have been implemented fully and their enforcement is also highly satisfactory.

Box 3.1 Nepal's compliance with Foreign Employment Act 2007

Provision in Foreign Employment Act 2007	State level of compliance
1. Provisions relating to establishment and strengthening of structure	Moderate -to-High
2. Provisions related to regulation, transparency and accountability of recruiting agencies and the GoN	Low -to-Moderate
3. Provisions related to non-discrimination and equity	Moderate
4. Provisions relating to classification of training	Moderate
5. Provision relating to protection of workers	Low -to-Moderate
6. Provisions relating to monitoring, investigation and prosecution	Low

Provision Relating to Establishment and Strengthening Structure

MoLTM has been assigned as a focal Ministry for policy matters in relation to foreign employment. Under the Ministry, the GoN has formed the Steering Committee, established DoFEP, FEPB, Welfare Fund, Foreign Employment Tribunal, Labor Desk in Kathmandu International Airport, Migration Resource Center established in FEBP. According to the authorities of MoLTM, the MoLTM is going to study the Philippines Model of sending labor abroad and the viability of adopting the Model in Nepal. The Model consists of provision of passport for those who go for foreign employment can be issued; a separate corridor in the International Airport can be established to regularize and honor the foreign employment and provide appropriate information about the foreign employment.

In this context, the implementation status of these provisions can be said to be **moderate-to-high** (Box 3.2). Out of 11 countries with more than 11,000 Nepali workers (please refer to Table 3.2) and 9 countries in which there are more than 1000 female migrant workers (please refer to Table 3.4), labor attaché has been appointed only in four countries (Malaysia, Saudi Arab, United Arab Emirates and Qatar) with one woman labor attaché (in United Arab Emirates) by December 2009. According to the Act, there must be one woman labor attaché in a country where there are at least 1,000 woman workers.

Box 3.2 Provision Relating to Establishment and Strengthening Structure

<p>Sec 6.2, Formation of Steering Committee The GoN can form a steering committee to formulate policies and make arrangements to make systematic, competitive and transparent the procedures</p>	<p>Fulfilled:A 11 member Steering Committee is formed with the chair of Minister of MoLTM</p>
<p>Sec 32, Establishment of foreign employment welfare fundA foreign employment welfare fund shall be established under the Board for the social security and welfare of the workers</p>	<p>Fulfilled The GoN has established Welfare Fund. This is the workers' contribution Fund in which Rs. 1,000 to the workers who go via Nepal taking permission from DoFEP. The Fund is only used for the documented migrant workers and their families and those who are undocumented workers and their families are out of this scheme.</p>
<p>Sec 33, Use and operation of foreign employment welfare fund for the following purposes providing skill oriented training, repatriation of workers, launching employment oriented program for the returnees, bringing the dead body and providing the financial support of the deceased family</p>	<p>Minimally fulfilled The GoN has already established temporary Safe House in Saudi Arabia, Qatar, UAE and Kuwait. The Board is going to provide i) scholarship to 900 children of workers from different parts of the country, ii) skilled based training in Chandranighapur, Rautahat and Attariya, Kailali and iii) skilled based training to five regions</p>
<p>Sec 38, Formation of BoardA FEPB shall be constituted as follows, also for the purpose of carrying out acts required to promote the foreign employment business and make this business safe, systematic and decent and protect the rights and interests of workers</p>	<p>Fulfilled The GoN has established a separate office of the FEPB in 2064/11/8 for the welfare of the workers and their families.</p>
<p>Provisions relating to Foreign Employment Tribunal</p>	<p>Moderately fulfilledThe GoN has formed Foreign Employment Tribunal with two judges in January 2010 and one Chairperson has yet to be appointed.</p>
<p>Sec 68, Appointment of Labor AttachéThe Govt shall appoint at least Gazette officer as the Labor Attaché for a country where five thousand or more workers have been sent for foreign employment</p>	<p>Minimally fulfilledThe GoN has appointed Labor Attaché in Saudi Arabia, Dubai, Malaysia and Qatar.</p>
<p>Sec 73, Provision of labor deskestablish a Labor Desk at the international</p>	<p>Moderately fulfilledThe GoN established a Labor Desk at the Kathmandu International Airport. With the order of Akhitar Durupayog Nirawan Agog, the Labor Desk is transformed to a corner side of the Airport resulting a low coverage</p>
<p>Sec, 74, Provisions relating to opening of branch and appointment of agent</p>	<p>Not implemented at allDiscussion is going on this matter</p>

Thus, in relation to the appointment of labor attaché, the GoN has not fulfilled provision set forth in the Act³. The structure has been concentrated in Kathmandu and access to it not reached out to the common people. The MoLTM has not yet worked out expansion of its structure outside of the valley. Thus, given the magnitude of foreign employment widespread in the country, the expansion of the structure outside of the valley has become vital for the protection of rights of Nepali people. Further, the Welfare Fund is generated through the contribution of workers of Rs. 1,000/per worker. There is lack commitment of government in allocation of budget in this Fund. There is greater criticism from the civil society and returnee migrant workers that the Welfare Fund has not been adequately used for the welfare of the migrant workers and their families such as for rescuing, rehabilitation and skilled orientated training. The GoN has established institutional mechanism as provisioned in the Act but strengthening of the institution as functional entity is yet to be done to materialize the impact of the Act in regulating foreign employment.

Provisions Relating to Regulation of Recruiting Agencies

The Foreign Employment Act puts more emphasis in increasing transparency and accountability of the recruitment agencies. It criminalizes the actions of a recruitment agency or an individual agent sending migrants abroad without proper documents and makes the provision of punishment to those recruitment agencies or their agents in case of violation of the Act. Foreign Employment Act has made it mandatory to provide license to the agents after depositing Rs. 200,000.

Finding of the study indicates that provisions related to regulation of recruiting agencies have been moderately fulfilled. There are cases that some of the recruiting agencies registration has been cancelled each year. Yet fraud or deception or exploitation is reported though the involvement of agents without licensee. The GoN is however attempting to make compulsory registration of the agents but for it, the Foreign Employment Regulation has to be amended. The agents have multi-layered from village to the district headquarter or nearby urban center, from district head quarter to Indian border, and from Indian border to New Delhi or Mumbai or other places of India.

Thus, there is strong network of agents who often work with the guidelines of the licensee. The GoN has developed the code of conduct to the recruiting agencies but its monitoring and implementation is a problem. The GoN has just initiated to providing orientation about migrant Nepali workers to the Missions at abroad. Given this fact, regulation of recruiting agencies has been **moderately fulfilled** (Box 3.3).

³ According to Joint Secretary of MoLTM, Mr. Purna Chandra Bhattra, the GoN is working out to send the labor attaché in Israel, Oman, Bahrain, Kuwait, South Korea and Japan and making efforts to establish the Embassies or Diplomatic Missions of countries of major destination of Nepali workers in Nepal.

Box 3.3 Provision relating to license and current implementation status

Foreign Employment Act 2007 Provisions	Current Status
<p>Sec 10, Prohibition on carrying on foreign employment business without license No one shall carry on the foreign employment business without obtaining a License</p>	<p>Moderately fulfilled This provision is implemented well in case of workers sending through the institutional basis but a large number of workers are sent at individual basis – and thus much vulnerable to be exploited</p>
<p>Sec 11, Provision relating to license An institution intending to carry on the foreign employment business shall make an application to the Department for the license</p>	<p>Fulfilled This provision is implemented</p>
<p>Sec 78, To make public details relating to licensee The Department shall, from time to time, make public through various newspapers or its website details including the name, address, telephone number of the institution which has obtained license pursuant to this Act, details of agent or branch, if any, it has Appointed or opened and the term of its license</p>	<p>Moderately fulfilled The MOLTM has provided details of the licensee organization through its website. But there are very few cases public information through media – electronic as well as print media.</p>

Provisions Relating to Transparency and Accountability in Selection of Workers

A number of provisions have been set forth in the Act to make the foreign employment transparent and accountable: publication of advertisement, preparing the list of workers in selection process, approval required to take passport abroad, provision relating to labor permission sticker, provision relating to the sending the workers on the individual basis, native airport to be used and notification about the countries opened up for work and provision relating to conduction of labor agreements with the countries of destination.

The implementation status of these provisions can be said to be **low-to moderate**, and in some of the provisions minimally or not implemented at all (Box 3.4). The MoLTM has no effective monitoring mechanism to evaluate whether the recruiting agencies have been regularly publishing ads and to what extent the ads carry out the reality; whether or not the selection of the workers is fair; there are evidences that the permission of labor stickers are made fraud; whether and to what extent the workers have been sent on the specified time unless the victims complain it to the DoFEP. Although the Act encourage to use the native airport for going abroad for work, almost half of the Nepali labor force at abroad have not used the native airport, but rather they use Indian airports. The regulation of workers destined via Indian airports has not been materialized in the bilateral talk between Nepal and India.

Box 3.4 Provisions relating to prior approval and selection of workers and current implementation status

<p>Sec 16, Publication of advertisement The licensee shall publish an advertisement in a daily newspaper of national circulation to be published in the Nepali language</p>	<p>Moderately fulfilled The recruiting agencies regularly publish the advertisements in a Daily Newspaper, But The DoFEP does not have the effective mechanism to monitor such system, there may be fraud</p>
<p>Sec 17, List to be prepared after selecting workers: The licensee shall select workers on the grounds of qualification and experiences of the applicants and prepare a list of persons selected; the licensee failed to do so, the Dept can make inquiry and stop all the work relating to the selection of the workers</p>	<p>Moderately fulfilled Some recruiting agencies are authorized to select the workers and it is difficult to know to the DoFEP that whether the selection process is fair. This happens because there is no provision of DoFEP representative in the selection process of the workers.</p>
<p>Sec 19, Provisions relating to labor permission sticker The licensee shall make a submission, accompanied by the following details, to the Department for labor permission sticker: skill-oriented training (if required), health certificate, insurance certificate, contract between employer institution and the workers and a receipt or bank voucher of amount paid by the worker to the licensee</p>	<p>Moderately fulfilled Labor permission sticker is provided by the DoFEP before departure of the workers and it has to show by the workers in the Labor Desk in the Kathmandu International Airport. There are cases of fraud in the sticker reported in the Labor Desk</p>
<p>Sec 20, To send for foreign employment the licensee shall send the concerned worker for foreign employment within the specified period to enter into the concerned country, if any, and within three months if such period is not specified. Otherwise return principle amount and interest to the workers</p>	<p>Minimally fulfilled As the DoFEP has no regular monitoring whether the workers have been sent on specified time, it is difficult to claim that this provision has been effectively implemented. Many of the returnee migrants complained that they were sent on the specified time.</p>
<p>Sec 21, To go for foreign employment on personal basis If any person intends to go abroad for foreign employment on personal basis, such person shall make ... for approval with the following information: country of destination, nature of work, letter of approval granted by the employer institution, agreement clearly mentioning the terms and facilities of employment, certificate showing that orientation training has been taken and health certificate</p>	<p>Minimally fulfilled There is no effective mechanism to verify the demand letter. Neither Nepali Missions at Abroad verifies the demand letter nor DoFEP has mechanism to verify it. This has resulted hundreds of thousands migrant workers ending up in exploitative situation.</p>
<p>Sec 22, Native airport to be used Use native airport, if non-availability of tickets, approval should be taken</p>	<p>Minimally fulfilled: It is believed that about one-half of the guestimated 2.6 million workers at abroad destined via India. It is known that sending workers via India has two advantages: i) the airfare is almost Rs. 10,000-15,000 from India than that of Nepal and ii) the agents feel secure sending workers from India</p>
<p>Sec 3, Specification of countries and labor agreements The Gov shall, by a notification in the Nepal Gazette, specify countries for carrying on the foreign employment business</p>	<p>Fulfilled The MOLTM has regularly notified the countries opened for foreign employment in the Nepal's Gazette. As of end of 2009, 107 countries were opened up MOLTM has already conducted labor agreement with Qatar, United Arab Emirates, Bahrain and South Korea – the agreements to some extent ensure the Nepali workers legal rights in these countries. The MOLTM is in the process of doing labor agreement with Malaysia, Saudi Arab Emirates, Kuwait and Israel.</p>

Provision Relating to Non-Discrimination and Special Facility

Foreign Employment Act ends discrimination against woman migrant workers for foreign migration, guarantees the equity by providing special facility to the disadvantaged groups including women and restricts sending of children under 18s to abroad for work. However, the GoN has adopted a policy to restrict woman workers in Gulf countries in unorganized sectors such as domestic work with the view of protection of them from sexual abuse and harassment and the GoN has banned going for work in Iraq.

The implementation status of these provisions set forth in the Act has **moderately fulfilled**, and in case of guaranteeing the special provision it has not fulfilled at all (Box 3.5). The MoLTM has not yet worked out for the special facility and reservation for the disadvantaged groups – resulting a huge flow of women and disadvantaged and poor people destined to third countries via India. This happens mainly because of i) the airfare from India is said to be cheaper by Rs. 10,000 to Rs. 15,000 than that of Nepal, ii) the agents feel secure sending workers from India; iii) many who cannot afford cost for going from Nepal, they are offered minimum visa charge from India and in sometimes, in case of girls and women, it is reported that agents incur all the transport cost from Nepal to India including passport cost. These all activities mean that there is high risk of exploitation and trafficking. To reduce this risk, the MoLTM has to work out for special facility to the disadvantaged groups including women.

Box 3.5 Provision relating to foreign employment and current implementation status

Foreign Employment Act 2007 Provisions	Current Status
Sec 7, Prohibition on sending a minor for foreign employment Any minor who has not completed eighteen years of age shall not be sent for foreign employment.	Moderately fulfilled No monitoring mechanism as there is complaint that even the persons under aged 18 years are issuing the passports
Sec 8, Prohibition on gender discrimination No gender discrimination shall be made while sending workers for foreign employment	Moderately fulfilled Legally, there is no gender discrimination, but a special commitment is required to be fulfilled by the recruiting agencies to send women in Gulf countries
Sec 9, Provide special facility and reservation The GoN may provide special facility to the women, Dalit, indigenous nationalities, oppressed, victims of natural calamities and people of remote areas who go for foreign employment	Not fulfilled at all There is no any work out in this relation yet.

Provisions Relating to Classification of Training

The Foreign Employment Act makes the mandatory of pre-orientation training before departure to work at abroad in order to make the potential workers aware on the culture, economy, geography, religion, language, transportation and communication system and money transfer system in the destination country. For this, the DoFEP has provided permission to 47 training institutions located in Kathmandu, and it has also responsibility to design, improve and change the training curriculum. Discussion with the Labor Authorities, it is understood that these provisions are in place. Yet due to the lack of effective and regular monitoring system in the DoFEP and no transparent procedure for the selection of the training instructions, there are evidences of fraud training certificates. As

a result, a number of workers face exploitation in the destination countries. The training hours allocated for males of 11 and 12.5 for females appear to be inadequate given the low educational status of the potential workers. Further, pre-orientation fee of Rs. 1,000 cannot be affordable by the very poor people. Note that there is provision of reimbursement of Rs. 700 in case of women. Besides, there are indirect costs of pre-departure orientation training involved such as lodging, food, transportation cost and time. These all evidences suggest that provision relating to pre-orientation training set forth in the Act can be said to be **moderately fulfilled** (Box 3.6).

Box 3.6 Provisions relating to classification of training and current implementation status

Foreign Employment Act 2007 Provisions	Current Status
Sec 27, Training to be taken Take orientation training, from the institution having obtained permission from the Department	Moderately fulfilled The DoFEP has provided permission 47 training institutions. One more class is taken to the female migrants in which gender specific concerns such as ways to protect and resist from sexual violence, rape and sexual exploitation. Yet there are cases of fraud pre-orientation training. Agents produce fake orientation certificates.
Sec 28, Provisions relating to institution running orientation training An institution intending to provide orientation training to workers who go for foreign employment shall make an application to the Department for Permission to run such orientation training	Moderately fulfilled The DoFEP has provided permission to run such training to 47 training institutions. However, all the training institutions are located in Kathmandu valley, a large number of potentially migrants do not have easy access to the training.
Sec 29, Fixation of curriculum and standard of orientation training The Board shall determine the curriculum and standard of the orientation training to be provided by the institution running the orientation training	Moderately fulfilled The Board has determined the curriculum, and the Board has developed the curriculum in partnership with ILO and UNIFEM and has not printed out yet.
Sec 23, Power to specify minimum remuneration The GoN shall specify the minimum remuneration to be received by workers who go for foreign employment	Minimally fulfilled The GoN has specified the minimum remuneration only for Malaysia and it is on the process of specifying wages in Saudi Arab. It is reported that specifying minimum remuneration would require to see the competition in the labor market from other countries.

Special Provision for the Protection of the Rights of Workers

The Act speaks out several provisions relating to the protection of the migrant workers including their families and children, provision of bringing income of workers, provision relating to health check-up, rescuing, safer house for migrant workers, insurance of Rs. 500,000 in case of accidental death and bringing dead body in case of the death of an individual in foreign employment. Yet many of the provisions set forth in the Act have **low-to-moderately fulfilled**, and in case of bringing income and use of it on productive work has not been initiated yet (Box 3.7). There is still lack of explicit provision stipulated for the protection of rights of migrant workers' rights and there are fraud cases of related to health check-up. According to the authorities of MoLTM and FEPB, the repatriation of undocumented workers – those who destined via India and not contributed of Rs. 1,000 in the Welfare Fund – possesses challenges as the GoN has not allocated budget for this purpose and the authorities claimed that as the Welfare Fund is the contributory fund and it must be used only for those who contributes in the Fund. Thus, rescue of the undocumented

migrants from the foreign land is a challenging work. Further, as the GoN has not yet established the safe house in Nepal, providing rehabilitation services, to some extent, to the needy returnees has been providing by a few NGOs. It is reported that the returnee migrant women face several consequences in their life including psychological and mental problems.

Box 3.7 Provision relating to protection of rights of workers

Foreign Employment Act 2007 Provisions	Current Status
<p>Sec 69, Bringing income of workers Saving amounts earned by the Nepalese workers who have gone for foreign employment shall be repatriated to Nepal through a bank or an institution licensed to provide banking service</p>	<p>No implementation at all The GoN has not worked out in this provision. This provision is very vital for safe transferring of the earnings to the workers in their family. There are cheating cases when a worker send the money through Hundi or even from the Bank</p>
<p>Sec 72, Provisions relating to health check up: A workers who go for foreign employment get health checked up prior to go to the foreign country</p>	<p>Moderately fulfilled The GoN has provided permission to produce a heath check up certificate to the Federation of Health Professionals (150 health organizations). Yet there are cases of fraudulent health check up certificates – resulting the workers to be deported from the destination countries</p>
<p>Sec 75, Provisions on sending workers back to Nepal</p>	<p>Minimally Fulfilled The FEPB has initiated rescuing of documented migrants (those who went with the permission of the DoFEP) and the dead body of the workers</p>
<p>Sec 26, Insurance to be procured The licensee shall, prior to sending a worker for foreign employment, procure insurance of at least 500,000 with validity for the term of contract so that such worker can claim damages for death or mutilation.</p>	<p>Moderately fulfilled This provision is applicable only for those who go through the institutional basis, but those who go individually and via India this provision is not implemented.</p>

There are cases of unwanted pregnancy of returnee migrant women victimized by forced sex or gang rape in the destination country. This situation leads to them separation from the family. At the same time, they are the ones who are at high risk of revictimization if proper rehabilitation and reintegration are not provided.

Provisions Relating to Monitoring and Inquiry

The Act has made the provision of monitoring to the recruiting agencies; authorized the DoFEP handling of complaint, investigation and prosecution through the trial labor court, preparation of annual reports stating the condition of foreign employment situation and maintain data of migrant workers and returnees. The Act states that it can prosecute that Nepali citizen acting against provisions of Foreign Employment Act in countries outside Nepal. Yet, the implementation status of the provisions set forth in the Act is **minimally fulfilled** (Box 3.8). The Act itself is not clear about the provision for witness protection and lack of clear indication of which of the cases under deceptive recruitment practices involve acts of human trafficking. Further, there is no effective monitoring mechanism in the DoFEP and FEPB. Inquiry and investigation appear to be not victims friendly and few of the victims get justice. DoFEP data reveal that none of the complaints registered against recruiting agencies in the DoFEP were forwarded for lodging in the courts in the FY 2007/08 and 2008/09. Only the cases forwarded were of individual cases - reflecting that major chunk of the fraud related to foreign employment is at the individual level. It is expected that the justice

will not be delayed once the Tribunal has been set up. Yet, there are no complaint handling mechanisms outside the valley – thus affordability, accessibility and effectiveness of the complaint handling, investigation and prosecution have been grossly lacking. This has resulted to a gross violation of human rights of migrant workers, especially of woman migrant workers. In relation to annual report, the MoLTM is regularly publishing its annual report.

Box 3.8 Provisions relating to monitoring and inquiry and current implementation status

Foreign Employment Act 2007 Provisions	Current Status
<p>Sec 34, Monitoring The Department shall monitor and inspect, from time to time, the office of the licensee in relation to whether this Act has been violated</p>	<p>Minimally fulfilled Although the DoFEP is responsible for the monitoring and inspection, this has not been regularly done because of the lack of system in charge of staff</p>
<p>Sec 35 and 36, Inquiry and Complaint for compensation In cases where a complaint is made by a worker that the employer institution has not fulfilled the contractual obligation, the Dept take necessary inquiry. If any employer institution does not provide employment in accordance with the terms prescribed in the agreement, the worker may make a complaint with the Department for compensation.</p>	<p>Minimally fulfilled A few number of complaints registered in the DoFEP compared to the extent exploitation believed to be. This happens because of i) no access to the complaint handling offices outside of the valley, ii) fear or threats from the agents, and iii) lack of information where to complain, iv) less faith on the DoFEP that it would sort out the case.</p>

3.4 Law Enforcement and Judicial Responses

The Foreign Employment Act 2007 makes provisions of penalties of any persons or recruiting agencies convicted for cheating a worker in relation to foreign employment. The DoFEP entitled to receive any complaints related to foreign employment; investigate the case; issue warrant paper; arrest the accused with the help of Nepal Police; ask for bell or leave the accused without bell; proceed the trail by sending the accused to the imprisonment and decide whether to file a case in the district court or not. The Act recognizes cheating, fraud or exploitation of a person in relation to foreign employment as a crime against the state.

Table 3.11 shows the number of complaints filed in the DoFEP during the 16 months of 2006/07. The DoFEP has categorized complaints into the i) individual basis and ii) institutional basis. An individual complaint means that a person is cheated by middle person at his individual capacity in the process of sending the person to foreign ‘employment. An institutional complaint means that a recruiting agency is accused of cheating a person in the process of sending a person to foreign employment.

Table 3.11 Number of complaints handled in DoFEP

Categories	2007/08	2008/09
Individual basis		
Number of complaints registered	505	506
Number of complaints withdrawn	Na	100
Number of cases filed in the courts	122	94
Institutional basis		
Number of complaints registered	436	359
Number of complaints withdrawn	Na	Na
Number of cases filed in the courts	0	0

Source: data obtained from DoFEP (data accessed on 25 November, 2007).

Note: 'Na' refers to not availability of data

Legal Enforcement and Responses of Judiciary

The law enforcement status and responses to the judiciary in relation to violation of Foreign Employment Act 2007 have been evaluated based on the review of 30 cases decided by the courts (25 cases in the Kathmandu district court, 4 in the appellate court and one case in the Supreme Court) in the FY 2004/05 by the UNIFEM and People's Forum (2009) (Table 3.12).

Among the 30 cases decided by the courts, 75 per cent are related to the cheating or fraud or exploitation or deceit by promising to the victims to send them to the Western countries including South Korea and Japan; 16 per cent to the Gulf countries and 9 per cent to Hong Kong. In overwhelming majority of cases (93%), accused are individuals, rather than the recruiting agencies (7%). This suggests that a large cake of the foreign employment appears to be operated by the agents - the informal channels. The recruiting agencies, in many of the cases, is believed to assign their authority in dealing with the potentially migrants individually so that they (the recruiting agencies) would escape from any charges related to violation of the requirements of the Foreign Employment Act 2007.

Table 3.12 Summary of the judiciary responses to fraud involved in relation to foreign employment

% of total complaints against recruiting agencies	7
Average no. of days taken from first registration of complaints to the accusing	95
Average no. of days taken from accusing to the decision	363
Average no. of days taken from first registration of complaints to the decision of the case	458
Verdict of the Court	
% of cases convicted	73
Of the convicted persons	
% released on mortgage	92
% in imprisonment	4
% released on <i>Sadharan Tarik</i>	4
% of cases acquitted	27
% of cases with no analysis of the advocates' arguments in the decision by the courts	83
% of cases in which court analyzed only the Foreign Employment Act 2007	90

Source: summarized from UNIFEM and People's Forum, 2009

There is delay in investigation as well as decision by the court. On the average, a case requires to be decided 458 days from first registration of the complaint in the DoFEP to the decision by the court. Among the cases, 73 per cent have been convicted while another 27 per cent have been acquitted. As compared to conviction rates of other criminal cases such as trafficking in persons or rape, the convicted rate appears to very high at first glance. However, as the DoFEP accepts only complaints with all the evidence of cheating or fraud including the payment receipt, the conviction rate of cheating or fraud in relation to foreign labor employment should be 100 per cent. Further, data reveal that an overwhelming majority of convicted persons have been released on mortgage and only a few have been imprisoned.

The main basis of the court verdict appears to be based on evidence, rather than on the analysis of the advocate's argument in the subject. An overwhelming majority of cases (83%) were decided without the analysis of the argument of the advocates made in the hearing the case. Nine in 10 cases were decided by only analyzing the Foreign Employment Act 2007; 5 per cent on the basis of the Evidence Act and another 5 per cent decided without analysis of anything. Further, all the cases were decided without proper analysis of the Interim Constitution of Nepal, *Najir*, International Convention relevant to the protection of foreign labor migrants including CEDAW. Analyzing these instruments in deciding the case would enrich the court's verdict.

3.5 Status of Legal Protection of Rights of Nepali Workers in Destination Countries

Ratification Status of International Convention on the Protection of the Rights of Migrant Workers and their Families, 1990

As of September 2009, 58 countries have ratified, accessed or made signature on the UN Convention of the Rights of Migrant Workers and their Families (CMW) (Annex 3.1). The Convention envisions the rights of migrant workers in both countries of origin and destination. In the origin country, the Convention guarantees the rights of migrant workers in relation to rights of participation in economic and political matters; rights to enter into any country for seeking employment; rights of the migrant workers' children in relation to birth registration and citizenship; rights of safe investment earned from foreign employment; rights to access to information regarding the foreign employment and rights to go to a country after labor agreement. In the destination country, the Convention ensures the rights against slavery; rights to privacy and security of property; rights of speech and belief; rights of social security; rights against illegal deportation; rights to equal security by the law of country of destination; rights to equal wages for the equal work; rights to work in safe and safety environment; rights to work certain hours and leave and rights to claim services and benefits according to the labor agreement.

This National Report attempted to identify the ratification status of the CMW to understand to what extent Nepali workers can enjoy the human and labor rights envisioned in the CMW. It is found that the GoN has not been the party of this Convention and hence the rights envisioned in the Convention are non-compliance to the state. However, some of the labor laws and Foreign Employment Act have addressed many of these issues. Examining the ratification or accession or signature status of the Convention in the major destination countries of Nepali workers, it is found that none of the major destination countries are the party of the Convention and hence the Nepali workers are denied from the rights envisioned in the Convention. The major destination countries of Nepali workers are Malaysia, Qatar, Saudi Arab, UAE, Bahrain, Kuwait, Oman, Israel,

Hong Kong and South Korea. In South Asia, Bangladesh and Sri Lanka are the parties of this Convention.

Ratification Status of ILO Conventions

Table 3.13 summarizes the ratification status of ILO fundamental Conventions related to human rights among major destination countries of Nepali workers for employment. Afghanistan has not yet ratified Conventions Nos. 87, 98, 29, 138 and 182; Bahrain 87, 98, 100 and 138; Kuwait 100; Lebanon 87; Malaysia 87, 111 and denounced 105; Oman 87, 98, 100 and 111; Qatar 87, 98, 100; Saudi Arabia 87, 98 and 138. Similarly, Maldives has not ratified any of the 8 conventions. Thus, data reveal that many of major destination countries of Nepali workers do not have freedom of association and collective bargaining (Afghanistan, Bahrain, Lebanon, Malaysia, Oman, Qatar, Saudi Arabia and UAE). Many of the countries have ratified conventions related to elimination of forced and compulsory labor except Afghanistan (No. 29) and Maldives. Similarly, Afghanistan, Kuwait, Malaysia, Qatar have not ratified conventions related to elimination of discrimination in respect of employment and occupation.

Table 3.13 Ratification status of ILO Conventions among major destination countries of Nepali workers for employment (as of April 30, 2010)

Name of country	Freedom of association and collective bargaining		Elimination of forced and compulsory labor		Elimination of discrimination in respect of employment and occupation		Elimination of Child Labor	
	Conv. 87	Conv. 98	Conv. 29	Conv. 105	Conv. 100	Conv. 111	Conv. 138	Conv. 182
Afghanistan	x	x	x	✓	✓	✓	x	x
Bahrain	x	x	✓	✓	x	✓	x	✓
Israel	✓	✓	✓	✓	✓	✓	✓	✓
Kuwait	✓	✓	✓	✓	x	✓	✓	✓
Lebanon	x	✓	✓	✓	✓	✓	✓	✓
Malaysia	x	✓	✓	D	✓	x	✓	✓
Maldives	x	x	x	x	x	x	x	x
Oman	x	x	✓	✓	x	x	✓	✓
Qatar	x	x	✓	✓	x	✓	✓	✓
Russian Federation	✓	✓	✓	✓	✓	✓	✓	✓
Saudi Arabia	x	x	✓	✓	✓	✓	x	✓
UAE	x	x	✓	✓	✓	✓	✓	✓

Source: <http://www.ilo.org/ilolex/english/docs/declworld.htm> (Accessed on May 1, 2010)

Note: '✓' refers to ratification; x refers to not ratified and 'D' refers to denounced.

3.6 Emerging Challenges

Increasing process of globalization is likely to raise the aspiration of Nepali young people to seek foreign employment and lead to a better life in days to come. The challenge for policy makers and program implementers is how to protect workers' rights in both country of origin and country of destination as well as in country of transit like India. In this direction, amendment of the Act and

Regulation, effective implementation of the Act and campaign to the international communities to pressurize the major destination countries to ratify the CMW and fundamental labor Conventions are the emerging challenges.

There is a need to constantly monitored and lobbied for Foreign Employment Act 2007 and Regulation particularly in the following issues:

- Make effective surveillance in major destination points especially in International Airport;
- Send immediately Labor Attaches including woman labor attachés in countries having more than 1,000 woman migrant workers as stated in the Act;
- Open Safe Homes both in the country of destination and origin to provide the immediate relief of the survivors of trafficking or exploitation;
- Expand the reaches of Migration Resource Center established in FEPB to the district level or at the community level;
- Increase the capacity of the law enforcement agencies including Labor Tribunal by increasing the resources and skilled human resources and expanding its work area to reach out of the Kathmandu;
- Access to safe migration information to most deprived areas including women;
- Establish Embassies or Diplomatic Missions of countries of major destination of Nepali workers so that validity of the demand of workers, visa can be easily verified within Nepal;
- Establish of Day Care for the children of woman migrant workers;
- Establish Labor Desk in each of the major districts with large number of migrants so that the complaint can be handled in the district level;
- Make effective coordination and networking among the organizations working for combating trafficking in person by providing safe migration information and services to the survivors of trafficking and exploitation in relation to foreign employment. As foreign labor migration is a cross-cutting issue, coordination among MoLTM, MoFA, MoHA and MoWCSW is vital;
- Implement the code of conducts among the recruiting agencies effectively so that they will not violate the measures and provisions embodied in the Foreign Employment Act 2007;
- Build the capacity of Labor Attaché and build their coordination with Diplomatic Mission abroad by increasing awareness among staff of the latter.
- Develop programs and allocate resources to ensure safe foreign labor migration and reduce the vulnerability of trafficking in persons.
- Ensure survivors/victims rehabilitation and reintegrate them with the family in case of trafficking and violence against women.
- Conduct mandatory skill training and pre-departure orientation by FEPB all over Nepal using returnees as experts/resource persons for its effectiveness;
- Explore and pilot safe countries for Nepali migrant domestic workers to promote good practices and reduce cases of irregular migration

Recommendations for Amendment of Foreign Employment Act 2007 and Regulation 2008

- Amend the Act to also include women's specific issues such as Reproductive health and reproductive rights;
- Amend the Act that ensures the provision of license of the agents involved in sending persons in foreign employment. The license should be provided to agents from the village, district to central level agents;
- Amend the Act to delegate the initial investigation to the CDO so that the people have access to make complaint in their close localities;

Advocacy at the International Arena

- Increase lobby and pressure to ratify the CMW and ILO Conventions to the major counties of destination of Nepali workers through GoN, NHRC and civil society.

Emerging Issue

- Korean men are cheating Nepali women in the name of marriage and are trapping Nepali women in slavery like situation in Korea. Pourakhi has handed two cases and know of many.
- There is a growing trend to fly from Nepal on visit visa and then overstay for work among migrant woman workers.

□□

Monitoring of Anti-Trafficking Activities

This Chapter begins by exploring the Nepal's situation of anti-trafficking efforts vis-à-vis SAARC countries and moves to dealing with Nepal's anti-trafficking efforts carried out by the Government, UN agencies and donor communities, NGOs and CBOs in the FY 2007/08 and 2008/09. It further explores the anti-trafficking activities at the local level by drawing on information from the workshops held in Janakpur and Hetauda – which cover 13 districts (from Chitwan to Udayapur). It also assesses the responses of criminal justice system by analyzing data on verdicts of cases of trafficking in persons in the courts of Nepal and also examines the role of media in combating trafficking. The final section draws on the emerging concerns in relation to implementation of anti-trafficking programs and activities in Nepal.

4.1 Nepal in TIP Reports

Nepal has remained in Tire 2 over the last four years except in the year of 2005 (Box 4.1). This indicates that Nepal has yet to make a sustained effort to combat trafficking in relation to: i) investigation and prosecution of trafficking crimes; ii) protection of trafficked victims, iii) adoption of preventive measures such as education, iv) cooperation with other Governments in investigation and prosecution of trafficking, v) extraditions of persons charged with trafficking as a serious crime and vi) monitor migration patterns for evidence of trafficking and investigations.

Box 4.1 Comparing Nepal's progress in combating trafficking in persons with other SAARC Countries

Country	2004	2005	2006	2007	2008	2009
Nepal	Tier 2	Tier 1	Tier 2	Tier 2	Tier 2	Tier 2
Bangladesh	Tier 3	Tier 2 WL/2	Tier 2	Tier 2	Tier 2	Tier 2
India	Tier 2 WL	Tier 2 WL	Tier 2 WL	Tier 2 WL	Tier 2 WL	Tier 2 WL
Pakistan	Tier 2 WL	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2
Sri Lanka	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2	Tier 2

Source: TIP Reports 2005, 2006, 2007, 2008 and 2009 of US Government.

Although Nepal's progress seems to be satisfactory compared to India's, Nepal's slipping again to Tier 2 since 2006 is largely due to the adverse consequences of the decade long armed conflict (1996-2006), increasing fraud or deception involved in foreign labor employment, increasing internal trafficking in entertainment industry, inadequate implementation of HTT Act 2007 and Foreign Employment Act 2007. In the consultation meeting with GOs in Kathmandu, the Joint Secretary of MoWCSW suspected that Nepal's position in 2010 may fall from Tire 2 to Tire 2 WL because of the failure of widespread good governance.

4.2 Government Activities in Response to Trafficking

The *Three Years Interim Plan (2006/07-2009/10)* has explicitly dealt with women and children its separate chapters. During the entire Plan period, a total of Rs. 28 billion is estimated to be spent in gender equality, women empowerment and gender mainstreaming programs by MoWCSW and other sectoral ministries and departments. Among them, the estimated budget under the MoWCSW is Rs. 158.7 million. The breakdown of the budget by program is given in Box 4.2.

Box 4.2 Budget allocated in the Three-Year Interim Plan (2006/07-2009/10) on women specific program

SN	Program	Rupees (10 Millions)
1	Women Empowerment Program	2.64
2	Women Development Program (Central Level)	27.90
3	Women Development Program (District Level)	75.19
4	Gender Equality and Women Empowerment Program (Project)	42.32
5	Implementation, Monitoring and Reporting of International and Regional Instruments on Women's Rights	0.53
6	Capacity Building Women Empowerment Program Related to Institutional Development	10.16
	Total	158.74

Source: NPC, 2064 (2007): 104.

In case of child related programs, the Plan has identified nine types of programs for the Plan period and allocated a total of Rs. 108.1 million for the entire Plan period (Box 4.3).

Box 4.3 Budget allocated in the Three-Year Interim Plan on women specific program

SN	Programs	Total Rs. (in millions)
1	Child welfare program (education, health, psychosocial advocacy, rehabilitation)	28.4
2	Programs by CCWB and DCWBs	13.0
3	Development of information system related to children	1.2
4	Awareness program through media about protection and promotion of child rights	0.9
5	Skills and employment related training to children aged 14 and above who are out of school (including Dalit, Janjati, Madheshi, and children from remote areas)	25.4
6	Special protection and care for children with mental disability	4.9
7	Protection and equal opportunity program for children with disability	4.9
8	Permanent Child Fund for emergency support and rescue	14.7
9	Strengthening <i>Baal Mandir</i> as shelter for children at risk	14.7
	Total	108.1

Source: NPC, 2007: 311.

A number of line Ministries and Department have been contributing to prevention of trafficking in women and children through their different programs. The leading organizations in this relation are: MoWCSW, Women Development Department, Ministry of Education and Sports (MoES), Ministry of Health and Population (MoHP), MoHA, MoLTM, Ministry of Land Reform and Management (MoLRM), Ministry of Foreign Affairs (MoFA), National Dalit Commission, National Women Commission and Poverty Alleviation Fund.

Ministry of Women, Children and Social Welfare

At the policy level, the MoWCSW has already carried out, or is being carried out, in the followings in the FY of 2007/08 and 2008/09:

- The fourth and fifth periodic reports of CEDAW are under preparation.
- The Draft Bill on Control of Sexual Harassment at Workplace approved by the Council of the Ministries
- Zero Tolerance Policy draft is ready
- The Council of Ministries approved the Manual on minimizing the *Chaupadi* system 2008
- The Constituent Assembly has passed the Domestic Violence (Crime and Punishment) Act 2008

Concerning the Child Rights, the CCWB, and MoWCSW has already carried out or being carried out the following activities:

- Approved Conditions and Procedures 2008 for the adoption of Nepalese children by foreigners and signed the Convention of the Protection of Children 1995 (the Hague Convention) in order to make adoption procedures of international standard and transparent
- Amended Child related Acts and Regulations to make timely, effective and human rights friendly of the Children Act 1990
- Continued operation of Missing Children Search Center (toll free 104) and Child Helpline (toll free 1098)
- Continued Child Protection and Development program in 27 districts; Juvenile Justice System Strengthening program in 13 districts and Institutional Strengthening program in 18 districts

- Prepared and being finalized Broad Standard on Child Home Operation and Management 2008 and Child Protection and Development Program Operation Guideline 2008
- Submitted to the initial Report on Child Rights Protocol Voluntary Charter 2000 against trafficking of children, child pornography and child prostitution to the UN Committee on Child Rights
- Being prepared Initial Report as a part to Voluntary Charter against the use of children in armed conflict
- Surveyed 454 Child Homes from 37 districts and formed Child Home High Level Task Force at the national level and Child Home Monitoring Task Force in 37 districts.

At the program level, the MoWCSW has several programs (Box 4.4). Some programs are regular and have been carried out since the first half of the 1980s while others are the new initiatives. Most of the activities of the programs are related with women empowerment and some are directly related with combating trafficking in persons. MoWCSW has also provided Rs. 150,000 to Nepalese Embassy in New Delhi to rescue the traffic victim women.

Box 4.4 Programs related to women and children, MoWCSW

Types of program	Initiation date of program	Priority Ranking	Major outcome	Annual Budget FY 2007/08 (Rs. In 000)	Annual Budget FY 2008/09 (Rs. in 000)
Women development program (central level)	1981/82	PI	Integration of women in development	25,905	20,599
Women development program (district level)	1981/82	PI	Empowerment of rural women	35,5430	
Women empowerment program	1996/97	PI	Women empowerment promotion	10,000	29,221
Child welfare program	1996/97	PI	Child rights protection and promotion	12,500	18,600
Child welfare committee	2006/07	P2	Child rights protection and promotion	4,600	4,830
Gender equity and women empowerment program	2006/07	PI	Gender equality in women	19,9406	221,273
Decentralized support strengthening program for the vulnerable and conflict affected children and families	2008/09	Na	Child rights protection	46,200	49,280
Sexual and gender minority support program	2008/09	Na	Protection and promotion of sexual and gender minority	2,500	3,000

Source: Annual Programs of the FY 2008/09 and 2009/10, GoN and Ministry of Finance, 2009

Among others, the following program components carried out by the Ministry are relevant for combating trafficking in children and women.

- Budget allocation for the 26 District Committee to anti-trafficking;
- Skill oriented program for the single women in Kathmandu;
- Scholarship to Women Studies Program'
- Awareness programs related to domestic violence, sexual abuse, Chhaupadi, polygamy, Jhuma, Kamlahari, witchcraft;

- Training to Nepal Police at the central and regional level about gender sensitivity;
- Establishment of Information Center and collection of gender disaggregated data;
- Monitoring of implementation status of laws and policies regarding gender based violence;
- Awareness program on gender violence and broadcasting from different local languages;
- Maintenance of Child Welfare Homes in Butawal, Biratnagar, Saptari
- Awareness program on anti-trafficking and
- Workshop on violence against women (VAW), support to adolescent and gender awareness programs to adolescent girls and women's education program

Department of Women and Development

Combating trafficking in women and children, sexual exploitation, domestic violence and crime against women is one of its 10 mandates of Department of Women Development (DWD). It aims to achieve this goal by i) making women aware of and able to resist about violence against women and their exploitation through formation of women's groups; ii) conducting and/or supporting social awareness programs against trafficking in women and children, sexual exploitation and domestic violence; iii) ensuring and making male's involvement in social awareness programs against traditional harmful practices and running the programs and iv) formation and mobilization of local level para-legal committee to make community able to solve the problem at the local level.

Ministry of Health and Population (MoHP)

The MoHP has run HIV/AIDS control program. In the last FY 2008/09, it distributed medicines for the treatment of Sexually Transmitted Infections; provided care and support service to 2,500 STI affected persons, expanded Voluntary Counseling and Test (VCT) center from 45 districts in the FY 2007/08 to all 75 districts in the FY 2008/09, provided skilled-based training to the persons living with HIV/AIDS. The Ministry provided training to the health workers about gender violence and management of conflict and to the disadvantaged groups and adolescents about HIV/AIDS.

In the FY 2007/08, ART services at 21 locations and VCT services at 36 locations covering 15 districts were established; 25,000 out of 50,000 AIDS and STD patients received treatment; school education program on AIDS conducted in 3750 classes; comprehensive HIV Case Side conducted in 15 out of 20 places and PMTCT services provided to 6664 AIDS infected persons out of 9500.

Ministry of Education and Sports (MoES)

The MoES has contributed to prevent trafficking in children and women through its provision of free primary education for all, scholarship in the lower and secondary education and food for education to the most vulnerable populations such as Dalit, girls and children from Karnali region. Some of the most relevant programs for the contribution of prevention of child trafficking in the FY 2007/08 and FY 2008/09 presented in Box 4.5.

Box 4.5 Program of MoES relevant to the disadvantaged groups and vulnerable groups

Program components	FY 2007/08	FY 2008/09
Scholarship to all Dalit children	740,710 students	806,000 students
Scholarship to girl students	607,401 girl students	783,000 girl students
Scholarship to all Dalit students in lower and secondary education	119,687	159,402
Scholarship to students of Chepang, Raute, Mushahar, Dom, Dushad and Badi	2742 students	
Food for education program	145,031 students provided Day Meal	
Girl students motivation program	41,066 in 9 districts provided 2 liters of edible oil	Day food for 209,000 students of 2148 schools.
Provision of maternal and child health care	33500 mothers and children provided MCH services	42,000 mother and children provided MCH services
Non-formal education and national literacy campaign	Established 339 community study centers, 103500 adults enrolled	Mobilization of 339 community study center
Education for all – Child development program		By FY 2008/09, 2023 CDP established in the country
Education program for the conflict affected families	No target given	No target given
NFE and national literacy campaign	5175 adult literacy classes 2520 new literacy classes 339 community study center	339 community study center

Source: Annual Programs of the FY 2008/09 and 2009/10, GoN and Ministry of Finance, 2009.

Ministry of Labor and Transport Management (MoLTM)

The MoLTM is responsible for making employment business safe, managed and decent and protect the rights and interests of the workers who go for foreign employment and of the foreign employment entrepreneurs. The GoN has adopted Foreign Employment Act 2007 and Regulations 2008 to ensure the workers' rights and regulate the foreign employment business. As per the Act and Regulation, under the Ministry, the Department of Foreign Employment Promotion (FFEP) is responsible for maintaining and monitoring the all the formalities required to send workers to a foreign country including handling of the complaints. The Foreign Employment Promotion Board (FEPB) is responsible for promotion of the welfare of the workers at abroad and their families. The Ministry under its employment promotion program aimed at carrying out the following activities relevant for safe labor migration: operation of website, access to information related to foreign employment, arrange demonstration about foreign employment and establish information center for employment. The Ministry's activities in the FY 2007/08 and 2008/09 have been discussed in Chapter 3.

Ministry of Home Affairs (MoHA)

The MoHA has program of cross border security and it organizes annual cross-border meeting with Indian security officers on border issues including trafficking in women and children. Sometimes the cross-border meeting is also reported to take place within three months. Under the MoHA, the WCSC of Nepal Police has been extended to all 75 districts by the late 2009 from merely 25 districts till 2008. The WCSC is responsible for handling of the crime against children and women including complaints on trafficking, sexual exploitation.

Ministry of Foreign Affairs

The Ministry has contributed to rescue the trafficking survivors from a foreign land, bringing the dead body and facilitated to repatriate the compensation of the Nepali workers in case of death at work at abroad. The Ministry has also been providing the orientation of the Nepalese Missions at abroad about the foreign employment situation and risk of exploitation and trafficking.

Ministry of Land Reform and Management (MoLRM)

The Ministry has contributed to the prevention of trafficking in women and children, especially among the most disadvantaged group i.e. liberated Kamaiyas. Kamaiyas are debt bondage laborers prevailed in five Tarai districts in Nepal for years. The Ministry has the program entitled 'land reform and rehabilitation program for liberated Kamaiyas and Haliyas'. By 2007/08, 12,019 families of liberated Kamaiyas had been distributed a total of 2,381 *Bigha* land; among them, 8,700 families were provided Rs. 10,000 per family for building a house; nearly 10,000 persons in the program of one-family one-employment were provided skilled based training. By 2007/08, there were 32,509 families with Identity card of liberated Kamaiyas. Among them, 27570 families needed to be rehabilitated. Of which, 15,172 families were rehabilitated. In the FY 2008/09, a total of 12,398 families were rehabilitated. In case of Haliyas, the GoN has initiated to identify the Haliyas but it has not initiated the rehabilitation program. Haliyas are the persons who plough land for others in lieu of debt, in lieu of labor of adults and children. The Haliyas system is basically found in the far western hills such as Baitadi, Darchula, Dadeldhura, Doti, Achham and Bajura districts. According to ILO study (2009), there are more than 4000 Haliya families in these districts who are still working as Haliya even after the declaration of Haliya Liberation by the GoN in September 2008.

Ministry of Local Development (MoLD)

Under the MoLD, inclusive programs also contribute to the prevention of trafficking of children and women, including the alleviation of caste discrimination. The program include: Upliftment of endangered indigenous people/tribes and Chepang development program; committee of upbringing excluded, oppressed and Dalits; Madheshi-backward community and Muslims upliftment program; Chure and Tarai region development program and remote and special area development program.

Poverty Alleviation Fund

Poverty Alleviation Fund was established in 2003 under the Prime Minister Office. The GoN has also adopted the Poverty Alleviation Fund Act 2007 and Poverty Alleviation Regulation 2008 to mobilize the Fund.

The main aims of the Fund is to contribute reduction in poverty among women, Dalit, Janjati including others through social mobilization, income generation, infrastructure development and capacity building of the CBOs including women's organizations. Initially, the Fund covered six districts and by 2007/08, it extended to another 19 most poverty stricken districts and by 2008/09, the program was extended to 55 districts. By the FY 2007/08, a total of 6,838 CBOs were formed and mobilized from 668 VDCs of 25 districts. Among the members involved in the CBOs, the highest proportion were Dalit (39%), followed by Janjati (29%) and others (32%). During the

FY 2007/08, the Fund has channeled Rs. 1 billion, 551 million 674 thousand for income and community infrastructure projects and Rs. 246.77 million for Partner Organization.

National Dalit Commission (NDC)

The Commission is formed for the development and protection of rights and welfare of the Dalits and it carries out Dalit-focused activities. Some of the major activities conducted by the Commission in the FY 2007/08 were: supervision and follow-up of Dalit targeted programs, evaluation and publication of annual report; sport-observation, coordination and inquiry of legal processes about Untouchability; conduct awareness programs and trainings to Dalits on constitutional, legal, human rights and humanitarian issues. In the FY 2008/09, the NDC has prepared its *Strategic Plan 2009-2014*. Among the 10 strategic objectives, objective nine is related to empowerment of women and thereby contributing to the prevention of trafficking in women and children among Dalit. The Plan has outlined the short-term and long-term interventions (Box 4.6).

Box 4.6 Women and children specific interventions of NDC

Short term intervention	Long term intervention
Establish women and children section in the NDC	Establish Safe House and rehabilitation centers for the Dalit women victims of violence including trafficking
Formulate policies and programs to ensure justice	Develop program to increase leadership and capacity of Dalit women
Launch a campaign to ensure a minimum of 33 per cent representation of women at all levels among the total Dalit representation	Carry out capacity building program among women and children
Initiate campaign program to promote the equal rights of women Launch special programs focusing to increase social and cultural awareness	Formulate special program on social security especially to single, conflict-affected women, elderly, disabled women and minorities

Source: National Dalit Commission, 2009.

National Women Commission

National Women Commission (NWC), established in 8 March 2002, 'for the protection and promotion of the rights and interests of the women and thereby effectively include them in the mainstream of development and making overall development of the women establishing gender justice' (National Women Commission's Act 2007: Preamble). The scope of NWC includes research and review of government policies and legal frame works, recommending the government for necessary actions, monitor implementation of those policies as well as programs, legislations and international human rights instruments ratified by the government.

Drawing on the interview with the authority of the Commission, it is known that there are no trafficking specific programs in the FY of 2007/08 and 2008/09.

4.3 United Nations, Donor Agencies and INGOs Responses

Several bilateral and multilateral agencies including INGOs have been supporting the anti-trafficking initiatives in all three areas of interventions: prevention, protection and prosecution.

Among the major ones are the following: United States Agency for International Development (USAID) Nepal, the Asia Foundation, Plan International Nepal, the Lutheran World Federation Nepal, Save the Children, International Organization of Migration (IOM), ILO, UNIFEM, Terre des hommes, IACG group, Free the Slaves (FTS) – US, American Bar Association Rules of Law Initiatives, the World Education.

According to the United Nations Country Team (UNCST) which sent its comments to the OSRT-NHRC in written for this Report (part of the commitment has been analyzed in Chapter 5), there are a number of projects being undertaken by the individual members of UNCT through their technical assistance to government of Nepal to realize agreed international standards. The key individual members in relation to combating trafficking include IOM, ILO, UNICEF, UNDP, UNIFEM and OHCHR.

IOM in collaboration with Newcastle University, UK has recently commenced a multi-year large research project that aims to analyze gendered citizenship discourse within the current constitutional process and explore alternative options for livelihoods available to Nepalese women experienced trafficking. ILO has been undertaking a project on Protection of Nepalese Migrant workers from forced labor and human trafficking that aims to prevent forced labor and trafficking and to protect the rights of migrant workers when they are recruited for employment overseas.

UNICEF has currently been co-chairing a multi-stakeholders group Inter-Agency Coordination Group on human trafficking especially women and children which priorities supporting the Government in updating current National Plan of Action in 2010. As UNODC mandated to focus crime aspects of human trafficking, in Nepal UNODC has been providing technical assistance to Nepal in effectively addressing the issues of human trafficking by strengthening criminal justice system.

UNDP jointly with OHCHR has been continuing support to the NHRC to prepare the annual situation report on anti-trafficking and capacity development of the OSRT. In addition, the training components on the human trafficking, safe migration and human rights to the concerned Governmental officials and human rights defenders are also the part of the program.

These UN agencies, inter-Governmental organizations and INGOs work in partnership with NGOs in Nepal including National Network on Safe Migration (NNSM). PAURAKHI – a returnee migrant workers organization, People's Rights Forum, Society of Economic Journalists and Nepal Association of Foreign Employment Agencies including others have initiated safe migration information and services programs especially after 2007. At the policy level, they have contributed to draft and pass the Foreign Employment Act of 2007 and Regulation of 2008; draft the migration policy; the issues of woman migrant workers in the National Budget Speech, integrate the HIV and Migration strategy in the National HIV strategy and continued efforts to put safe migration issue in the upcoming Three Year Interim Plan (2010/11 -2013/14).

These organizations have also contributed to raise awareness on safe migration and anti-trafficking through celebration of International Migrants Day, International Women's Day, International Child Day including others; safe migration messages through electronic and print media including documentary; production and distribution of IEC materials based on messages focusing on the rights of woman migrant workers.

They have also contributed a lot to increase the awareness among the key stakeholders including the line agencies from the central to the district level through talk programs, interactions, workshops and trainings. This has contributed to increase the commitment of the Government agencies including the CDO to realize about the extent of the unsafe migration, trafficking and vulnerability of exploitation in the process of migration. Further, a number of research studies have been published to facilitate safe migration, especially focusing on women's migration.

4.4 NGOs Responses

There are many I/NGOs working to combat TIP in Nepal. They operate a number of activities related to prevention, protection and providing legal aid/support to the victims of the trafficking.

Prevention

Many organizations have carried out different prevention related anti-trafficking programs like law and policy intervention; awareness to the potentially victims and vulnerable communities; workshops/interactions, rallies and symposium; income generating activities and mobilization of prevention homes and vigilance at the key border points including in the bus parks, highways and means of transport (Box 4.7).

In relation to safe migration, the NGOs have provided safe migration information through CDO for persons who come to issue the passports, orientation to students and teachers, orientation training to girls and women, advocacy to the key stakeholders at the national, regional and district levels.

Data on the number of persons prevented from trafficking are not available for all organizations. Maiti Nepal provided safe migration information to 47,961 migrants, 272 persons from CDO, 1,830 students and teachers, 11,355 vehicles intercepted, 98 girls and women received special training on safe migration and 540 people received training on safe migration.

Similar types of services are also provided by WOREC and it provided 12,756 persons with safe migration information and 10,812 people were provided with special orientation on safe migration in the FY 2008/09. WOREC Nepal has Safe Shelter in Morang, Udayapur, Dhanusa, Dang and Kailali districts and information booths in Morang, Sunsari, Udayapur, Siraha, Dhanusa, Dang and Kailali districts in the premises of CDO. It provides psychosocial counseling to survivors of violence against women and also collects cases of violence against women through district level documenters, Women Human Right Defenders and Staff.

Another leading organization working on promotion of safe migration information and services to the survivors of trafficking is Pourakhi. It has not developed from NGO culture but rather it is an organization of returnee woman migrant workers. Established in 2005, Pourakhi has been providing safe migration information through weekly radio program, production and distribution of IEC materials, formation and mobilization of listern clubs on safe migration at the community level, referral services, legal support and psychosocial counseling (data not available and not shown in Box 4.7).

Despite these efforts, the coverage of the prevention programs in terms of geography appears to be low compared to the extent of the problems believed to be in the length and breadth in the country. Many of the most vulnerable groups including most trafficking prone districts and VDCs especially in the border areas of Nepal and India have not been reached out by the NGOs. Reaching out in the border areas between Nepal and India is vital for the prevention of trafficking of persons, especially of children.

Box 4.7 Status of prevention related programs carried out by some leading NGOs, 2007/08

Anti trafficking/ safe migration programs	Maiti Nepal	AATWIN	WOREC	ABC Nepal	Shakti Samuha	Women Skill Creation Center	Worldview Nepal	DEPROS
Law and policy interventions	Make 93 law enforcement authority on anti-trafficking laws including others	4 programs in the Kathmandu valley	1 program in 9 districts covering 108 VDCs and 12 municipalities		3 programs in Kathmandu and Pokhara with 2000 target population	7 programs in 6 VDCs covering 500 target pop.		2 programs in Ramechhap
Awareness raising	523 girls and women of border areas of Banke and Kailali; educated 425 parents of vulnerable groups; established two Information Centers, Helped Child Protection Committee	11 programs in Kathmandu valley	Do	2 programs in 1 district	4 programs in 12 VDCs covering 5500 target pop.	25 programs in 6 VDCs	Radio PSAs in Banke and Makwanpur districts	Do
Workshop/Interaction/ Rally/Symposium	Information Management including others	11 programs in Kathmandu valley, Banke, Nuwakot and Makwanpur districts	Do	2 programs in 2 districts	Do	15 programs in 6 VDCs covering 2000 target pop.	National level	Do
Advocacy	Several awareness program at the national and local levels	2 programs with CA's parliamentarians	Do	-	3 programs in Kathmandu and Pokhara covering 3500 target pop	5 programs in 6 VDCs covering 1000 target pop.		-
Income-generation activities	46 girls of trafficking vulnerable of Nawalparasi including others	-	-	1 program in 1 district	5 programs in 12 VDCs covering 85 target pop.	10 programs in 6 VDCs covering 150 target pop.		12 programs in Ramechhap, Sindhuli and mid and far-west except Achham and Mugu
Prevention Homes	Three prevention homes: i) Chisapani, Nuwakot; ii) Bardaghat, Nawalparasi and iii) Hetauda Makwanpur Information and Vigilance at Nagdhunga							

Source: based on information provided by the concerned NGOs to NHRC on written

Protection

Table 4.1 summarizes the number of trafficking survivors provided protection services by six leading organizations working on combating trafficking in Nepal. These organizations include ABC Nepal, Maiti Nepal, WOREC, Shakti Samuha, Women Skill Creation Center and People's Rights Forum. The former four organizations have national level programs on combating trafficking in women and children. While Women Skill Creation Center works in Makwanpur district, and People's Rights Forum especially works to promote safe foreign labor migration. These organizations nearly represent 75 per cent of the protection efforts carried out to combat trafficking in women and children in Nepal. Altogether, 3,164 women and children were intercepted in the FY 2008/09, 322 rescued/repatriated, 343 provided rehabilitation services, 26 provided temporary shelter, 279 reintegrated, 22 rescued from brothels and 10 from sexual exploitation. Note that all the survivors related to People's Rights Forum are adult males.

Table 4.1 Number of persons protected from trafficking by different NGOs, 2008/09

Categories	ABC Nepal	Maiti Nepal	WOREC	Shakti Samuha	Women Skill Creation Center, Hetauda	People's Rights Forum	Total no. of persons provided protection services
No. of children and women intercepted	128	2673	0	363	0	0	3164
No. of children and women rescued	165	95	13	0	45	4	322
No. of children and women in rehab centers	29	216	29	68	1	0	343
No. of children and women provided temporary	0	26	0	0	0	0	26
No. of children and women reintegrated	146	0	24	29	80	0	279
No. of children and women rescued from brothels	21	0	0	0	1	0	22
Rescued from sexual exploitation	10	0	0	0	0	0	10
No. of children and women found	0	116	0	0	0		14
No. of missing application received	0	555	0	0	0	0	555

Source: based on data provided by ABC Nepal, Maiti Nepal, WOREC, Shakti Samuha and Women Skill Center, Hetauda to NHRC.

Among these five organizations, Maiti Nepal has recorded comparatively greater contribution on protection efforts. In the year of 2008/09, a total of 216 survivors of different types of violence were in rehabilitation centers of Kathmandu in Maiti Nepal. Among them, 168 were girls and women and others were children. Among the 168 girls and women in rehab centers, 71 were trafficking survivors, 47 survivors of gender violence, 34 intercepted girls, 13 survivors of rape/sexual violence and 3 were engaged in commercial sex work. Among the trafficking survivors of 71, 52 were rescued from Indian cities of Mumbai (19), New Delhi (14), Kolkatta (14) and other cities (5). A total of 19 girls and women were rescued from Gulf nations like Saudi Arabia (9), Kuwait (7), Oman (1), Lebanon (1) and Dubai (1).

Legal Services

Table 4.2 summarizes the number of trafficking survivors and migrants who were provided legal services by six leading organizations working to combat trafficking in women and children. People's Rights Forum is particularly working to promote safe migration, and hence data related to this organization refer to unsafe migration among men. WOREC is also working in safe migration and only 3 cases forwarded to lodging in the district court refer to the unsafe migration. Maiti Nepal's data do not provide breakdown by trafficking or unsafe migration. Yet Maiti Nepal mainly work for combating trafficking, it may be assumed that its data refer to legal treatment for trafficking survivors. Altogether, 2801 number of trafficking victims/migrants received legal aid/support, 8 cases filed in the Nepal Police, 93 cases filed in the courts, 29 cases related to rape filed in the courts and 40 cases related to labor filed in the Department of Foreign Employment and Promotion.

Table 4.2 Number of trafficking victims/unsafe migrants provided legal by different NGOs, 2008/09

Categories	ABC Nepal	Maiti Nepal	WOREC	Shakti Samuha	Women Skill Creation Center, Hetauda	People's Rights Forum	Total no. of persons provided legal services
No. of survivors received legal aid/support	143	2168	48	386	16	40	2801
No. of cases filed in the Police	0	0	0	8	0	0	8
No. of cases forwarded to lodging in the court	73	0	11	4	5	0	93
No. of complaints filed in the courts	12	33	9	6	0	5	65
No. of reported cases on gender violence	0	605	0	0	0	0	605
No. of cases related to rape filed in the courts	0	29	0	0	0	0	29
No. of cases filed in the labor office	0	0	0	0	0	40	40
Others	43	577	0	0	0	0	620

Kanchhi case (Case 4.1) is one of the examples that how legal aid/services or training to the trafficking survivors or vulnerable groups have been increasing the self confidence, self-esteem of the victims of the violence. The legal aid training would enrich the capacity of victims to increase their resistance against gender based violence.

Case 4.1 Legal rights training increase the self confidence of the trafficking survivors

Kanchhi, Nuwakot, is a trafficking survivor who received legal rights training from Shakti Samuha and says 'I have increased my confidence to complain against abuses or injustice'. She remembers one incidence that one day, one man of her neighbourhood scolded her arguing that she had involved in 'prostitution'. Kanchhi complained it to Nepal Police. Nepal Police decided that the man should pay the medicine cost incurred for her treatment. But the man did not appear in the hospital where she was getting medical treatment. She again went to the Police and complained it. The man was again arrested and made him to pay the medical cost incurred for her treatment and the man confessed that he would not do such activities again.

Source: Summarized from Shakti Samuha, 2009

4.5 GOs and NGOs Responses at the Local Levels: Evidence from Central Tarai and Hill Regions

The study monitors the GOs and NGOs efforts in combating trafficking based on two workshops held in Hetauda and Janakpur. The participants of the workshops were WDO, WCSC, NGOs, lawyers, journalists and civil society in the both workshops. In Hetauda workshop, participants were from Chitwan, Makwanpur, Parsa, Bara and Rautahat districts and in Janakpur, participants were from Udayapur, Saptari, Siraha, Sarlahi, Dhanusa, Mahottari, Sindhuli and Ramechhap districts.

The workshop participants have mapped the GOs and NGOs working against trafficking in their respective districts (Box 4.8). The WDO, WCSC, DCWB including DC on trafficking are the GOs. In all districts, WCSC and DC on trafficking have been established. DCWB is not established in all districts. With regard to NGOs/civil society working in the districts, it is found that there are district level offices of Maiti Nepal, Shakti Samuha and WOREC Nepal and CeLLARD while there are other district levels NGOs. Some NGOs work exclusively in combating trafficking such as Maiti Nepal and Shakti Samuha while others have integrated anti-trafficking activities in their broader women's empowerment, child rights and single women programs.

Box 4.8 Mapping of organizations working on anti-trafficking activities in 13 districts, Nepal

Districts	Governmental organizations	NGOs/Civil Society
Chitawan	WDO, DCWB, WCSC DC on Trafficking	Suchana Nepal - Adarsha Griha Punrsthapana Center Maiti Nepal Shakti Samuha CeLLARD Para-Legal Committee
Makawanpur	WDO, DCWB, WCSC DC on Trafficking District Juvenile Court	Bar Association CeLLARD Maiti Nepal HimRights EPT Child Welfare Society CWIN Nepal Women Skill Center Asmita Nepal
Rautahat	WDO, Nepal Police	Mahaila Surascha Dabab Samuha HimRights Nari Awaj Kendra Shakti Samuha
Bara	WDO, Nepal Police	Shakti Samuha
Parsa	WDO, Nepal Police	Maiti Nepal
Udayapur	WDO, District Attorney Office DC on Trafficking formed	WOREC-Nepal Muldhar Women Service Center, CeLLARD (Para-Legal Committee), WHRD
Saptari	WDO, WCSC, District Attorney Office DC on Trafficking formed	WHRD, Single Women Group
Siraha	WDO (66 out of 106 VDCs) DC on Trafficking formed WCSC	WOREC-Nepal (30 out of 106 VDCs)

Sarlahi	WDO (all VDCs) WCSC DC on Trafficking formed	Prerana Nepal (31 VDCs in women and 15 VDCs in disabled) Bal Sanrachhan Manch (21 VDCs) Granmin Nari Utthan (15 VDCs) National Employment Promotion (31 VDCs)
Mahottari	WDO (50 VDCs out of 76 VDCs and municipality), WCSC, DC on Trafficking formed	WHRD, Manab Adikar Racchak Samuha, Community Development and Advocacy Forum, Women Development Group, Ratauli Youth Group, Community Development Project Sanskriti Mahila Utthan Kendra Asman Nepal Samudaik Pairabi Manch
Dhanusa	NHRC Regional Office, WDO, WCSC, District Attorney Office DC on Trafficking formed	WHRD, WOREC-Nepal, Pragatishil Nepal
Sindhuli	WDO (53 VDCs), WCSC DC on Trafficking formed	WHRD, Prayasha-Nepal
Ramechhap	WDO (all 55 VDCs), WCSC DC on Trafficking formed	WHRD (all 55 VDCs), DEPROS (6 VDCs)

Source: based on the workshop held in Hetauda (March 21-22, 2010) and in Janakpur (April 3-4, 2010).

These GOs/NGOs have run various programs related to prevention, protection and legal aid/support activities (Appendix 4.1). In all the districts, it is reported that DC on trafficking, committees against Gender Based Violence (GBV) have been formed and in Saptari eight community service centers covering the whole district to deal with GBV have also been established.

The prevention related activities include awareness raising through IEC materials, FM program, hoarding boards, posters and street drama; formation of women collectivities like self help groups, women cooperatives, WHRD, networks; advocacy for safe migration with the key stakeholders; provision of non-formal education and income generation activities; conduction of events such as rallies, talks and interaction. In many districts, the income generation programs have been linked with the GoN's poverty alleviation program.

The major protection activities include border surveillance, interception, and rescue, providing temporary shelter to the survivors, receiving application of missing women and children and searching for the missing persons. In Udayapur, Siraha and Dhanusa, WOREC-Nepal has established Information Booth on safe migration in the premises of CDO. The Information Booth provides information to the persons who come to issue the passport about the safe migration issues and also handles the complaints in relation to fraud, deception and exploitation committed in the process of foreign employment. In Udayapur and Dhanusa, WOREC-Nepal has established Safe House. In Birgunj, Maiti Nepal in collaboration with Nepal Police has the border surveillance while in other bordering districts with India like Saptari, Siraha, Mahottari, Bara and Rautahat, border surveillance has not been established although there is occasion surveillance in Gaur of Rautahat district. Table 4.3 summarizes the number of women and children provided protection services in five districts (Note that data were not available for other 8 districts) in FY 2008/09 by GOs/NGOs.

Table 4.3 Number of women and children provided protection services by NGOs/GOs, 2008/09

Parameters	Dhanusa	Siraha	Sarlahi	Udayapur	Mahottari
No of children and women intercepted	15		22 children 3 women	5 women	28
No of children and women provided temporary shelter	7		3 children	13	
No of children and women reintegrated			22 children 3 women	18	
Rescued from sexual exploitation				5	
No of children and women found		7 women	1 child 1 woman	3	8
No of children and women missing application received		35	21	3	18 women 14 children

Source: based on the workshop held in Janakpur (April 3-4, 2009).

Case 4.2 Efforts of WCSW of Chitawan in rescue and investigation of trafficking survivors

Nirmala (name changed) went to Kuwait in early 2008, but she had to work long hours than that of the promised hours in Nepal. This she informed her parents in Nepal and her parents filed the case in WCSC in Chitawan. WCSC arrested the agent who sent her and Nirmala was called on. With the efforts of WCSC, she was provided compensation.

Krishana (name changed) went to Saudi Arabia in mid-2008. She was of three months pregnancy when she approached there. Knowing this, the household owner tortured her. The woman called from there and her husband was brought in Police for investigation. It was found that her husband sent her even if he knew that she was pregnant.

Source: based on workshop held in Hetauda, March 21-22, 2010.

The legal aid/support activities implemented are legal help and advice, registration of cases in the police, forwarding the cases to file in the court, creation of pressure to the concerned authorities to compensate the survivors and panelize the culprits or traffickers accordingly (Table 4.4).

Table 4.4 Number of women and children provided legal support NGOs/GOs FY 2008/09

Parameters	Siraha	Sarlahi	Udayapur	Mahottari
No. of survivors received legal aid/support	25 men and women	19 children	50	50
No. of cases filed in the police		10	150	50
No. of cases forwarded to lodging in the court			40	10
No. of reported cases on gender violence	3	1089	1200	53
No. of cases related to rape		7	15	6
No. of cases facilitate filed in the Department of Foreign Employment Promotion		15	2	

Source: based on the workshop held in Janakpur (April 3-4, 2010).

4.6 The Criminal Justice Responses

Table 4.5 shows the magnitude and decisions status of trafficking cases made by the Supreme Court from 2003/04 to 2007/08. The five-year average number of trafficking cases filed in the Supreme Court is 111 with only 27 cases decided. The 5-year average conviction rate is 44 per cent, being lowest for the FY 2005/06 and 2006/07 (about 30% for each year) and highest in the FY 2003/04 (57%). The conviction rate is defined as the ratio of number of convicted cases in a particular year to the total cases decided by a court in that year. It is also important to note that every year very few cases are decided by the Court as reflected by the 5-year average pending rate of 76 – implying that of the total cases registered in the Court, 76 per cent remain to be decided. In every year, this rate is very high ranging from 63 per cent to 87 per cent. Here, the pending rate is defined as the ratio of number of pending cases in a particular year to the total cases registered in that year in a court.

Table 4.5 Number of trafficking crimes registered, convicted, acquitted and pending in the Supreme Court, 2003/04-2007/08

Year	Total cases	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate	No. of pending trials	Pending rate
2003/04	131	17	13	30	56.7	101	77.1
2004/05	117	16	13	29	55.2	88	75.2
2005/06	102	4	9	13	30.8	89	87.3
2006/07	112	8	19	27	29.6	85	75.9
2007/08	93	14	20	34	41.2	59	63.4
5-year average	111	12	15	27	44.4	84	76.0

Note: the Attorney General Office publishes data on Nepali FY. The Nepali FY are converted to English Year as 2060/061 BS = 2003/04; 2061/062 BS = 2004/05 and 2062/063 BS = 2005/06, 2063/064 = 2006/06 and 2064/065 = 2007/08.

Source: Annual Reports of Attorney General's Office, 2003/04, 2004/05, 2005/06, 2006/07 and 2007/08

There are 16 appellate courts in the country. Of which, four are in the eastern development region (i.e. in Illam, Dhankuta, Biratanagar and Rajbiraj), three in the central (i.e. in Janakpur, Hetauda and Patan), three in western (i.e. in Pokhara, Baglung and Butawal), four in mid-western (i.e. in Tulsipur, Nepalgunj, Jumla and Surkhet) and two in the far-western (i.e. Dipayal and Mahendranagar).

As shown in Table 4.6, the 5-year average number of cases registered in the Appellate courts in the country comes out to be 87. The 5-year average success rate is 48 per cent and the rate goes as low as 44 per cent for the FY 2003/04. On the other hand, the 5-year average pending rate is also high i.e. 61 per cent of the cases registered in the Appellate courts remain to be pending each year considered here, and the pending rate goes as high as 80 per cent in the FY 2005/06.

Table 4.6 Number of trafficking crimes registered, convicted, acquitted and pending in the Appellate Court, 2003/04-2007/08

Year	Total cases	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate	No. of pending trials	Pending rate
2003/04	43	4	5	9	44.4	34	79.1
2004/05	73	11	12	23	47.8	50	68.5
2005/06	94	9	10	19	47.4	75	79.8
2006/07	129	38	45	83	45.8	46	35.7
2007/08	97	19	17	36	52.8	61	62.9
5-year average	87	16	18	34	47.7	53	61.0

Source: the same as in Table 4.5.

The number of trafficking cases filed, conviction and pending rates all vary according to appellate courts. In the FY 2007/08, the number of cases registered in the appellate courts was in following order: Patan (24 cases), Hetauda (19 cases), Nepalgunj (17 cases), Illam (11 cases), Biratnagar (9 cases), Butawal (5 cases), Mahendranagar (4 cases), Rajbiraj (3 cases) and Janakpur (2 cases) appellate courts. In the appellate courts of Dhankuta, Pokhara and Baglung, there was one case each registered while in Tulsipur, Jumla, Surkhet and Dipayal there were no cases of human trafficking registered.

In each of the district of Nepal, there is one district court. The 5-year average number of trafficking cases registered in the district courts in the country is 212 from the records of the Supreme Court. Data reveal that the number of cases being registered in the district courts has been increasing. For example, there were 173 cases registered in 2003/04, which increased to 245 in 2006/07 and 257 in the FY 2007/08. The 5-year average success rate is 65 per cent with minimum of 60 per cent in 2007/08 and maximum of 70 per cent in the FY 2006/07. The 5-year average pending rate is 60 per cent – revealing the fact that a large number of trafficking cases remain to be decided in the district courts in each year (Table 4.7).

Table 4.7 Number of trafficking crimes registered, convicted, acquitted and pending in the district courts, 2003/04-2007/08

Year	Total cases	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate	No. of pending trials	Pending rate
2003/04	173	57	31	88	64.8	85	49.1
2004/05	203	60	35	95	63.2	108	53.2
2005/06	183	37	22	59	62.7	124	67.8
2006/07	245	78	33	111	70.3	134	54.7
2007/08	257	44	30	74	59.5	183	71.2
5-year average	212	55	30	85	64.6	127	59.8

Source: the same as in Table 4.5.

More number of trafficking cases has been registered in the districts known as trafficking prone districts. For example, according to the record of the Supreme Court in 2007/08, a total of 257 cases were registered in the 37 district courts of the country. Among the district courts in which the trafficking cases registered, Kathmandu district court had the highest number of cases registered (78 cases), followed by Jhapa (14 cases), Bara (13 cases), Parsa and Nawalparasi (11 cases each), Sunsari and Nuwakot (10 cases each). There were 8 district courts in which only one trafficking case registered (Table 4.8).

The conviction rates and pending rates show a variation according to the district courts. Among the top-five trafficking cases registered district courts in which more than 10 trafficking cases registered, the conviction rates range from as low as 17 per cent for Sunsari to as high as 62.5 per cent for Jhapa district court. In the district courts of Banke, Udayapur and Kapilbastu all cases decided were convicted and there are no districts in which all cases decided were acquitted. On the other hand, among the top-five trafficking cases registered district courts, the pending rates range from 38.5 per cent in Bara district court to 87 per cent for Kathmandu district court, revealing that justice is delayed in the court in which maximum number of crimes are registered.

Table 4.8 Number of trafficking cases registered in district courts in the FY 2007/08, Nepal

District courts	No. of District	No. of trafficking cases registered	Convection Rate (%)	Pending rate (%)
Kathmandu	1	78	60.0	87.2
Jhapa	1	14	62.5	42.9
Bara	1	13	50.0	38.5
Parsa and Nawalparasi	2	11	37.5	63.6
Sunsari and Nuwakot	2	10	16.7	70.0
Chitawan, Rupandehi and Kanchanpur	3	9	69.2	51.9
Banke	1	8	100.0	37.5
Morang	1	7	50.0	71.4
Rautahat and Surkhet	2	6	33.3	75.0
Udayapur and Kapilbastu	2	5	100.0	70.0
Saptari, Sarlahi and Makwanpur	3	4	66.7	75.0
Siraha, Dhading, Bhaktapur, Kaski, Dang, Bardiya, Kailali	7	3	80.0	76.2
Mahottari and Rolpa	2	2	50.0	50.0
Panchathar, Dhankuta, Solukhumbu, Rasuwa, Terahathum, Lalitpur, Tanahu, Synja and Salyan	8	1	33.3	66.7
Total	37	257	58.2	69.3

Source: the same as in Table 4.5.

4.7 Media Responses

The evolution of modern mass media in Nepal began with the establishment of state owned "Gorkhapatra Corporation" in 1964 and publication of the English Daily newspaper 'The Rising Nepal'; in 1965. With regards to electronic media, Radio Nepal is the pioneer radio station

established in 1951 and Nepal Television started in 1985. The booming of privately run publication houses, FM stations and televisions stations has been witness in Nepal especially after the GoN's adoption of Information and Communication Prospective Policy in 2002. According to the policy, the radio, television, and Internet communication system is to be extended throughout the country with the active involvement of private sector. The government has also waived the license renewal fees of radio and TV stations and the royalties payable to the state. As a result, as of December 2009, there are 244 radio stations, 10 TV stations and 527 registered newspapers – 83 daily newspapers, 6 bi-weekly newspapers, 338 weekly newspapers, 68 fortnightlies and 19 literacy magazines in Nepal (http://www.wapconline.org/lang_eng/countryReports_detail.asp). In addition, web based sites and 'blog' is the new technological progress.

Media is recognized as the fourth state as it is a powerful means to generate mass awareness. It brings about behavioral changes among the people, creates advocacy and dialogue by illuminating the problems by writing an article or airing a segment focusing on trafficking in persons and by identifying traffickers and protecting the survivors. Media has a role to reveal the investigative truth, fairness, keeping privacy of the survivors, highlighting the problems the survivors face, covering the story of good practices carried out by the organizations working against trafficking, law enforcement status and its lacunae, police investigation and court verdict. Also, it has a role to educate the public about the laws and reasons for trafficking and issues of poverty and gender.

Trafficking in persons especially women and children has been one of the issues almost widely addressed by the Nepalese media. In recent years, both electronic and print media have also widely covered the story of fraud, deception, exploitation and trafficking in relation to foreign employment.

Many UN agencies, donor communities and NGOs support to radio broadcasting on informative and awareness raising message through the national and local FM radio stations in many districts. The electronic media has aired different discussions, interaction programs on anti-trafficking and safe migration issues and also provide the hotline number to the survivors/informants so that they can call or request help. They also have public announcements at times and also serials to create awareness against trafficking and unsafe foreign labor migration. The coverage of electronic media is of wide range and the messages heard not only within Nepal but also from the border areas of India and Nepal. PAURAKHI Nepal has, for example, a weekly radio program on safe migration since mid-2008, which can be heard from Darjeeling, Kharsang, Siliguri of West Bengal. Similarly, Serve Nepal has radio program broadcasted from Tinau FM in Rupandehi, Gorkha FM in Gorkha and Resunga FM in Gulmi.

Table 4.9 summarizes the number of news published in the leading national daily newspapers: the Gorkhapatra, the Rising Nepal, the Kantipur Daily, the Annapurna Post, the Kathmandu Post, the Nepal Samacharpatra, the Rajdhani and the Himalaya Times for the period of FY 2007/08 and 8 months of FY 2008/09. The information is generated by paper clipping in OSRT-NHRC to understand the media responses to trafficking and unsafe migration. The media coverage generally relates to reporting of being trafficked or already trafficked, arrest of the accused, rescue within the country or from abroad, rehabilitation of the survivors, status of prosecution, public awareness programs, anti-trafficking activities carried out by the GOs, NGOs and CBOs including international communities.

Table 4.9 Number of news published in leading national daily newspapers

Nature of news	FY 2007/08	FY 2008/09 (early 8 months)
Trafficking of women and children	15	5
Arrest of accused	44	46
Rescue	242	812
Rehabilitation	296	0
Prosecution	18	6
Missing children and women	1732	116

Source: based on OSRT-NHRC compiled, 2009.

It is understood that all the leading National Dailies have provided priority in combating trafficking and curtailing unsafe foreign labor migration. However, there are still room to improve media reporting from human rights and gender perspective by using the gender friendly languages, not blaming the survivors, keeping the confidentiality of names of survivors and of their families, not showing the face of identity of victims on television and providing the investigative fair stories and information.

4.8 Emerging Challenges

- Refusing the political pressure to facilitate in bringing the culprits in the legal action and protect the rights of victims/survivors in line with the Acts and Regulation.
- Strengthening the capacity of social institutions at the local level by increasing their capacity and providing technical and financial support. Hundreds of women collectivities formed in the country - women self-help groups, women cooperatives, para-legal committees and women human rights defender groups - can be the catalytic force for the prevention of trafficking and protection and legal support to the trafficking survivors.
- Introducing the cost subsidization policy in the media for publication or broadcasting of social issues such as TIP.
- Directing the prevention related programs to address the root causes of trafficking.
- Strengthening the institutional capacity of NC and DCs on trafficking to effectively formulation, implementation, and coordination of anti-trafficking activities in the country.
- Introducing effective reporting and monitoring mechanism for the output oriented programs.

Monitoring of Implementation Status of Anti-Trafficking Laws and Policies

The Chapter provides the implementation status of HTT Act 2007 and National Plan of Action against Trafficking in Women and Children for Sexual and Labor Exploitation (NPA), 1998 (revised 2000).

The implementation status has been reviewed on the basis of low, low-to-moderate, moderate, moderate-to-high and high. The categorization method is the same as discussed for assessing the implementation status of Foreign Employment Act 2007 in Chapter 3.

5.1 The Legal Framework

International and Regional Commitments Related to Trafficking in Persons

Nepal has ratified 19 Human Rights treaties and covenants, 11 ILO Conventions and four International Humanitarian Laws as of April 2009 (NHRC, 2009). Nepal is a party to three anti trafficking conventions: the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The government ratified the CEDAW and CRC Optional Protocols in 2002. It also ratified Forced Labor Convention (No. 29) in 2002, Abolition of Forced Labor Convention (No. 105) in 2007, Minimum Age Convention (No. 138) in 1997 and Worst Forms of Child Labor (No. 182) in 2002. In 2002, the government signed but has yet to ratify the UN Convention against Transnational Organized Crime. The GoN has signed the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption of 29 May 1993 in 28 April 2009. This Convention is vital for the regulation of adoption of children in Nepal. However, Nepal has not ratified UN 2000 Trafficking in Persons Protocol.

The GoN is a party to the SAARC Trafficking Convention including other less formal regional arrangements that address human trafficking. All of these regional initiatives stress the critical importance of regional cooperation to combat human trafficking effectively. In addition, the government has participated in a number of international conferences pertaining to the advancement of women, children, and human rights. To varying degrees, these international commitments are incorporated as part of the domestic legal framework.

National Legal framework on Combating Trafficking

The Interim Constitution of Nepal 2063 (2007) is the overarching legal framework that prohibits human trafficking and confers certain fundamental rights for women and children. Article 29 guarantees all persons the rights against exploitation and prohibits trafficking in human beings, slavery, serfdom and all forms of forced labor. Article 20 on women's rights prohibits discrimination and violence in any form against women and provides that such violence be punishable by law. Article 22 on child rights guarantees children the right to their own identity and the right against exploitation and provides that such exploitation be punishable by law. The Interim Constitution also guarantees numerous other fundamental rights and freedoms including the right to freedom, the right to equality and non-discrimination, the right against untouchability and racial discrimination, education and cultural rights, employment and social security rights, the right to social justice, legal rights and freedom from torture, the right to information, the right to privacy and labor rights.

In terms of its domestic laws, Nepal criminalized human trafficking in its Country Code of 1853, the 1963 *Muluki Ain* (Civil Code), 1986 Human Trafficking Act (now repealed). In 2007, the government replaced the 1986 law with a new Human Trafficking and Transportation (Control) Act (HTT Act) 2007 and enacted regulation in 2008 to facilitate implementation of the law⁴. The key features of the HTT Act 2007 are the following:

- **Defines and criminalizes** human trafficking and transportation offences as per the requirements of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000 by defining the terms of 'exploitation', 'victims', 'child' and 'offences'. The trafficking offences encompasses multiple forms of trafficking exploitation including the sale or purchase of persons, enforced prostitution, and illicit removal of human organs, engaging in prostitution both for internal and cross-border trafficking.
- incorporates several measures to strengthen the **effective investigation and prosecution** of trafficking offences by offering an award to informants and trafficked persons who report trafficking offences that lead to an arrest; certifying the statement given by the victims immediately by the court and taking the statement as evidence even the victims failed to appear in the courts during the proceeding of the case; granting of the police expansive arrest and investigatory powers that extend to seizing the property of trafficking offences; granting the court to detain trafficking offenders for the purposes of prosecution and provision of the burden of proof resting on the offender to prove he/she did not commit the offence.
- Establishes **proportional penalties and a more stringent penalty structure** for several aggravating factors and limits judicial discretion in sentencing. Prescribed penalties for trafficking offences range from 10 to 20 years imprisonment in combination with a fine. The prescribed penalties for engaging in prostitution include one to three months imprisonment and a fine.
- Seeks to **protect the rights of trafficking victims and provide victim assistance** by incorporating a number of protection measures like privacy and security rights; access to independent legal counsel and interpreters during the trial process; granting the victims statutory rights to compensation; requirement of the state to rescue and rehabilitation of

⁴ Other laws relevant to control trafficking offences are: i) *Domestic Violence (Crime and Punishment) Act of 2009*; ii) the *Supreme Court Orders and Guidelines* to regulate woman workers in dance bars, cabin and *Dohori* restaurants and massage parlors; iii) *Child Labor (Prohibition and Regulation) Act of 2000*; iv) *Children's Act of 1992*; v) *Foreign Employment Act 2007* and Regulation 2008 and vi) *Immigration Act of 1991*.

the victims and provision of the establishment of Rehabilitation Fund for the operation of rehabilitation centers;

- Allows the **property of offenders** acquired as a result of human trafficking offence to be seized
- Applies to **extraterritorially** to ‘anyone committing an offence against a Nepali citizen’ presumably addressing both cross-border trafficking offences and internal trafficking

5.2 Status of Nepal’s Compliance with SAARC Convention 2002

Following the study conducted by Asian Development Bank, ADB, (2009), the GoN is moderately compliant with most of obligations of SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution 2002 (hereafter SAARC Convention) (Box 5.1).

The GoN has made moderately compliant with the General Principles set forth in the SAARC Convention by ratifying several core international conventions as discussed elsewhere in this Report. Further, the government recognized trafficking of women and children as a serious crime and made legal as well as policy commitments to suppress the crime. On the other hand, the government has made limited progress in establishing and/or implementing formal bilateral, multilateral, and regional agreements with other member states.

Box 5.1 Nepal’s compliance with SAARC Convention

SAARC Convention	State level of compliance
General Principles	Moderate
National Definition and Criminalization	High
Victim Assistance and Protection	Moderate
Prevention and Interdiction	Moderate
Regional Cooperation	Low -to-moderate
Implementation	Moderate

Source: ADB, 2009.

With regard to definition and criminalization human trafficking offences as set forth in the SAARC Convention, the GoN is largely compliant with. The HTT Act 2007 definition and offences of human trafficking and human transportation are wider in scope as it applies to all persons who are trafficked for multiple forms of exploitation as opposed to the narrower definition of SAARC Convention which applies only for commercial sexual exploitation.

The GoN has moderately complaint with regard to the obligations of victim assistance and protection set forth under the SAARC Convention by adoption of NPA against trafficking and sexual exploitation; making MoWCSW as a focal Ministry for the formulation, implementation and monitoring of anti-trafficking programs; formation of National Committee and District Committees to combat trafficking; establishment of WCSC Directorate as a unit for investigation of crime against children and women in Nepal Police and expansion of WCSC in all 75 districts, provision of government for assistance and counseling services to the trafficking victims, and legislative compliance for the establishment of Repatriation Fund and rescue, repatriate,

rehabilitation and repatriation of trafficking victims. However, there are also major gaps in relation to victim assistance and protection set forth in the SAARC Convention in Nepal. They include: no legislative requirement for the Government to provide counseling services to the trafficking victims, the compensation provisions in the HTT Act 2007 awarded to the trafficking victims is contingent upon the fine recovery, no bilateral repatriation agreement with the responsibilities of the destination countries.

The GoN has moderately complied with the obligations to prevent and interdiction of the SAARC Convention by i) regularly providing anti-trafficking training to the governmental authorities, judiciary and investigation officers including activists of Human Rights organizations; ii) sensitization of law enforcement agencies and the judiciary; iii) legal provision of supervision of employment agencies and regulation of unsafe foreign labor migration under the Foreign Employment Act 2007 and Immigration Act 2002; iv) some focused development efforts in the trafficking prone areas; and v) promotion of awareness programs. The key gaps, however, are related to inadequate implementation of these services as stated above, lack of sustainability of the anti-trafficking programs including weak enforcement of Foreign Employment Act 2007 and Immigration Act 2002.

With regard to the obligations of SAARC Convention in relation to the regional cooperation, the GoN has minimally complied with. First, the HTT Act 2007 does not explicitly maintain trafficking and transportation are extraditable offences. The India-Nepal Extradition Treaty (1953) allows for extradition in relation to 17 offences, it does not yet explicitly recognize the offences of human trafficking or transportation. Second, bilateral interdiction measures largely reduced to some informal and/or NGO driven border monitoring initiatives. Third, there is weak mechanism for regularly exchanging information or intelligence on trafficking perpetrators with other SAARC member states. Fourth, Nepal does not have a formal repatriation agreement and has not yet established formal repatriation modalities with any other SAARC country. Finally, Nepal has made little progress on engaging in general regional cooperation for the prevention of trafficking.

5.3 Implementation Status of Human Trafficking and Transportation (Control) Act 2007

The provisions in the HTT Act 2007 can be categorized as i) provisions relating to establishing and strengthening the structure; ii) provisions relating to offence, investigation and punishment; iii) provision relating to protection of survivors (Box 5.2).

Box 5.2 Summary of compliance of HTT Act 2007

Provisions in HTT Act 2007	Level of compliance
1. Provision relating to establishing and strengthening the structure	Moderate
2. Provisions relating to offence, investigation and punishment	Low-to-moderate
3. Provision relating to protection of survivors	Low-to-moderate

Provision Relating to Establishing and Strengthening the Structure

MoWCSW is the focal ministry to formulate, reform, implement the policies related to the anti-trafficking in women and children and it is also responsible to monitor and coordinate the anti-trafficking programs in the country. In addition, the GoN has established the OSRT under NHRC

to monitor the trafficking situation in the country. Under the MoWCSW, the Department of Women is responsible for the implementation of anti-trafficking programs including other women's empowerment programs. At the district level, WDO has been functioning as the focal government agency in combating trafficking in women and children. These structures are in place. In addition, the GoN has formed National Committee under the Chair of Secretary of MoWCSW representing from different ministries and NGOs (Ministry of Labor, Ministry of Foreign Affairs, Ministry of Home Affairs, AATWIN, NNAGT, Maiti Nepal, WOREC, and Nepal Police. The committee has already conducted six meetings in an interval of three months.

The MoWCSW has also formed 75 District Committees to coordinate the anti-trafficking activities in the district; allocated Rs. 50,000 per district for already identified 26 trafficking prone districts; allocated Rs. 20,000 for another 14 districts. Yet findings of the study indicate that effective mobilization of District Committees has yet to be achieved; the MoWCSW has no information of the activities conducted by the District Committees; the budget allocated is also very low compared to the problem and the budget has not been allocated to 35 District Committees. Further, there is no record that how many of the District Committees have been represented by the survivors through NGOs. In this context, it is hard to expect the Committees carry out the anti-trafficking activities in the districts. Given this, the provision relating to strengthening the structure has been **moderately compliance** (Box 5.3) and the GoN has to do a lot in strengthening the District Committees by providing training, resources and motivation.

Box 5.3 Provisions of offence and investigation current implementation status

HTT Act 2007 Provisions	Current Status
<p>Sec 23, Formation National and District Committees The GoN may form a national and necessary district committees to coordinate the activities of Govt bodies and NGOs working to rehabilitate victims and control the offence under this Act</p>	<p>Moderately fulfilled National Committee formed in November 2008 and since then, six meeting held. The National Committee made decision to establish the rehab centers, to provide support the already established centers and prepare the guideline for operation of rehab centers</p> <p>75 district committees formed; Allocated Rs. 50,000 in FY in 26 districts already identified as trafficking prone districts and Rs. 20,000 in 14 districts</p> <p>But,</p> <p>There is no record in the MoWCSW to extent the District Committees effectively working for combating trafficking.</p>
<p>Sec 29, Power to make rules The GoN shall frame the rules to implement the objective of this act</p>	<p>The GoN has formulated the Trafficking Regulation 2008</p>

Provisions of Relating to Offence, Investigation and Punishment

The HTT Act 2007 has made the obligations to prosecute the accused in the custody, right to keep separate law practitioner, right to keep translator/interpreter in the court proceeding, rights to security to the survivors and witness during and after the investigation and court proceeding, provision of in-camera hearing, provision to privacy and confidentiality of informants (Box 5.4). For investigation, Nepal Police has the prime responsibility which has established WCSCs in all 75 districts. Yet the many of the WCSCs lack support and there is also gross lacking of emergency funds to support the various needs of the trafficking victims and survivors.

Drawing with the information from the MoWCSW, Nepal Police, advocates, attorney general office and the NGOs activists, it is understood that some of the provisions have been initiated and others have not been implemented yet all. Thus, altogether the provisions of offence, investigation and punishment can be said to be **minimally-to-moderately fulfilled**. Given the low level of awareness on the provisions in the HTT Act among the vulnerable population, lack of awareness or sensitivity among the investigation authority and court staff, the provision related to right to keep separate law practitioner and translator has been minimally implemented. As the survivors are often the poor, disadvantaged position, they can also not afford the fee of the law practitioners unless they get the legal aid/support from the NGOs and other legal institutions.

Box 5.4 Provisions of offence and investigation current implementation status

HTT Act 2007 Provisions	Current Status
Sec 8, Prosecution in custody The court shall keep the accused in the custody while prosecuting the case of human trafficking offence	Significant progress based on Adhikari's report
Sec 10, Right to keep separate law practitioner If the victim wishes to keep the separate law practitioner to represent his/her case during the court proceedings, the victim has that right	Limited implementation because of the lack of awareness on legal provision among the victims
Sec 11, Provision of translator and interpreter If the working language of the court is not understandable to the victim, he/she may manage the translator or interpreter with the permission of the court	Limited implementation because of the lack of awareness on legal provision among the victims
Sec 20, Confidentiality of informant The name and address of the informant and details provided by the informant shall be kept confidential	Limited implementation based on Adhikari's report
Sec 25, Prohibition against disseminating confidential information Without the consent of the victims, no shall publish or broadcast the photography or any information detrimental to the victims. Such acts will be punishable by the law.	Minimally fulfilled Limited implementation given the magnitude of information or photography of the survivors rather than the offenders by several media.
Sec 26, Security If requested, the Police should provide the security to the victims and witness during traveling in course of attending case proceeding in the court or keep the victims/witness in the police security or keep at rehab center	Minimally fulfilled The number of cases filed in the courts is far lower compared to the cases believed to be. Police security is also affected by impunity prevalent in the country.
Sec 27, Incamera court proceeding Court proceeding and hearing shall be conducted in camera and only the parties and their attorneys and other non-parties permitted by the court shall enter the court proceeding and hearing	Moderately implemented Courts implemented this provision but lack of physical space (size of the court room, furniture, etc) makes it difficult to make in-camera hearing effective

Provisions Relating to Protection of Survivors

The Act explicitly mentioned the provisions of rescue, rehabilitation and reconciliation of the trafficking survivors and calls for the GoN to establish the rehabilitation centers and/or support the rehabilitation centers run by the NGOs. The Act also makes the GoN to establish the Rehabilitation Fund for protection of the rights of survivors: providing education, skilled-oriented training, legal aid, psychosocial counseling and safe reintegration. The GoN has already established eight rehabilitation centers and has initiated allocation of budget for the Rehabilitation Fund since

the FY 2007/08 and 2008/10, the GoN allocated Rs. 15 million and Rs. 10 million, respectively. In addition, the MoWCSW provided training on anti-trafficking to staff of service centers in 15 districts formed for monitoring of VAW. The districts in which training provided include: Panchathar, Saptari, Solu, Sunsari, Sarlahi, Makwanpur, Nawalparasi, Tanahau, Kavre, Baglung, Jumla, Dang, Bardiya, Doti and Kanchanpur in the FY 2008/09. Regarding these provisions, it can be said that some initiations have been going on the part of the Government and some on the part of NGOs. Given this situation, the provisions can be said to be **minimally-to-moderately fulfilled** (Box 5.5). On the rescue of the trafficking survivors, some NGOs including Nepal Police initiated border surveillance between Nepal and India. Yet there has been gross lacking of rescue, especially from the abroad including from the Gulf countries. Nepalese Missions abroad are not well equipped financially as well as human resources. Although the rescue of Nepali citizen is of the Government responsibility, there is no budget allocated for rescuing of undocumented migrants. The Foreign Employment Welfare Fund is only meant for the documented migrants. Further, the Rehabilitation Fund under the MoWCSW has mainly spent for the operation of eight rehabilitation centers established by the Government. The GoN has reduced the budget from Rs. 15 million in the FY 2008/09 to Rs. 10 million FY 2009/10 in rehabilitation measures.

Box 5.5 Provision of Rescues, Rehabilitation and Reconciliation

HTTA 2007 Provisions	Current Status
<p>Sec 12, Rescue Nepal Govt shall manage for the rescue of any Nepali citizen sold in the foreign land</p>	<p>Minimally fulfilled MoWCSW allocated Rs. 150,000 to Nepalese Embassy India for transport cost for the rescued person in FY 2008/09. Some NGOs are engaged in interception and rescue of trafficking survivors.</p> <p>But,</p> <p>There is gross lacking of resources as well as coordination among the law enforcement agencies and NGOs in this aspect.</p>
<p>Sec 13, Rehabilitation center: GoN shall establish necessary rehab centers, permit any organization to run the center; provide economic and other support to the rehab centers and monitoring of the centers</p> <p>Sec 14, Rehabilitation Fund Establish a Fund for operation of the rehab centers by receiving the fund from GoN, NGOs/INGOs, fines acquired from trafficking offenders</p>	<p>Minimally fulfilled MoWCSW established rehab centers in Kathmandu, Sindhupalchowk and Kailali in FY 2007/08 and allocated Rs. 200,000 for each in the FY 2009/10</p> <p>In the FY 2008/09, the MoWCSW established rehab centers in Jhapa, Parsa, Rupandehi, Banke and Chitawan and allocated Rs. 100,000 for each.</p> <p>Maiti Nepal has three prevention Homes, 8 Transit Homes and other NGOs have also rehab centers</p> <p>But,</p> <p>No effective and regular monitoring taking place and Ministry has no records how many of Rehab centers operating with minimum standard and how many survivors are in the rehab centers.</p> <p>Moderately fulfilled MoWCSW established Rehab Fund in FY 2008/09 and the Fund Account has been opened in Nepal Rastra Bank.</p> <p>MoWCSW prepared guideline for operation of Rehab Centers and Mobilization of Fund</p> <p>The Fund has been mobilized for supporting of the Rehab centers including rescuing the trafficking survivors</p> <p>But,</p> <p>The GoN allocated 10 million Rupees for the FY of 2008/09, which is very low compared to the extent of requirement of the trafficking survivors. Contribution in the Fund from I/NGOs and fines acquired from trafficking survivors not at initiated.</p>

5.4 Implementation Status of NPA against Trafficking in Children and Women for Sexual and Labor Exploitation

The GoN formulated National Plan of Action (NPA) against Trafficking in Children and Women for Sexual and Labor Exploitation in 1998 and revised it on 2001. The revised NPA identified eight areas of action and four crosscutting issues, namely, sustainability, gender, human rights-based approach and child participation to be integrated into the NPA. The action areas identified are the following: i) Policy, research and institutional development; ii) Legislation and enforcement; iii) Awareness creation, advocacy, networking and social mobilization; iv) Health and education; v) Income and employment generation; vi) Rescue and reintegration; vii) Trans-border, regional and international issues and viii) Monitoring and evaluation.

NPA's implementation status has been assessed based on the study by MoWCSW (2009), information from the key informants, Annual Program of GoN including other survey or research reports. Box 5.6 summarizes the NPA intervention areas against level of achievement. The findings indicate that in the former three areas of intervention presented in Box 5.6, the level of achievement can be said moderate. In case of program intervention areas of health and education, and income and employment generation, there have been program interventions on the part of MoES, MoPH, MoWCSW including other Ministries and Departments. But the contribution of such programs in prevention of trafficking cannot be objectively assessed due to the lack of data. In program intervention areas of rescue and reintegration and trans-border, regional and international issues, the GoN has initiated some programs and can be said to be on the movement from minimal achievement to moderate one. In case of monitoring and evaluation, the level of achievement can be said to be minimum mainly because of the lacking of unified and national level reporting system to know the trafficking situation and program interventions in the country.

Box 5.6 Summary of implementation status of NPA

Intervention area of NPA	Level of achievement
1. Policy, research and institutional development	Moderate
2. Legislation, enforcement and legal awareness	Moderate
3. Awareness creation, advocacy, networking and social mobilization	Moderate
4. Health and education	Cannot be objectively assessed
5. Income and employment generation	Cannot be objectively assessed
6. Rescue and reintegration	Low-to-moderate
7. Trans-border, regional and international issues	Low-to-moderate
8. Monitoring and evaluation	Low

Policy, Research and Institutional Development

At the policy level, gender equality, women empowerment and gender mainstreaming have been incorporated in the Interim Constitution of Nepal 2007 and the policy documents (Tenth Five Year Plan, PRSP and the Three Year Interim Plan). Besides, the NPA has been in place since 1998, which focuses on combating trafficking in women and children for sexual and labor exploitation. Yet the NPA has not been revised since 2002 and thus there is lack of updating the policy in the

changing context. As discussed in Chapter 2, there has been changing dynamics of trafficking mainly induced by foreign labor migration and opening up dance bars, cabin restaurants and massage parlors in urban areas in Nepal. Further, the NPA has not been owned by many stakeholders and the WDO lacks adequate budget for the implementation policies at the district level.

In relation to research, there has been plethora of small, localized, project-based studies conducted in understanding the trafficking situation and the impact of the program intervention. After the ILO Rapid Assessment of 2001, there has not been conducted a national level study – a household based study – to understand the situation of trafficking in Nepal. Yet DC’s active mobilization has been grossly lacking due to the lack of human and financial resources. Some progress has, however, been achieved in relation to institutional development as discussed elsewhere in this Report. Given these context, the NPA’s intervention area of policy, research and institutional development has **moderately fulfilled** (Box 5.7).

Box 5.7 Intervention Area 1 Policy, Research and Institutional Development

NPA Provisions	Current Status
<p>1.1. Policy: To increase awareness among stakeholders and promote the implementation of national policy and the NPA</p>	<p>Moderately fulfilled The Interim Constitution of Nepal 2007 protects the rights of women and children. The Poverty Reduction Strategy Paper and the Interim Three Year Plan have incorporated women and children specific policies and programs. The MoWCSW is now revising the NPA after 2000</p> <p>But,</p> <p>No adequate sensitivity of many stakeholders towards NPA and lack ownership of NPA, inadequate allocation of budget to WDO – which is responsible to coordinate and implement the anti -trafficking programs in the district</p>
<p>1.2. Research: To maintain a reliable, up to date and gender disaggregated national database on trafficking in order to develop and implement effective anti-trafficking policy and programs</p>	<p>Moderately fulfilled Information Center in MoWCSW established and some NGOs have also established Resource Centers. Many academic and action oriented studies have been conducted to understand the magnitude, process causes and consequences of trafficking of children and women.</p> <p>But,</p> <p>There is lack of unified and scientific national database system and the studies conducted so far lack systematic scientific studies, and there are few studies reflecting on the trafficking for labor exploitation, internal trafficking</p>
<p>1.3. Institutional development To strengthen the coordinating role of MoWCSW at all levels</p>	<p>Moderately fulfilled National Committee has been formed to formulate, implement, coordinate and monitoring the anti -trafficking program in the country. In all 75 districts, District Committees have been formed to formulate and implement the anti-trafficking programs in the district. WDO is working as functional secretariat at the district level and OSRT-NHRC has been actively working to monitor the trafficking situation. Two national level Anti-trafficking networks – AATWIN and NNAGT - are working including several grassroots level networks. But,</p> <p>There is no regular and institutionalized communication and coordination between NC and DC. DC lacks adequate human and financial resources, CWCS of Nepal Police. WDO lacks resources to run the anti-trafficking program (Rs. 40,000 annually allocated for each district)</p>

Legislation, Enforcement and Legal Awareness

The GoN has achieved a lot in terms of formulation of legislation related to combating trafficking. The HTT Act 2007 is wider in definition and scope than that of SAARC Convention and is closer to the Palermo Protocol. In addition, the order of Supreme Court of 2008 to regulate the work of girls and women in cabin restaurants, dance bars, *Dohori* restaurants and massage parlors; enactment of Foreign Employment Act 2007 and adoption of Domestic Violence (Crime and Punishment) Act 2009 all are the landmark legislations in combating sexual exploitation and trafficking.

In terms of enforcement, the GoN has established separate Directorate of WCSC to investigate the crime against women and children and expanded to all districts in Nepal by December 2009. Similarly, a number of NGOs have involved in legal awareness among the vulnerable people through formation and mobilization of para-legal committees, women pressure groups, women cooperatives and micro-credit groups. Yet the objective of the NPA in relation to enforcement and legal awareness has been **moderately fulfilled** (Box 5.8). As evidence indicates that there are few registered cases of trafficking in persons in police and in the courts and conviction rates are also low, the law enforcement can be said that it has minimally fulfilled. The law enforcement has been weak due to the unstable political situation, impunity and breakdown of the law and order in the country. The legal awareness against trafficking has not yet been institutionalized in the formal and informal education system. The social justice education and human rights have not been fully integrated in the primary and secondary curriculum and gender stereotyped in the curriculum still remain to be addressed.

Box 5.8 Legislation, Enforcement and Legal Awareness

NPA Provisions	Current Status
<p>2.1 Legislation To promote and assert the entitlement of children's rights</p>	<p>Highly fulfilled HTTA 2007, the Foreign Employment Act 2007 and its Regulations 2008 have been enacted.</p> <p>The Supreme Court verdict of 2008 regulates and protects the women and girls working in the cabin, dance and massage parlors and the Coordination Committee for juvenile justice formed.</p>
<p>2.2 Enforcement To ensure the legal enforcement system to control and prevent trafficking of women and children and ensure justice for the victims</p>	<p>Minimally fulfilled The Nepal Police expanded WCSC in 75 districts by late 2009 which is special police investigation unit for crime against children and women. But,</p> <p>Few numbers of trafficking cases in police investigation and prosecution in the courts compared to the estimated figure of trafficking victims. WCSC lacks financial and trained adequate number of human resources; no intensive training on trafficking issues to the recruiters in the Nepal Police and no adequate gender sensitivity of the judicial personnel. Lack of effective surveillance system except in few border points.</p>
<p>2.3 Legal Awareness To create legal awareness among different stakeholders</p>	<p>Minimally fulfilled Integration of social justice education in some private schools and NFE and publication and dissemination of legal documents by different NGOs</p> <p>But,</p> <p>Awareness raising programs for parliamentarians, community and duty bearers are limited. There is no effective coordination between MoES to integrate trafficking issues in the school curriculum.</p>

Awareness Creation, Advocacy, Networking and Social Mobilization

A number of NGOs have been working to create awareness among the vulnerable groups in the country; media has also been mobilized to create awareness on trafficking and safe migration. Networking at the national level has been formed and district level networks have also been emerging. Advocacy for putting the trafficking agenda in the national agenda and for the allocation of budget on anti-trafficking activities has been continuously raised by NGOs including the MoWCSW. Socialization mobilization has become a catch word for many NGOs including GOs. The GoN has aimed to alleviate poverty and empower women through social mobilization.

Despite these efforts, there is no way to assess the achievement in relation to this objective due to the lack of aggregated data. Based on the discussion with the key stakeholders including the authorities of the MoWCSW, it can be said that this action area of NPA has been **moderately fulfilled** (Box 5.9). The awareness program has not been reached out to the needy vulnerable groups despite the formation of thousands of women groups and child clubs. Many of the women groups formed by the Poverty Alleviation Program mainly focus on the economic aspects and the para-legal groups formed by the MoWCSW mainly focus on the Violence against Women. Thus, there is lacking of anti-trafficking specific groups at the community level.

In relation to increase the awareness through the media, a moderate level achievement has been made. Both electronic and print media cover news and views on combating trafficking. However, the media coverage is project-based, irregular and less investigative/fact-based. Further, there are also few media houses where Gender Desks have been established. In relation to networking, the networks are formed on the basis of the political persuasion – and thus, lacking of concerted efforts in combating trafficking in persons.

Box 5.9 Awareness Creation, Advocacy, Networking and Social Mobilization

NPA Provision	Current Status
<p>3.1 Awareness creation To implement awareness programs targeted at vulnerable groups (families, communities and youth)</p>	<p>Moderately fulfilled The GoN including various NGOs initiated awareness rising through campaign on anti trafficking, rallies, street dramas, Information Booth in CDOs including in schools, child clubs, and women’s groups.</p> <p>But,</p> <p>No Knowledge, Attitude and Practice study has been known to know the awareness level. At the same time, such programs are run on project basis in relatively accessible areas. Thus, vulnerable groups living in the remote and poverty stricken areas are out of the program</p>
<p>3.2 Awareness creation To increase awareness of child/women trafficking through media</p>	<p>Moderately fulfilled Electronic and print media cover news on anti trafficking. The ONRTNHRC (2008) identified that 184 news in 9 national Daily Newspapers for the year of 2008/08 related to trafficking.</p> <p>But,</p> <p>There is lack of aggregated information on training to media, advertisements, documentaries and articles. Many media houses do not have Gender Desk media reporting is largely not investigative.</p>

<p>3.3 Networking To improve anti trafficking networks at local, district and national level</p>	<p>Moderately fulfilled National level networks like AATWIN, NNAGT, WE CAN are in place to fight collectively against trafficking. In some districts, Women’s Cooperatives, Paralegal Committees, Human Rights Organizations have also built networking at the district level.</p> <p>But,</p> <p>There is lack of information sharing among networks at the national, district and even local level</p>
<p>3.4 Advocacy To prioritize the issue of children and women trafficking for the purpose of sexual and labor exploitation on the national and regional agenda</p>	<p>Moderately fulfilled: Several NGOs and networks are carrying out advocacy program to leaders of social, educational, legal, and religious institution and organizing time to time public rallies and campaign on women and child trafficking including safe migration in different National Days.</p> <p>But,</p> <p>As WDO lacks budget to conduct regular advocacy at the district level and many advocacy program remain project based.</p>
<p>3.5 Social mobilization To create a sense of responsibility at the local level to combat child trafficking through organizing the local community</p>	<p>Moderately fulfilled Some NGOs have been mobilizing the community and local people to prevent trafficking and unsafe migration</p> <p>But,</p> <p>Their programs are donor driven and question of sustainability; Local Govt like VDC and District Development Committee (DDC) have yet to be mobilized for allocation of budget to make the social mobilization sustainable.</p>

Health and Education

The NPA aims to promote preventive and curative health education to the vulnerable communities as well as health services for rescued women and children. Reviewing the Annual Program of GoN in the FY 2007/08 and 2008/09, the MoPH has introduced general health awareness programs in the community; incorporated reproductive and sexual health education in secondary education level and provided training to grass-route health workers regarding HIV/AIDS and STIs. Some NGOs have been also providing preventive and curative health services for survivors of trafficking through operation of Transit Homes, Prevention Homes, Drop-In-Centers. Despite these, it is difficult to assess the progress made in this sector because of the lacking of the aggregated data. Findings indicate that there is lack of coordination between the service providers and no budget allocated for the health services targeting the trafficking survivors (Box 5.10).

Box 5.10 Intervention Area 4 Health and Education

NPA Provision	Current Status
<p>4.1 Health To promote preventive and curative health education to the most vulnerable communities</p>	<p>MoHP has organized health awareness workshops and orientation program to the most vulnerable groups,</p> <p>MoES incorporated Population and Environment, Reproductive and Sexual Rights education into the school and NFE curriculum</p> <p>MoHP have also providing training to FCHV, VHW and other health workers regarding HIV/AIDS, STIs</p> <p>However, the MOHP do not adequately include the anti trafficking message and there is inadequate coordination between the organization dealing with trafficking and health services</p>

<p>4.2 Health To provide preventive and curative health services for women and children who have been rescued</p>	<p>NGOs have been providing such services by establishing transit homes, rehab centers</p>
<p>4.3 Education:To increase school enrolment and create educational awareness particularly among the most vulnerable groups</p>	<p>Lack coordination between MoHP and MoWCSW to provide the health services to the trafficking victims</p> <p>Enrolment rates of girls considerably increased at the national level, yet the enrolment and retention rates of the most vulnerable groups is still relatively lower although the MoES implementing various incentive programs to encourage girls in regular attendance of school</p> <p>MoWCSW and MoES lack effective coordination to identify such vulnerable communities</p>

With respect to education, the NPA aims to increase the school enrolment by universalizing the education for all. Enrolment rates for girls have considerably increased over the years, mainly because of provisions of different scholarship programs by the MoES as discussed elsewhere in this Report.

Income and Employment Generation

NPA aims to increase the economic status of communities, groups and families vulnerable to child trafficking (Box 5.11). Reviewing the Annual Program of GoN, it is understood that GoN has introduced Poverty Alleviation Program, Women Empowerment Program including others to reduce the poverty and increase the income of the poor and disadvantaged groups in the country. Social mobilization has been taken as means and ends in this direction. The problems of such poverty alleviation/women's empowerment programs are many including no adequate coverage of the most vulnerable groups such as Dalit, dissertated women, abandoned women, single women and the very poor. Much of the program has focused on the awareness aspect without adequate integration of income generation and employment program (Subedi, 2008).

Box 5.11 Income and Employment Generation

NPA Provision	Current Status
<p>5. Income and employment generation To increase the economic status of communities, groups and families vulnerable to child trafficking</p>	<p>Poverty Alleviation Fund, several micro-credit financial institutions and NGOs have been working to increase the economic status of Nepali people. Yet large section of vulnerable communities are still out of the program</p> <p>Major lacking is that such programs do not explicitly focus on trafficking vulnerable groups</p>

Rescue and Rehabilitation

NPA aims to interception and rescue of girls and boys being trafficked and/or have already been trafficked. It also outlines the provision of rehabilitation and reintegration to the trafficking survivors in the families and communities. As discussed elsewhere in this Report, there have been some achievements in providing rescue and interception services through the NGOs including WCSC and NCCR, Child Help Hotline 1098. The number of intercepted persons each year has also been increasing as indicated by the data of NGOs (see activities of NGOs). In relation to the operation of the rehabilitation centers, the GoN has established 8 centers. But there are no data about number of rehabilitation centers established in the country for providing the rehabilitation services for the trafficking survivors and how many are running with fulfilling the minimum standard required for the operation of the center. Given this context, the NPA's this program of action has **minimally-to-moderately fulfilled** (Box 5.12).

Box 5.12 Rescue and Rehabilitation

NPA Provision	Current Status
<p>6.1 Rescue: To intercept and rescue girls and boys who are being trafficked or are already engaged in exploitative work situation</p>	<p>Minimally fulfilled Maiti Nepal, ABC Nepal, SAATHI, Shakti Samuha, CWIN -Nepal including other organizations are actively engaged in rescue of trafficking victims through border surveillance, operation of Hot Lines, interception in bus parks, major highway points</p> <p>WCSC and NCCR are also working in this direction</p> <p>Yet there is no aggregated data on number of trafficking victims</p>
<p>6.2 Reintegration To rehabilitate and reintegrate victims into their families and communities</p>	<p>Minimally fulfilled The GoN has created national fund for rehabilitation and supported 3 rehab centers</p> <p>15 service centers (half way houses) budgeted for this year for GBV victims</p> <p>GoN is preparing national guideline for quality of care for rehab centers</p> <p>Some NGOs have also rescued victims as service providers and activists</p> <p>Yet, no complied data on number of girls and children in rehab centers, no effective monitoring system established and tracer studies undertaken</p>

Trans-Border, Regional and International Issues

NPA aims of strengthening anti-trafficking efforts at bilateral, regional and international level appears to be **minimally-to-moderately fulfilled** (Box 5.13). In its achievement, SAARC Convention has been signed; informal meeting between Indian border Police and Nepal border Police has been taking place; IOM initiated the regional workshop on safe migration; NGOs networks to India has been extended for rescuing of trafficking survivors and the GoN has initiated dialogue to the Indian Government for regulation of Nepali flying third countries using Indian Airports; attempts are being made for the concerted efforts between NHRC and IHRC. Despite these efforts, there is no formal mechanism developed to share the trafficking information even among the South Asian countries. Further, SAARC level special rapporteur has not been appointed yet.

Box 5.13 Trans-border, regional and international issues

NPA Provision	Current Status
<p>7. Trans-border, regional and international issues To strengthen anti trafficking efforts at bilateral, regional and international level</p>	<p>SAARC Convention including other less formal regional arrangements regarding combating trafficked have been signed</p> <p>Allocation of budgets to Foreign Mission to Nepal: New Delhi</p> <p>Nepal and India are participating in cross border campaign through informal networks</p> <p>Labor Attaché appointed in four countries and labor standard agreement signed with four courtiers</p> <p>IOM initiated regional workshop on safe migration</p> <p>Extradition Treaty of 1953 has been amended to include trafficking</p> <p>Some NGOs in collaboration with Nepal police established screening posts at border points</p> <p>No SAARC level special rapporteur appointed; few budget and human resources allocated to Foreign Mission to Nepal</p>

Monitoring and Evaluation

NPA aim of developing a regular Monitoring and Evaluation system to measure the progress of NPA has been minimally fulfilled (Box 5.14). The MoWCSW is now revising the NPA after 2002 and SAARC Desk has been established. However, there is no centralized database system established; no national representative household survey carried out to understand the linkage between foreign employment and trafficking and exploitation. With these shortcomings, it is hard to assess the extent to which NPA was implemented from gender perspective.

Box 5.14 Monitoring and Evaluation

NPA Provision	Current Status
8.1 Monitoring and evaluation To measure the progress of the NPA	NPA was to review every two years but it was revised in 2001, and now being revised by the MoWCSW – resulting lapses emerging issues in the NPA
8.2 Monitoring and evaluation To measure the progress of anti -trafficking initiatives at the national level	No M & E developed yet
8.3 Gender Sensitive To ensure a gender sensitive approach to implementing the NPA	Gender sensitive evaluation/audit has not been undertaken
8.4 Establish a M & E at the SAARC Secretariat To measure the progress of anti-trafficking initiatives at the regional level	SAARC desk established but data base has yet to produce

5.5 Emerging Challenges

- Strengthening the capacity of investigative authority, prosecutors as well as the executors to effectively implement the HTT Act. Much research is, however, needed to understand the strengths and weakness of each prosecution agencies.
- Meeting the provisions relating to protection of workers like rescue, rehabilitation, reintegration with minimum standard in the context of increasing number of women left to third countries via India.
- Amending the HTT Act to ensure the investigation and prosecution of internal trafficking cases, especially in entertainment industry like cabin and *Dohori* restaurants, dance bars and massage parlors.
- Revising the NPA by addressing the emerging dynamics of trafficking in Nepal as discussed in Chapter 2 i.e. internal, cross-border (to India or beyond India), multipurpose of trafficking and trafficking of men, women and children simultaneously.
- Prioritizing the implementation and monitoring of combating TIP especially women and children to ensure their human rights.

□□

Commitments on Combating Trafficking in Persons: Perceptions of Key Line Ministries, CA Members, National Women Commission, Human Rights Defenders and UNSCT

This Chapter consists of the Commitments from the major responsible Ministries, Constitution Assembly Members, human right defenders, National Women Commission (NWC) and UN Country Support Team (UNCST) who have to work as decision-makers, implementers and activists for combating trafficking in the context of policy and legal response. The objective of this Chapter is to present the understanding of the dignitaries and build the cooperation among the stakeholders in combating trafficking in persons. This would facilitate mobilization of stakeholders and generate the advocacy for the effective implementation of the laws, policies and programs and thereby ensure and enhance the status of the human rights of the targeted population who are vulnerable and are also victim of the trafficking in person.

6.1 Commitments at Large

The commitment on the control and elimination of the trafficking in persons at the international level has been made especially through different conventions and declarations as to the announcement made by UN Security Council including by the special UN Agencies, OHCHR, IOM, UNODC and ILO.

Since women and children are the most vulnerable population of the trafficking, the concern and elimination of trafficking drew attention and Commitments especially after 1990 because of the provisions made in CEDAW, CRC, and the Beijing Plan of Action. The GoN as participatory and signatory country of the International documents has shown a good deal of international commitment to combat trafficking. In line with the international commitment as well as consideration of the severity of trafficking problem especially of women and children in the country, the GoN adopted NPA, HTT Act 2007 and also placed high priority in combating trafficking in women and children since Eight Plan (1992-1997) under the women empowerment policy. On the occasion of National Day on anti trafficking, the following commitment was made by the political parties.

नयाँ नेपालको परिकल्पना : मानव बेचबिखन रहित समाजको सृजना

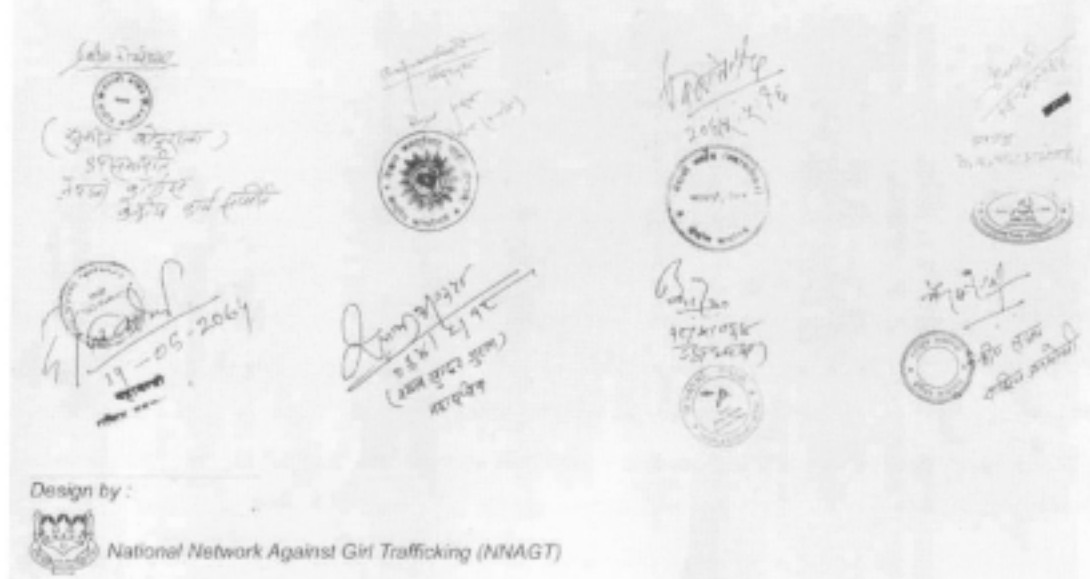
मानव बेचबिखन विरुद्धको प्रथम राष्ट्रिय दिवसको अवसरमा राजनैतिक दलहरूको प्रतिबद्धता

“नयाँ नेपालको परिकल्पना : मानव बेचबिखन रहित समाजको सृजना”को नारासहित मानव बेचबिखन विरुद्धको प्रथम राष्ट्रिय दिवस मनाउन लागिएको यस अवसरमा,

सार्क राष्ट्रहरूले प्रतिबद्धता जनाएको “वेश्यावृत्तिको लागि हुने महिला तथा बालबालिका बेचबिखन विरुद्धको महासन्धी २००२”, लाई कार्यान्वयन गर्न र बेचबिखन विरुद्धको अभियानमा ऐक्यबद्धता प्रकट गर्न,

मानव सभ्यतासँगै नेपालको कलङ्को रूपमा रहेको मानव बेचबिखनको समस्याको निराकरण गर्न साथै,

समग्र राष्ट्र संविधान सभाको निर्वाचनद्वारा नयाँ नेपालको निर्माणको मार्गचित्र कोर्न जुमुराई रहेको पूर्व सन्ध्यामा हामी तपसिलका राजनैतिक दलहरू मूल नारामा भनिए जस्तै मानव बेचबिखन रहित समाजको सृजना गर्न मानव बेचबिखन लगायतका लैङ्गिक हिंसा विरुद्धमा हाम्रा घोषणापत्र मार्फत सामुदायिक स्तरदेखि राष्ट्रिय स्तरसम्म अभियानको रूपमा हाम्रा सम्पूर्ण संरचनाहरूलाई परिचालन गर्ने कटिबद्धतासहित प्रतिबद्धता व्यक्त गर्दछौं ।

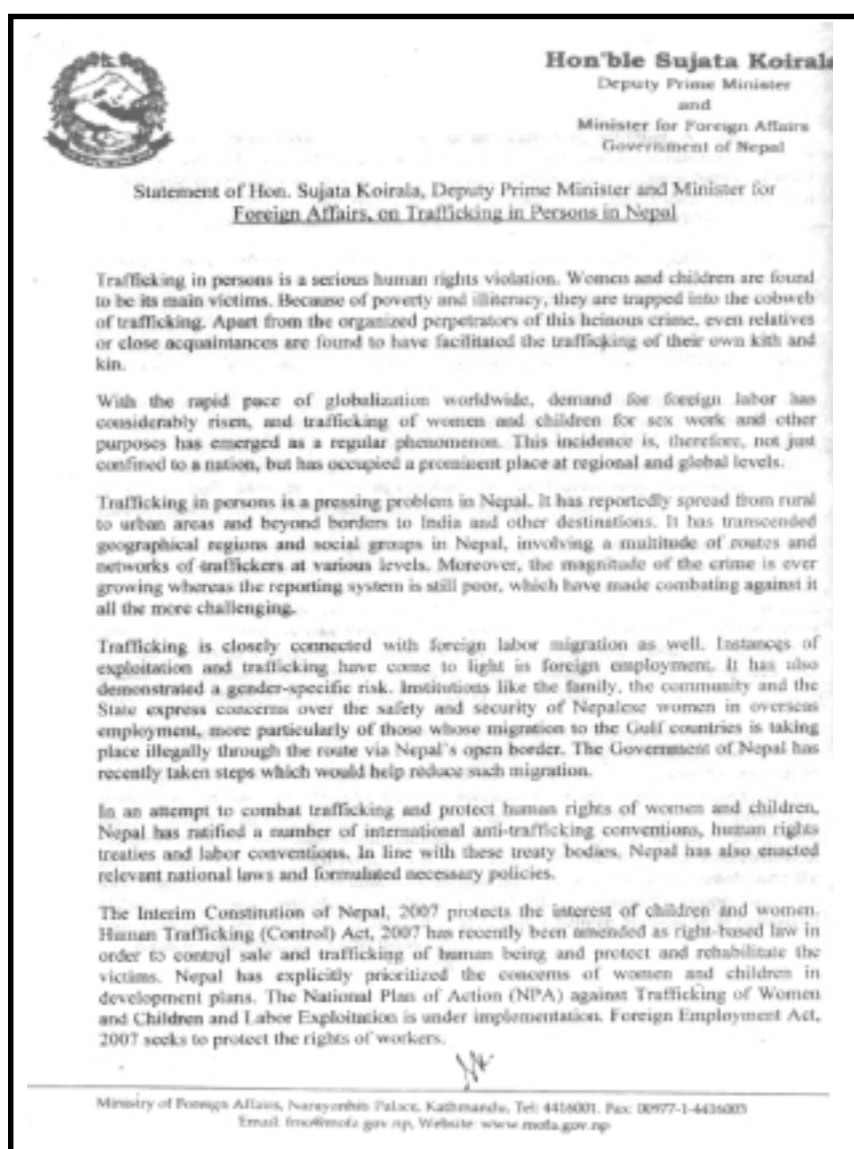


The commitments on the part of the Government made in different international as well as national laws and policies are facing implementation challenges due to lack of strengthened institution, skilled human resources, physical facilities and adequate financial sources and effective management system.

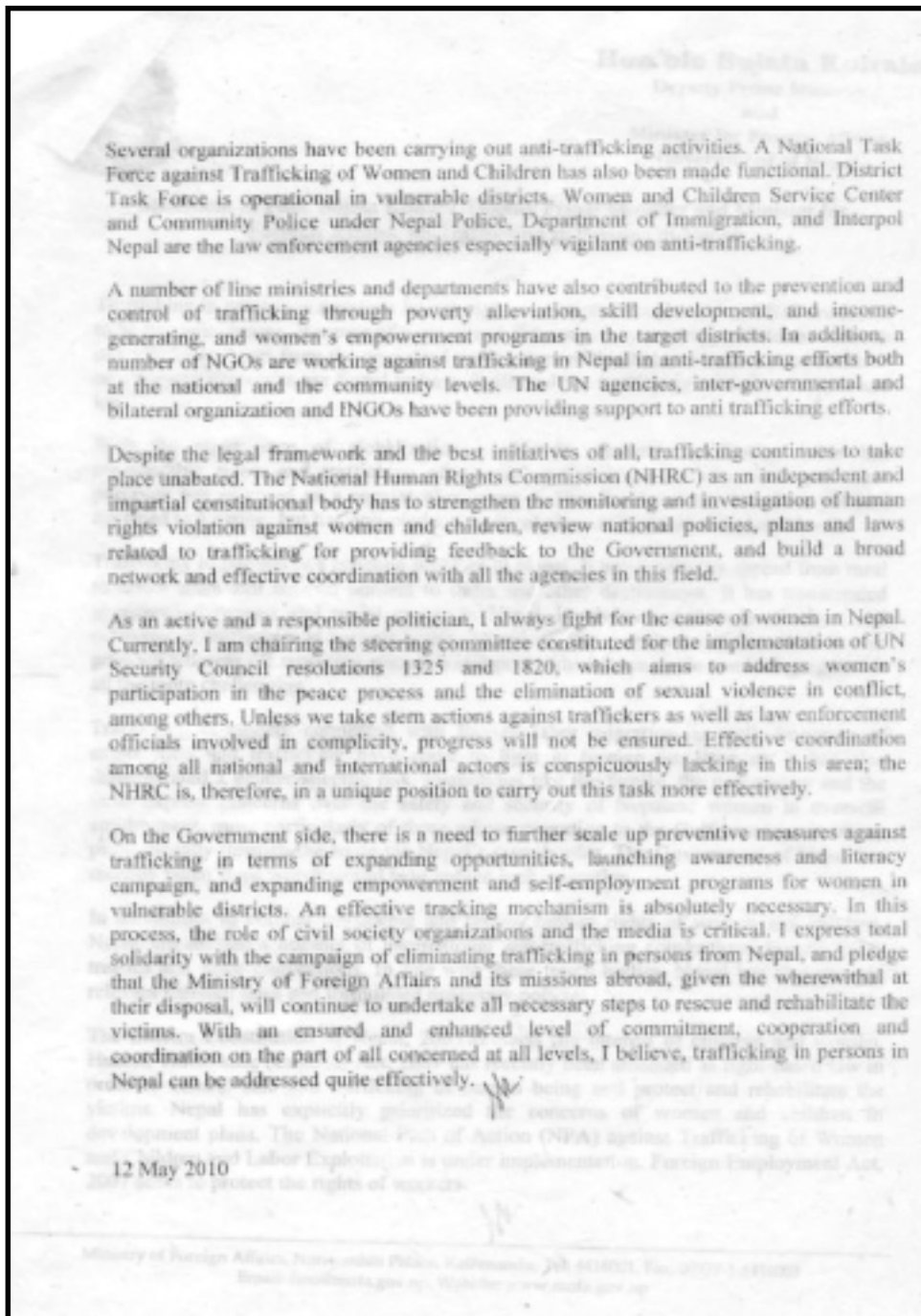
Since TIP is becoming the ever growing socio-economic problem and at the same time as an interrelated issue, the commitment from the concerned institutions /dignitaries can strongly play solidarity role for advocacy to achieve the national goals, objectives and target in combating trafficking in person. In this context, the report has collected the commitment from following ten decision-makers, human right defenders and UN CST. The response is based on the outline provided by the OSRT-NHRC (Annex 6.1)¹.

6.2 Narratives of Commitments

Commitment: Mrs. Sujata Koirala, Hon'ble Deputy Prime Minister and Minister of Foreign Affairs



⁵ Here, the commitment of the individuals and institutions put exactly the same as sent by the dignitaries unless some changes required for making the Report consistent.



Commitment: Mr. Bhim Bahadur Rawal, Hon'ble Minister of Home Affair

1. Yes, Trafficking of women is the violence of human rights. Trafficking of women ultimately brings them into prostitution and forced labor in most cases. It is thus violence against women and also the violation of basic human rights. We must redouble our efforts in combating this menace in our society.
2. There are serious challenges, in the sense that network of trafficking from Nepal, in the past, was limited to India, is now spreading in the third countries including Gulf countries. Further to this lack of awareness, poor education among vulnerable groups (especially women)

poor law enforcement and increasing demand from recipient countries are some pushing factors contributing to this problem.

3. The foreign Labor Employment and Trafficking in persons do not necessarily interrelated. However, in some situation these two are correlated at the existing circumstances. In the name of foreign labor employment some organized groups are trafficking men and women abroad. In fact this is becoming more complicated due to lack of strong monitoring and punishment mechanism in the whole system of foreign employment area. In relation to safe employment for women additional strategic measure need to be adopted both by the sending and receiving countries.
4. Broadly the provisions contained in them are enough. Improvement may be needed to tackle some issues that come across in the implementation of these Acts. I think we should make provision of effective monitoring for the activities of agencies involved in foreign employment handling. Heavy fine and punishment also can be one option for effectiveness. On the whole full implementation of these acts should produce desired results.
5. Effective implementation of the laws is very important. In addition, awareness campaign among the people, especially the affected areas, effective policing (patrolling and vigil), tight immigration system, more cooperation with civil society including community based grassroots organizations are some of the viable strategies.
6. We are genuinely serious for the effective implementation of concerned Acts and regulations. In addition to this information exchange and other type of cooperation is happening globally and regionally through Interpol as well as bilateral mechanism with various countries.
7. We expect more resource and capacity building program to consolidate our effort. This being a cross-cutting issue support from all sectors including civil society would be needed towards making our efforts effective.
8. NHRC is doing well in its job. Awareness and development of sense of accountability among the populace can contribute to reducing the malaise of trafficking in human beings. Further, constructive suggestions and monitoring always encourages us to do our best.

Commitment: Mr. Mohamad Aftab Aalam, Hon'ble Minister of Labor and Transport Management

1. Yes, I agree with this version. When women and children are trafficked, they are exploited physically, mentally, economically and socially. So these issues are against the human right of people.
2. It comes to know that the situation of Human Trafficking is serious in Nepal but we do not have exact data and information about these issues. There is large number of address this issue properly.
3. I do not think foreign employment and trafficking in person is closely related with each other. These two terms are neither closely related nor totally different. These two terms have more or less similar meaning in our present context. When people are sent to abroad illegally by recruitment agencies might get involved or trafficked.

Foreign Employment is guided and ruled by law where as Trafficking is strictly prohibited. Remittance obtained from the foreign employment is considered as the backbone of economy. It contributes around 18% of total GDP. Migration management is considered as global agenda of development and it demands to set up institutional mechanism to manage it effectively.

Steps needed to be taken for safe employment opportunities are:

- Awareness raising program
 - Skill enhancement and vocational training
 - Use of domestic airport for first departure
 - Provision of work permit
 - Making recruitment agencies more responsible
 - Compulsory orientation program for common language, culture, religion of destination country
 - Proper utilization of welfare fund for foreign employment
 - Ensure security measures
 - Monitoring mechanism
 - Welfare activities
 - Proper management and utilization of remittances
 - Record management and documentation of the undocumented labor migrants.
4. These laws themselves are very good in principle. It becomes challenging while put into implementation. This is because of the lack of institutional arrangements, resource constraints and capabilities in some instances.
 5. Mainly Trafficking takes place due to the poverty, illiteracy and unemployment in the rural areas of country:
 - Areas specific and targeted group specific programs (especially for women and children) will be needed for direct intervention.
 - Awareness raising and mobilization of community's member against trafficking and exploitative for forced labor.
 - Develop a coordination mechanism among the governmental, non governmental and civil society.
 6. Proper institutional arrangement is the utmost needed to implement the laws and regulations. Timely monitoring and evaluation is another important area.
 7. We need support and commitment from partner organization to implement Act and Regulation properly. Collaboration and cooperation is the must for effective implementation.
 8. Since MoLTM is a focal ministry for Child Labor Elimination. We expect the following support from NHRC: the technical support to find out the real number and situation of child labor in informal sectors and to establish a networking among the governmental, non governmental and civil society and other organizations.

Commitment: Mr. Sarvdev Prasad Ojha, Hon'ble Minister of Women, Children and Social Welfare

1. Trafficking in person is a grave human rights violation issue. Moreover, trafficking in women and girls for commercial sexual exploitation and labor exploitation has become a serious

problem in our society." Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)" which is yet to be signed and ratified by the GoN, has emphasized law enforcement response to human trafficking and the protection of its victims, with guidelines on human rights protection of victims. Similarly, the "SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution", which has been ratified by the GON in 2006, stipulates trafficking in women and children as a crime against human beings and focuses on the obligation of State Parties to prosecute the perpetrators, to protect the victims/survivors of trafficking and to enhance cooperation among nations.

2. Human-trafficking in Nepal has degraded the social values. It has been previously linked to flesh trade and prostitution in the brothels of Indian metropolitan cities. It has connection with poverty, urbanization, lure for foreign employment and certainly the easy money. There are many push and pull factors. In the face of poverty and unawareness in the rural areas, many are deceived by their own intimates, keens, relatives and friends. Now there is the need for differentiating the forced and coercive sexual exploitation and voluntary prostitution.
3. Of course, 'foreign labor employment' and 'trafficking in person' are two different issues and should not be regarded as synonyms. The former is 'opportunity' and the later is exploitation. But when the foreign labor employment or migration goes wrong it becomes trafficking. So any kind of exploitation associated with foreign labor employment/ migration may result in trafficking in persons. Nowadays, we come across to many news and events of deception, exploitation associated with foreign labor employment/migration may result in trafficking in person. Nowadays, we come across to many news and events of deception, exploitation and coercion which are attached to migration. Correct information system, right education and skill trainings, strong regulatory mechanism, and integrity among all stakeholders are the need of the day to boost safe employment opportunities. Realizing the need for creating a safer and conducive environment the Government of Nepal has promulgated Human-Trafficking and Transportation (Control) Act, 2007, Rules (2008), and Domestic Violence (Crime and Punishment) Act,2009. There are Children Act and Foreign Labor Employment Act, which also put sanction against any kind of exploitation and fraudulent behavior. The Supreme Court Orders and Guidelines for regulating women workers in dance bar, cabin restaurant, and massage parlor is also an important signpost to control human trafficking.
4. These legal arrangements are made to create a safe environment against human-trafficking, to accelerate prosecution against the perpetrators of human trafficking together with protection of victims and survivors as well as to expedite preventive measures. The legal provisions are made with a realization of victim human rights perspectives. State mechanisms are made responsible for the protection of survivors. The GON has also formulated National Plan of actions on the effective implementation of CEDAW and BPFA. Most importantly National Plan of Action (NPA) against Trafficking in children and Women for Sexual and Labor Exploitation is a milestone. On top of that GON has also formulated 10 years National Plan of Action to promote Child Welfare. Again very recently the Government of Nepal has adopted Action Plan for marking the Year2010 as "Year against Gender Based Violence". Unless and until we would manage for an integrated and comprehensive Gender Based Violence Address mechanism by strengthening service delivery our attempt for policy interventions and legal reforms cannot be materialized.

5. All the policies, plans and legal provisions will be effective only when all stakeholders come out with strong commitment to implement them very honestly. Political commitment is the first requirement and honesty among all duty bearers is the next. What it counts are value education and the awareness together with employment and job opportunities. In the meantime, we must be sincere to end impunity by increasing zero tolerance against human-trafficking and violence against women and children. At the grass root level we have to strengthen GVB service delivery. We need to build and integrated service centers to cater the need for health service, complaint handling, legal aid, psycho-social counseling, skill training, and job opportunities for survivors. Integration and rehabilitation of them in their respective family and community is the most important factor.
6. The focus of the Ministry of Women, Children and Social Welfare will be to provide comprehensive and integrated service to survivors by giving importance in all aspects of prosecution, protection and prevention. The Women Development Offices in all districts will work as the focal agency and Women Development Officers will be assigned as Protection Officers to deal with the GBV cases. They will coordinate other line agencies to cater the need for required services such as health, education and skill, awareness raising legal aid, psycho-social counseling, and coordination with the police and the government attorneys. My ministry has already established a 'Rehabilitation Fund' and 'Rehabilitation Centers' (safe house) in Kathmandu, Sindhupalchok and Kailali. They are managed by NGOs under public-private-partnership model. Similarly, decision has already been made to run such 'Rehabilitation Centers' in Jhapa, Parsa, Chitwan, Rupandehi and Banke districts. Very recently we have also decided to establish 'Service Centers' for addressing the need of GBV victims/survivors in the same model in 15 districts. They will also provide space for trafficked-victims and survivors and will be run by Women Organizations promoted under Women Development program of this ministry. The name of the districts are Panchthar, Sunsari, Solukhumbu, Saptari, Sarlahi, Makawanpur, Nawalparasi, Tanahu, Kavre, Baglung, Jumla, Dang, Bardiya, Doti and Kanchanpur. Special focus will also be given to Surkhet, Kapilbastu and Mahottari along with Kanchanpur under Multi sect oral GBV project. Parsa-legal committees will be expanded to all 75 districts. As stipulated in the law Anti-trafficking Committees have been formed in all districts together with the formation of the National anti-trafficking Committee. Orientation and training programs are going on intensively in partnership with service providers to create awareness among local comities and the duty bearers. These efforts are made to give impetus to policy, programming and monitoring in over all areas of prosecution, protection and prevention.
7. The National Human Rights Commission (NHRC) is a highly placed constitutional body to look at human rights violation issues. We are glad that a special unit (Rapporteur) in NHRC is being created to deal with human-trafficking. We hope that the unit will advise the government agencies with specialized knowledge to control human-trafficking. We are in the lack of evidenced based responses to control human-trafficking. First of all there is no authentic data. NHRC and my Ministry can develop a joint project to overview the situation of human-trafficking in Nepal by collecting right information. Secondly, NHRC and MoWCSW can work together to make aware of duty bearers. NHRC can also help MoWCSW to intervene in the system where reforms are necessary.

Commitment: Arzu Rana Deuba, Hon'ble Member of Constitutional Assembly

1. I believe human trafficking is one of the key violations of human rights. Human trafficking whether it is of girls, boys, women or children is a grievous crime and has to be dealt with

accordingly. In the context of Nepal and a number of countries in South Asia trafficking of women is a major concern. Nepal's 10 year long conflict and the resultant impoverishment and displacement of people in the peripheries has made women even more vulnerable to being trafficked.

2. I see the situation as quite alarming, especially in this period of political transition and a general breakdown in the law and order situation and growing impunity in our society.
3. Foreign labor migration and trafficking persons are closely related and steps need to be taken for safe employment opportunities for women number of girls and women from poor and less better off communities are lured by traffickers under the guise of 'good employment'. I have personally come across a number of cases where girls and women have been trafficked in this way. There is need for information and public awareness creation about safe migration for employment in the rural areas of Nepal as well as information about the tricks traffickers use to lure innocent people.
4. Concerning the Acts on combating trafficking and also foreign employment, the Acts are fine but implementation requires definite improvement. There should be discussion about these two acts and how they are related and the best modalities to ensure that Nepali women get opportunities for safe employment and protection from being trafficked. Government agencies and civil society activists as well as the private sector should have joint discussion and work towards establishing collaborative mechanisms.
5. Considering the depth of the trafficking of women and children problem of the Country, I see the need for a mass awareness campaign using all forms of media. Secondly, in every VDC there should be a mechanism for registration of girls and women leaving the area for any purpose. The registration should include the name/s of person who is taking them as well as the address of their final destination. This report should be shared with the Ministry of Home and Foreign Affairs. Just registering people at the border check-points is clearly not enough. The other area requiring improvement is bringing the guilty to justice and working with the law enforcers of *en route* and destination countries.
6. So far as my commitment to materialize these Acts into action in dealing with over all areas prevention, protection and prosecution in policy, Program and monitoring areas are concerned, I have been appointed by the Cabinet as a member of the Advisory Committee to stop Violence against Women. I will share my ideas for registration of every migrant girl and woman with them in the hope that it will become a reality. I will also advice them of the need for the Ministries of Labor, Communication, Home and Foreign Affairs to work closely to stop trafficking of women from Nepal.
7. It would need cooperation to work jointly and would also need cooperation from ministries and civil society to ensure that they allocate budgets and human resources within the framework of their ministries to work on these issues.
8. I expect the NHRC to keep playing the watchdog role it is playing and to provide lawmakers and the media information whenever something vital comes up requiring action and support from these two sectors.

Commitment: Sapana Pradhan-Malla, Hon'ble Member of Constitutional Assembly

1. Trafficking in persons is one of the major concerns under violence against women as in this process women face sexual, physical and also mental violence. It is also against the human rights because people are trafficked for exploitation, for the purpose of labor, sexual exploitation and for selling of their organs and marriage. In this process affected person is deprived of dignity, life, freedom, equality which is against the human rights of people.
2. Women in Nepal are specially trafficked for the purpose of sexual exploitation organ transplant, for cheap labor or marriage. There is increased trend of trafficking in country. Girls are more vulnerable for the trafficking due to HIV/AIDS. Gender discrimination, poverty, illiteracy and ignorance are the root causes of this problem.
3. Women are being trafficked in the process of foreign employment or sometimes in transit or at working country. Therefore, safe employment opportunity needs to be created. For this, instead of banning women from employment, there should be strong mechanism for monitoring the situation of employment, women situation, condition of their work and enabling environment should be created for foreign employment by country of sending and recipient. Banning of women has been making women more vulnerable for violence and depriving from legal protection.
4. Both legislations are newly enacted and yet to disseminated largely for action and demand for justice. Recently government has allocated the budget for rehabilitation and reintegration the women who were trafficked. Similarly, the courts also play the proactive role regarding the trafficking case which is the landmark initiation to control the trafficking of human beings. The Foreign Employment Act 2007 has for the first time treated women at par with men and also called the State to take special measures to increase women's participation.

Similarly, the children Act 2048 is in effect. There are some bench mark decisions in this regard. Child bench has been created and confidentiality has been maintained. Similarly, children are allowed to establish the organization for their behalf but yet to see effective implementation as expected.

5. Fight with root cause first. Mere enactment of law is not enough unless law is disseminated; capacity of right holder and duty holder is built up. Support system needs to be created form counseling to legal aid, shelter from victim justice perspective along with the empowerment program more importantly economic one.
6. First of all being member of CA, I would like to make sure that Constitution and laws guarantee right against exploitation and also ensure comprehensive justice system through legal framework, will also be doing advocacy for the adequate budget allocation and also to make state accountable in the realization of right putting law into place.
7. Since integrated and comprehensive approach have to be tabled, for prevention Ministry of Women, National Women Commission, NGOs should play proactive role whereas for protection ministry of Home, Police Department, Attorney General Office and also judiciary have to play important role. Similarly, civil society should work for rehabilitation and reintegration in society.

8. Coming to the role of NHRC in combating trafficking, NHRC should monitor the incident, implementation status, corruption, impunity, and also pressurize for accountability.

Commitment: Naina Kala Thapa: Chairperson, National Women Commission

१. निसन्देहः मानव ओसारपसार तथा बेचबिखन मानव अधिकार विरुद्धको जधन्य अपराध हो। यसको शिकार सबैभन्दा बढी महिलाहरु हुने गरेका छन्। वैधानिकरूपले वैवाहिक संबन्ध कायम गरी र विभिन्न लोभलालच देखाएर भारतको कोठीमा लगेर आफनै श्रीमान्वाट र आफन्तहरुवाट बेचिन्थे भने आज वैदेशिक रोजगारीका नाममा वैधानिक र अवैधानिकरूपमा नै विभिन्न रूपमा अपराधि गिरोहहरुवाट खाडी मुलुकहरुमा बेचिएका छन्। राष्ट्रिय र अन्तराष्ट्रियरूपमा नै महिलाहरु बेचबिखनमा पर्ने तथ्यांक विकराल रहेकोछ। मानवसमाजको कलंकको रूपमा रहेको यो अपराध संगठित संजालकोरूपमा मौलाइरहेको छ।
२. विश्वका अन्य देशका तुलनामा नेपालमा मानव बेचबिखन तथा ओसारपसारको समस्या सबैभन्दा जटिल रहेको छ। जहां जातिय संस्कृतिकोरूपमा गरीबी र अशिक्षाका कारण छोरीलाई बेच्ने र यौनकर्मी बनाएर परिवारको पालनपोषण गर्नु पर्ने बाध्यता सामाजिक कलंककोरूपमा रहेको छ। यही कमजोरी र बाध्यतावाट फाइदा उठाएर दलालहरुले नेपाली छोरी चेलीहरुलाई विश्व यौन बजारमा पुऱ्याएका छन्। १५/१६ वर्षका कलिला युवाहरुलाई गोर्खा भर्ती केन्द्रमा भर्ती गर्ने चलनले राज्यले नै मानवता विरुद्धको जातिय शोषण र बेचबिखनको शृंखलाकोरूपमा शुरु गरिएको थियो। देशको आर्थिक दुर्दशाका कारण आज सबै जातिका महिला र युवाहरु विश्व श्रम बजारमा सस्तो मुल्यमा श्रम बेचन बाध्य छन्। श्रम र यौन शोषणमा परि विदेशका गल्ली र एयरपोर्टमा मनस्थिति नै गुमाएका जिउदो लास सरी विक्षिप्त अवस्थामा फर्केका महिलाहरुको संख्या पनि कम छैन। अहिले देश बाहिर मात्र होइन गाउघरवाट रोजगारीका लागि शहर बजारमा आउने क्रममा महिला र बालबालिकाहरु लुटिएका ठगिएका छन् र संक्रमित रोगवाट ग्रसित भइ आजीवन समाज र परिवारवाट बहिष्कृत भएर बाच्नु पर्ने बाध्यता छ। सरकारले अनाथ बालबालिकालाई धर्म पुत्र पुत्रीको नाममा विदेशी नागरिकलाई बेच्ने घृणित काम गर्दै मातृभूमीवाट वञ्चित गर्ने काम गर्दै आइरहेको छ।
३. वैदेशिक रोजगारी र मानव बेचबिखन तथा ओसारपसार भिन्न विषय हुदा हुदै पनि अन्तर्सम्बन्धित बन्न पुगेको छ। मानव बेचबिखन जस्तो निकृष्ट अपराध वैदेशिक रोजगारको आवरणमा महिलाहरु नै बढी शोषित र पिडित भैरहेका छन्। वैधानिक वाटोवाट भन्दा पनि अवैधानिक वाटोवाट लैजाने दलालहरुको चंगुलमा फस्नाले धेरै जोखिमहरु भइरहेको छ। हाम्रो जस्तो गरीब र विपन्न मुलुकका जनताहरु ज्ञान, सिप र दक्षता विना पराइ देशमा जान हाम फाल्न तयार हुन्छौ। त्यहां जानु पूर्व मानसिकरूपमा तयारी गर्नु पर्ने संपूर्ण जानकारीहरु आफुलाई हुनु आवश्यक छ भन्ने कुराको ज्ञान नहुदा र विषेश गरेर दलाल माफियाहरुको शब्दजाल र षडयन्त्रको शिकार हुने गरेका छन्। वैदेशिक रोजगारीलाई सुरक्षित र मर्यादित बनाउनु राज्यको दायित्व हो। ठगिलाई रोक्न र नियन्त्रण गर्न ऐन बने पनि भ्रन्भ्रटिलो प्रक्रियाका कारण र न्यायमा पहुच नहुनाका कारण पिडितहरु न्याय माग्न जानु भन्दा पुम्पुरोलाई दोष दिएर छुटकारा पाउन चाहन्छन्। दुबै देशका सरकार बीच श्रम र रोजगार संबन्धि संभौता हुन सके मात्र रोजगारीको सुनिश्चितता हुन जान्छ, निश्चिन्त भएर आफनो काम गर्ने वातावरण बन्छ। सरकारले वैदेशिक रोजगारवाट यति र उति रेमिटेन्स आयो भनेर गर्व गर्छ तर उनीहरु माथि आइ पर्ने समस्याप्रति उदासिनता देखाउछ। सरकारवाट नीति कानुन बनेका छन् तर कार्यन्वयन प्रभावकारी हुन सकिरहेको छैन।
४. नेपाल सरकारले समाजमा रहेको विभिन्न समस्यालाई संबोधन गर्न विभिन्न नीति, कार्यक्रम र ऐनहरु बनाउदै आएको छ र समय सापेक्ष परिमार्जन पनि गर्दै आएको छ। कानुन बनाउन र अन्तर्राष्ट्रिय संधी संभौताहरुलाई विना रिजर्वेशन अनुमोदन गर्नेमा नेपाल सरकार सबैभन्दा अगाडि छ। यो राम्रो हो तर कार्यन्वयनमा सबैभन्दा

कमजोर र उदासिनता देखाउने प्रवृत्ति सरकारको रहदै आएको छ । तसर्थ: सरकार र संबन्धित निकायहरु नै सेवाग्राही जनताप्रति उत्तरदायी बनाउनुको विकल्प छैन ।

५. महिला र बालबालिकाको विशेष अवस्थाका कारण जीवन सधै जोखिमपूर्ण रहेको छ । सर्वप्रथमतः कोहि पनि बेचबिखनको शिकार हुनु नपरोस् यदि कोहि पनि पिडित भएकाछन भने अपराधिलाई कडा कानुनी डण्ड सजाय दिनु पर्छ । कानुन राम्रो बनेता पनि व्यवहारमा लागु हुन सकेको छैन । कानुनमा रहेका त्रुटीका कारण पीडितले न्याय पाउन र अपराधिलाई सजाय दिन के कस्ता समस्या र चुनौतीहरु रहेका छन् ? निरन्तर अध्ययन विश्लेषण र मुल्यांकन गर्दै रणनीतिहरु तय गर्दै जानु पर्दछ । प्रहरी प्रशासनले सिमानामा मात्र निगरानी गरेर पुग्दैन गाउँ गाउँमा रहेका दलालहरुलाई कारवाही गर्ने लक्षित कार्यक्रम बनाउनु पर्दछ । त्यसको निरन्तर अनुगमन गरी सत्य तथ्य सार्वजनिक गरिरहनु पर्दछ, सरकार जनताप्रति उत्तरदायी नबन्दासम्म जति नै राम्रा कार्ययोजना भए पनि त्यो व्यवहारमा लागु हुन सक्दैन ।
६. सर्वप्रथम, सरकारले नीति कानुन मात्र बनाएर पुग्दैन त्यसलाई व्यवहारमा मुर्तिकृत गर्न दृढ राजनैतिक इच्छाशक्ति चाहिन्छ । हिजोको तुलनामा आज केही लैगिक दृष्टिकोणबाट हेर्ने कामहरुको शुरुवात भएको छ । समाजका समस्याको पहिचान गरी त्यसलाई कानुनी दायराभित्र ल्याइ डण्डाहिनता अन्त्य गर्न र पिडितलाई कानुनी उपचार दिन नयां नयां कानुनहरु र नीति कार्यक्रमहरु बन्ने क्रम जारी छ । यस विषयमा सरोकारवालाहरु बीच छलफल, अन्तक्रिया बहस विभिन्न तहमा हुदै आइराखेको छ तर त्यो शहर बजारमा मात्र केन्द्रित रहेकोले लक्षित वर्गसम्म पुग्न सकिरहेको छैन । सामाजिक प्रतिष्ठा गुम्ने डरले बेचिएका चेलीहरुले आफना पीडाहरु भन्न नसक्नेहरु आज बोल्न सक्ने भएका छन्, न्याय खोजिरहेका छन् । देशमा आएको राजनैतिक परिवर्तनले उनीहरुमा राजनैतिक सचेतना बढेको र अनुकूल वातावरणले हिजो लुकाएर राखिने मुद्दाहरु आज सतहमा ल्याई सार्वजनिक सरोकारको विषय र मानव अधिकार विरुद्धको गम्भिर अपराध बन्न पुगेको छ ।
७. विशेषतः मानव बेचबिखनको समस्या राष्ट्रिय मुद्दाकोरूपमा रहेको छ । सामाजिक समस्याकोरूपमा रहेको यो सामाजिक अपराधलाई एक्लो प्रयासले मात्र पुग्दैन सबै सरोकारवालाहरु सरकारी निकायहरु, राजनैतिक दल, गैरसरकारी संस्था र नागरिक समाजको संयुक्त र समन्वयात्मक प्रयास र पहलले परास्त गर्न सकिनेछ । आपसी संबन्ध र सहकार्यमा जोड एवं विस्तार गरेर लैजानु पर्दछ । यसको अन्त्यको लागि सामाजिक जागरण अभियान संयुक्तरूपमा गाउँस्तरसम्म लैजानु पर्दछ । जनतालाई कानुनको पूर्ण जानकार र सचेत गराउदै आफनो सुरक्षा आफै गर्न सक्ने वातावरणको सृजना सरकारले बनाइ दिनु पर्दछ ।
८. राष्ट्रिय मानवधिकार आयोग मानव अधिकारको संरक्षण र संबर्द्धन गर्न बनेको संबैधानिक र स्वायत्त निकाय भएकोले यसबाट सबैले ठूलो अपेक्षा राखेका छन् । सरकारलाई जनताप्रति उत्तरदायी र जवाफदेही बनाउन मानव अधिकारको गम्भिर उल्लंघन नगर्न नगराउन सचेत गर्दै आइरहेको छ । महिला मानव अधिकारको रक्षाको लागि विशेष पहल- महिला हिंसा हेर्ने डेस्क स्थापना गरेर महिलाका मुद्दालाई प्राथमिकताका साथ हेरेकोमा खुशी लागेको छ । राष्ट्रिय महिला आयोग यस विषयमा सहकार्य गरेर जान चाहन्छ । हामी बीच सहकार्य पनि हुदै आइरहेको छ अझ सम्बन्ध विस्तार होस् भन्ने चाहन्छु ।

Commitment: Mr. Sushil Pykuryal, Human Rights Defender and Ex-Commissioner, NHRC

I think every person would agree that the trafficking in person is one of the major concerns for the contemporary world. It is the major issue of grave Human Rights violation which the world community still has become unable to combat effectively. Trafficking in person is considered as

one of the most important issue to be addressed even before the UDHR was adopted in 1948 but surprisingly the problem is becoming acute than before.

In Nepal the trafficking started to immersed after the British came to India. The development of Industrial city and business hubs Nepal started the flesh trade targeting to different market centers in India. During past more than half a century in parallel to globalization of market oriented development Nepal is becoming the market as well transit for Trafficking of women.

In my opinion the trafficking has become regional problem thus without regional coordinated intervention it is impossible to address this issue. More over a firm and honest political commitment is fundamental. This problem should not simplify as a law and order issue.

National Human Rights Commission as a constitutional and independent body should also focus on this pressing issue. It can in way put pressure on the Government and mobilize civil society, human rights organizations, NGOs and even international agencies UN mechanism against trafficking. It should also initiate a regional effort working with various national institutions in the region mostly the Indian and Bangladesh Human Rights Commission. A network of NHRC among countries could be an effective option.

Commitment: Mandira Sharma, Human Rights Defender, Advocacy Forum

1. International human rights laws equate the act of TIP to multiple violations of human rights. Coerced into involuntary servitude and exploited economically and sexually, victims of human trafficking have to suffer violations of a plethora of rights including civil and political rights like the right to personal liberty and autonomy, the right to bodily integrity, the right to freedom of movement and expression, the right to freedom from torture or other cruel or inhuman treatment, the right to be free from discrimination and the right to be free from forced labor and slavery and social, cultural and economic rights such as health, free access to education and information, and favorable working conditions, including just compensation and reasonable working hours. Since violation of human rights has been regarded as both the cause and consequence of TIP, the series of violations on victims endure even after their emancipation, as they have to face social stigma and discrimination.
2. Nepal has been regarded as a source country for men, women, and children trafficked for the purposes of commercial sexual exploitation and involuntary servitude. Similarly, about 5,000 to 7000 girls and women are estimated to be trafficked every year to India to meet the increasing demands of burgeoning flesh trade in India and elsewhere. However, the trafficking of Nepalese girls is not limited to India only.
3. Yes, foreign labor migration and trafficking are linked. The lack of comprehensive framework to regulate foreign employment and the measures to protect migrant workers is contributing significantly to increase the trafficking of women. Traditional mindset that envisions the work in public and market place only by men makes women much vulnerable to exploitation.
4. Though Nepal has taken some legislative measures to prevent the crimes of human trafficking, they are neither implemented properly nor adequately. International treaties that Nepal has ratified have obliged Nepal to take legal, administrative, judicial measures to prevent crimes of women trafficking and protect women from this crime. Nepal has enacted national

legislations to meet its international obligations. The Interim Constitution (2007) expressly state that "Traffic in human beings, slavery or serfdom is prohibited", and the GoN promulgated the Human Trafficking and Transportation (Control) Act in July 2007, with a view to effectively curb the systematic and widespread practice of Human Trafficking in Nepal. However, in absence of the enforcement power of these laws, the practice of trafficking continues.

5. First of all the investigation sections of the police has to be strengthened to make them skilled to investigate the crimes. It has to be the agenda of the police reform as well as the investigation also has to be linked with the internal accountability. Education policies of the government also have to be speed up to promote the education, not only in primary education but also in higher level. Coordinated interventions both GOs and NGOs should be devised. Lack of awareness on gender issues, lack of conceptual clarity on trafficking issues, lack of skilled human resources in both public and private sectors, corruption, political pressure, lack of coordination among police, government attorney also need to be considered and improved.
6. The human trafficking is not just a problem of organizations that work to promote women rights. It is a national problem and human rights problem. I can promote this debate among the mainstream human rights organizations. At the same time, I could also promote the fair trial standards as I work in that field too. At present women's organizations working in the areas of human trafficking are ignoring the rights of the accused in the case of human trafficking. The understandings of these organizations on fair trial issues need to be strengthened.
7. There is a tendency of not being tolerant to listen the weaknesses that agencies have in their interventions strategies, this has to be addressed.
8. NHRC has to coordinate with government and NGO sectors to create synergy in implementing various programs to protect human being to be trafficked. NHRC can also lead the process in devising national strategies and monitoring the implementation of it. As many initiatives have already been taken up in this country, NHRC has to promote coordination among NGOs and GOs. NHRC also has to promote this as main human rights problems in their internal intervention strategies. NHRC is placed in unique situation so it can also promote the amendments of the problematic legislations and revisit them.

Commitment: United Nations Country Support Team (UNCST) in Nepal

1. Trafficking in person is one of the major concerns for UNCST in Nepal as it is increasingly being regarded not only as a human rights issue but a major development issue. UNCST takes human trafficking issue as a complex form of human rights violation of person's potential to and experienced trafficking. UNCST believes that violence against women, both as cause and consequence of trafficking, which brings serious consequences in the lives of women, in particular, socially, physically (including psychosocial) culturally, economically and politically. The major consequences Nepalese women experience trafficking are social rejection from their families and communities and denial of citizenship by the state.

Mandate for UNCST derives from its commitments on international standards set out in relation to human rights in general, and labor rights such as ILO convention, women's rights

for examples CEDAW and BPFA among others, UN Protocol on Trafficking, migrant's rights and children's rights, in particular. There are a number of projects being undertaken by the individual members of UNCST through their technical assistance to government of Nepal to realize agreed international standards. The key individual members in relation to combating trafficking include IOM, ILO, UNICEF, UNDP, UNIFEM and OHCHR.

2. Situation of human trafficking in Nepal is changing in its trends and processes; however purposes *primarily* remain the same as seen earlier – sexual for women and forced labor for men and children. There is enough data to show that many Nepali women go to Gulf countries for domestic work. So, if we are talking of cross border trafficking we must not just focus on sexual purposes of trafficking for women. There is also internal trafficking and probably in large numbers so it is best to say that both men and women are trafficked for forced labor and women are often further exploited for sexual purposes. Therefore new destinations are emerging and tactics/routes/processes of traffickers are modifying in a more sophisticated manner to escape the possible detection by the immigration authorities.
3. UNCST believes that there is a need for better official oversight of recruitment agencies dealing with labor migration with a clear policy/strategy supported by legal framework to make the overseas employment safer than it is today without impeding women's rights to migration and employment abroad. At the national level, there should be a coordinated effort by all Foreign Employment Act enforcement agencies involved in labor migration such as MoLTM, the institutional members of FEPB, DoFEP, police, immigration, banks, airlines and Nepalese diplomatic missions abroad among others for effective implementation of new Foreign Employment Act 2007. In addition, there is also a need to develop capacity of recruitment agencies for ethical recruitment; enhance the capacity of Trade Unions to denounce the exploitation and breach of law; awareness raising among potential migrants and increase their access to information; enhance the capacity of organizations involved in skill training and orientation and utilization of experiences and skills of the returnee migrants to educate new migrants. Among other, conceptual clarity on migration and trafficking is also important part that shall be included in the capacity building of stakeholders. These strategies shall be realized through an institutional cooperation between and among various departments of government, NGOs, networks, media and international communities working on migration, human trafficking, women's rights and trade unions.
4. UNCST believes that both the acts are further step forward and have opened up opportunities to address the problem further. The Foreign Employment Act has many strengths to protect the rights of workers and bring the culprit into justice if there is violation of the Act. However, this act also carries some shortcomings those have been identified by members of the UNCST. For examples, i) lack of commitments allocating budget from government to the Foreign Employment Welfare Fund; ii) no clear provision for witness protection; iii) Lack of clear indication of which of the cases under deceptive recruitment practices involve acts of human trafficking; and iv) lack of explicit provision stipulated for the protection of rights of migrant workers' rights.

HTT Act 2007 carried forward the provision of punishment of 20 years imprisonment to traffickers and broadened scope of trafficking by recognizing all forms of trafficking. This wider scope may correspond to human trafficking definition of UN Optional Protocol that

Nepal has not yet ratify. Regarding the Children Act 1992, UNCST appreciates Nepal's efforts to sign the Convention on the Rights of the Child as one of the first country in the region and adopting juvenile law. As opposed to the traditional system of the administration of juvenile justice, the Children's Act has recognized the rights and welfare of the children by prohibiting the involvement of children in immoral professional and prohibition on imposing rigorous punishment.

However, UNCST also believes that although existing laws are reasonably efficient to protect the rights of children and women in different forms, however, there is need to review existing acts specially relevant to Children Act and Foreign Employment Act and urged GoN to ratify the UN Optional Protocol on Trafficking 2002, International Convention on the Rights of All Migrant Workers and Members of Their Families.

5. UNCST Nepal also acknowledges the views of various actors, for examples NGOs, that these acts and related laws have some shortcoming, and offers its support to the GoN and the partner institutions including NGOs for a continued engagement in a constructive dialogue, both within Nepal and bilateral with the destinations, over the law and its accompanying regulations, to identify where amendments may be needed; and in ensuring its effective implementation in practice.

UNCST also acknowledges that there has been a conceptual issue attached to human trafficking that may confuse to policy makers and most importantly politicians and implementers and also some NGOs need to be addressed. For example, there should be public awareness on new trends, process and necessity of migration and its proper management to these stakeholders is important.

6. UNCST is committed to assist government and other stakeholders such as NGOs, employers and trade unions to realize these acts based on mutually agreed approach by mainstreaming gender in all aspects of project planning, implementation and evaluation ensuring that the concerns of both women and men migrants are identified and addressed properly. Some of the step could be considered to address the cross-cutting issues through:
 - Increased capacity of law enforcement agencies to monitor the recruitment industry and to take appropriate action to prevent forced labor and trafficking.
 - Continue and constructive engagement with relevant ministries/departments and civil society organizations towards policy formulation and their effective implementation,
 - Research and dissemination on emerging trends, process and magnitude of trafficking and migration. This is crucial to enhance knowledge base and public awareness on recruitment and migration processes and their outcomes for Nepali workers, and how to avoid the pitfalls that lead to exploitation, trafficking and forced labour.
 - Capacity building of NGOs, organizations of trafficked survivors and migrant workers to reach out to potential to and experienced migrants and trafficked persons and other relevant groups realize their rights before, during and on return from these situations.
 - Capacity building of recruitment agencies about provisions of the new legislation and enhanced implementation of their code of good practice. This could be achieved by supporting licensed agencies to improve their operations and increase their accessibility to potential migrants.

7. UNCST would expect increased cooperation and coordination amongst the relevant stakeholders working to promote safe migration and prevent trafficking in and from Nepal. These stakeholders need to be broadened from traditional partnership of donor and NGOs, government departments and include professional and corporate sectors such as, but not limited to, Nepal Association of Foreign Employment Agencies (NAFEA), the Federation of Nepalese Chambers of Commerce and Industry (FNCCI). The UNCT express full cooperation and support to the OSRT-NHRC to collective efforts to address the problem associated with labor migration and to prevent human trafficking in Nepal. Similarly UNCST also expect reciprocal from the OSRT-NHRC.
8. NHRC should be more powerful institution that could play a greater role to coordinate the initiatives of various agencies, most importantly donors strategies, to support GoN and NGOs to combat trafficking and facilitate safe migration. NHRC-ONRT should also create institutional linkage with National Women's Commission and recognize it as an entity to deal and monitor the issues of VAW including trafficking.

6.3 Message of the Commitments

Concern on Trafficking, Violence against Women and Human Rights

All of the commitments received reveal that trafficking in persons is regarded as one of the important concerns of VAW because it involves sexual, physical and mental violence. It is also the violation of human rights as trafficking occurs for the labor and sexual exploitation including selling of their organs and marriage. These all deprived of dignity, life, freedom and equality of human beings. The commitments go on describing the reasons for increasing concerned of the trafficking in person issues. The Honb'le Deputy Prime Minister and Honb'le Home Minister view that trafficking of women ultimately brings them into prostitution and forced labor in most cases and the Honb'le Ministry of MoLTM regards that trafficked persons are exploited physically, mentally, economically and socially. The Chairperson of Women Commission views that the traditional types and forms of trafficking have been changing. Now, in the name of foreign employment, trafficking is taking place. Arzu Deuba – the CA member, views that vulnerability of women and girls have further increased due to the adverse consequence of Üthe 10 years armed conflict. All of the comments implicitly argue that trafficking in women has the root cause in patriarchal structure of the society and the adverse consequence of globalization on women's life. Rigid patriarchal system has made women subordinated in all spheres of life – resulting women vulnerable to violence and risk of trafficking in search of bright opportunities.

Perception on Situation of Trafficking in Persons in Nepal

All the commitments depict the alarming situation of trafficking in persons due to the political transition, impunity and breakdown of the law in the country. The commitments show that trafficking takes place for various purposes and there is internal as well as cross border trafficking taking place in Nepal. The implicit understanding among all the comments is that there is linkage between trafficking in women and children and the harmful practices against girl child. The prevalence of *Kamalari* system is one example where girls are both economically and sexually exploited. Girls are more vulnerable for the trafficking due to HIV/AIDS. The commitments go on revealing the causes of trafficking: gender discrimination, poverty, illiteracy, ignorance, caste-gender based

social structure. Some commitments are also worried about the performance of the GOs and NGOs despite the huge resources pouring by the donor agencies for combating trafficking.

Perception on Linkage between Foreign Labor Migration and Trafficking

All the commitments implicitly agree that there is linkage between unsafe foreign labor migration and trafficking. Involvement of multi-layered of agents in the foreign employment increases the risk of exploitation and vulnerability of trafficking. It is also viewed that the law enforcement status is weak: lousily process, inaccessibility of complaint handling, expensive, lack of access to justice to the poor including lack of security to the survivors and witnesses. It is suggested that there is need to promote safe employment opportunity for women instead of banning, which would increase vulnerability of exploitation and trafficking of women. There is also need for information and public awareness on safe migration in the rural areas.

Opinion on Legislation Framework in Combating Trafficking

The commitments reveal that Nepal ratifies several International Conventions related to human rights and labor issues – indicating that Nepal’s human rights commitment at the international level. The HTT Act 2007 has covered the multiple forms of trafficking both internally and externally and imposes the punishment up to 20 years and guarantees rescue, rehabilitation and reintegration of the survivors. The Deputy Prime Minister and Minister of Foreign Affairs– Mrs. Sujata Koirala and CA members acknowledge that GoN has initiated some programs addressing the human trafficking issues by allocation of budget for rehabilitation and reintegration of the women. Courts have played proactive role regarding the trafficking case and child bench has been created and confidentiality has been maintained. The Foreign Employment Act 2007 treated women at par with men and guaranteed special measures to increase women's participation.

Suggestion of Measures Effective Implementation of the Legislation

A number of strategies for effective implementation of the legislation in combating trafficking and enhancing safe migration can be discerned from the commitments:

- Need for a mass awareness campaign using all forms of media
- Establish a mechanism for registration of girls and women leaving in every VDC and shared the report with the MoHA
- Work with the law enforcers of *en route* and destination countries
- Focus on prevention activities in the rural areas
- NGOs working against trafficking and safe migration should be transparent
- Mere enactment of law is not adequate. Also, increase capacity of right holders and duty holders
- Enhance support system to the trafficking survivors - counseling to legal aid, shelter for victim and justice along with the empowerment
- Regional coordinated intervention is needed to combat trafficking as trafficking cross across the country's boundary.
- Effective policing, tight immigration system, more cooperation with civil society including community based grassroots organizations are some of the viable strategies to be taken care to combat trafficking

Action in prevention, protection and prosecution aspect of trafficking

Some commitments such as by the Chairperson of NWC reveals that talks/discussions are overwhelming concentrated in more accessible areas and the programs are largely lacking in the needy communities and groups in remote areas. It is also argued that victims are not getting justice as expected. In this connection, effective mobilization of Police, administration and courts are vital including coordination among stakeholders.

Each of the dignitaries has made their commitment to actively participate in the anti-trafficking movement from their individual as wells as official capacity in prevention, protection and prosecution aspects of trafficking.

Opinion on Need of Combined Efforts

Each of the commitments show that there is need of combined efforts of all political parties, civil society, human rights organizations to combat trafficking as trafficking takes place with the organized and strong network. The following are the key words evolved from the commitments:

- Need coordination about Ministries and Dept
- Ensure budget and resources allocated
- For prevention Ministry of WoCSW, NWC, NGOs play proactive role
- For protection ministry of Home, Police Department, Attorney General Office and also judiciary play important role.
- Civil society work for rehabilitation and reintegration in society

Expected Role of NHRC in Dealing with the Trafficking Issue

All of the commitments received explicitly recognize the role of NHRC in promotion and protection of human rights. According to their expectation, NHRC should monitor the incident, implementation status, corruption, impunity, and also pressurize for accountability and act as watchdog. Establishment of OSRT in NHRC is one-step forward in protection of rights of women and children. There is constant need of the NHRC to put pressure on the Government and mobilize civil society, human rights organizations, NGOs and even international agencies against trafficking. Initiate a regional effort working with various national institutions in the region mostly with the Indian and Bangladesh Human Rights Commission.

- Constructive suggestions and monitoring always encourage the Ministry to do our best (Minister of Home Affairs).
- We expect OSRT-NHRC provide technical support to find out the real number and situation of child labor in informal sectors and establish a networking among the GOs, NGOs and other organizations (Minister of MoLTM).
- We expect OSRT-NHRC advise the government agencies with specialized knowledge to control human trafficking such as establishing authentic data, develop a joint project to overview the situation of human trafficking with the Ministry, make aware of duty bearers and help the Ministry to intervene in the system where reforms are necessary (Minister of MoWCSW).

6.4 Implication of the Commitments

The commitments were requested from the policy makers, decision-makers and human rights defenders to create awareness among the stakeholders how they view the current situation of trafficking in persons and how they perceive to combat it effectively. The commitments has enriched this National Report in the sense that it has brought together views of key line Ministries, organizations and human rights defenders in their own words. This would increase the need of coordination among these line Ministries and other organizations. It will also have policy and program implications in the corresponding Ministries that have provided Commitments in this Report as well. Finally, the Commitments show the expectation from the OSRT-NHRC in combating trafficking and ways to work jointly with the key line Ministries and organizations.



The Way Forward

The central aim of this Report is to analyze the situation of trafficking in Nepal; assess the interventions of trafficking carried out by GOs, NGOs and civil society in the FY 2007/08 and 2008/09 and to evaluate the implementation status of the HTT Act 2007, Foreign Employment Act 2007 and NPA including SAARC Convention. Further, the report has incorporated the Commitments from Hon. Ministers from the Key Ministries CA members, National Women Commission, Human right defenders and UNCST. The Report is prepared through utilizing both secondary and primary data.

Drawing on the findings of the study, the following conclusions can be drawn:

- The emergent dynamics of trafficking in Nepal is the internal trafficking of children and women in the entertainment establishment as well as cross border trafficking of girls and women including men to India and beyond India. Trafficking takes place not only for the sexual exploitation as was thought to be but also for labor exploitation.
- Foreign labor migration increases the vulnerability of trafficking and exploitation, especially to women in Nepal. The protection of woman migrant workers possesses greater challenges as huge flow of migration is in the unorganized sectors in countries with no ratification of CMW and ILO fundamental Conventions. The consequence of unsafe foreign labor migration is the sexual as well as labor exploitation of women. The returnee migrant women develop physical, psychological and mental problems including the stigmatization in the family and in the community. There is also indication that young women left in the village by their husband for foreign employment also face physical, sexual violence in the family and in the community.
- In the context of the depth of the TIP challenges impact oriented Anti-trafficking interventions have yet to be launched as cross-cutting and targeted programme issues among the key line agencies. NGOs, civil society and women collectivities also need to implement prevention, protection and legal aid services related activities much visibly with targeted approach.
- The implementation status of Foreign Employment Act, HTT Act and NPA appear to be not effective enough to protect the rights of migrant workers and their families, trafficking survivors and vulnerable communities. Issues of adult women are equated with children as evidence from the review of

NPA. While children have special needs which merit particular attention, women as adults must be accorded the right to make decisions and choices.

- The Commitment Chapter reveals the perception existing depth of TIP in the country and gives the message for consolidated effort in combating TIP. The NHRC should play the role of advocacy, monitoring and reporting for achieving positive result in the efforts to combat TIP.

The National Report 2006-07 recommended the future areas of interventions on trafficking in broad areas: i) prevention, ii) protection, iii) prosecution and iv) information needs. This Report monitors the implementation status of recommendations forwarded by the National Report 2006-07 and proposes or reiterates recommendations in the consolidated matrix. The matrix is presented by i) the areas of interventions identified in the earlier National Reports, ii) lead ministry/department to implement the program, iii) implementation status iv) recommendation based on this Report.

1. Prevention: Towards Reorienting the Economic, Social and Anti-Trafficking Policies from Human Rights and Gender Perspectives

Areas	Lead Ministry/Department	Implementation status	Recommendation based on the findings of National Report 2009
Economic			
1.1 Integrate and place trafficking priorities with poverty alleviation, women's empowerment, social justice and inclusive development, and peace process and health programs in the planning process.	National Planning Commission (NPC)	The Three Year Interim Plan (2006/07-2010/11) Addressed these issues by Poverty Alleviation Fund implemented programs in 40 districts	Need to target programs in districts with large number of migrants.
1.2 Reintroduce the measures like loan schemes for <i>Dalit</i> and <i>Janjati</i> to encourage foreign employment and introduce them for women to reduce the number of women going to a third country via India for work	Ministry of Labor and Transport (MoLTM)	Yet to be reimplemented	Provide loan scheme for <i>Dalit</i> , <i>Janjati</i> and women.
1.3 Launch conflict rehabilitation policy, plan and program as a package and pocket program	Ministry of Peace and Rehabilitation (MoPR)	The MoPR in the process of implementing the program	Launch rehabilitation centers with the provision of women specific needs.
Elimination of gender discrimination			
1.4 Recognize women's economic contribution in both public and private sectors.	National Planning Commission (NPC)	The 2011 Population Census is incorporating the women's contribution in economy in both private and public sectors.	Incorporate women's tasks related to household care economy in System of National Account (SNA).
1.5 Eliminate all forms of feudal and patriarchal values, behavior and practices that discriminate girls and women including <i>Deuki</i> , <i>Jhuma</i> and <i>Kamlari</i> .	Ministry of Women, Children and Social Welfare (MoWCSW)	Out lawed <i>Deuki</i> , <i>Jhuma</i> and <i>Kamlari</i> systems	Need to formulate policy and programs to address the problem.
Political Commitment and Review of NPA			
1.6 Mobilize political commitment to translate the national and international commitments of the government in action	Ministry of Women, Children and Social Welfare (MoWCSW)	The MoWCSW is working in this direction in collaboration with different GOs and NGOs	Sensitize the decision-makers regularly.
1.7 Review NPA for Trafficking 2002. Strengthen National Committee as a supreme body of anti-trafficking initiatives, and expand and strengthen DCs in districts of high magnitude of problem.	Ministry of Women, Children and Social Welfare (MoWCSW) Do	The NPA is revised by the MoWCSW NC is formed and in all 75 districts DCs are also formed	Formulate new NPA for trafficking. The NPA should be designed to cover the three broad areas of interventions: i) prevention, ii) protection (rescue, repatriation, rehabilitation and reintegration) and iii) prosecution Need to effectively mobilize the NC and DCs by increasing the resources and enhance the motivation of the members of the DCs through training or orientation and exchange visit programs

Maintaining surveillance			
1.8 Maintain effective surveillance in the Kathmandu International Airport by strengthening the capacity of Immigration Department The GON should issue electronic passport rather than providing manual passports.	Department of Immigration Ministry of Foreign Affairs (MoFA)	The GoN is working in this direction The GoN is in the process of adopting the Machine Readable Passport (MRP)	Equip Immigration Desk in the International Airport with modern equipments and with skilled human resources. Initiate the MRP as soon as possible.
Inclusion in school and colleague curriculum			
1.9 Include trafficking and other forms of violence against women and children in school and University level curriculum	Ministry of Education and Sports (MoES)	Yet to be implemented	Review school level curriculum from human rights and gender perspectives Revisit the curriculum of Universities from gender and human rights perspectives
Sensitization of media			
1.10 Sensitization and promotion of code of ethnics with media persons on investigation and reporting of trafficking crimes in a sensitive manner.	Ministry of Information and Communication (MoIC)	Yet to be implemented	Promote the code of ethnic in media by developing collaboration with MoIC and the media persons/houses
1.11 Subsidize the cost of programs related to trafficking and violence against women	Ministry of Information and Communication (MoIC)	New Recommendation	Need to subsidize the media that provide the ads or programs on combating trafficking.
Ratification of Conventions			
1.12 Ratify Migration Convention relevant to safe-migration.	Ministry of Labor and Transport and National Human Rights Commission	New Recommendation	Initiate dialogue among the key stakeholders to ratify the Convention. Campaign for ratification of the CMW and ILO fundamental Conventions in major destination countries of Nepali workers
1.13 Ratify UN Convention on Transnational Organized Crime, 2000 And Ratify UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children 2000 Supplementing the UN Convention against Transnational Organized Crime	Ministry of Women, Children and Social Welfare (MoWCSW)	New Recommendation	Campaign for ratification

Continuation of NGOs Efforts and Mobilization of Donor Communities				
1.14	Encourage NGO and civil society to intervene in the more challenging areas and/or communities. Ensure transparency and accountability of NGOs and civil society in the community.	Ministry of Women, Children and Social Welfare (MoWCSW) and Social Welfare Council (SWC)	The MoWCSW and SWC have worked to mobilize the NGOs and civil society in this direction.	Encourage and monitor the NGO and civil society program and make provision for reward for those NGOs or civil society with the best practices.
1.15	Mobilization of Bilateral, UN and INGO Support.	Ministry of Finance (MoF)	The GoN is working in this direction	Fill the resource gap in terms of financial and technical assistance with much effective monitoring the supported projects.
Awareness Programs				
1.16	Raise awareness among parents, children, women and community at large in CRC, CEDAW, UN Security Council Resolution 1325 and 1820.	Ministry of Women, Children and Social Welfare (MoWCSW)	Different programs have been launched in this area	Conduct BCC/KAP study to understand the level of awareness in these issues
1.17	Raise awareness about HIV/AIDS.	National AIDS and STD Control Center	Being implemented	Focus on HIV/AIDS and reproductive health awareness programs among vulnerable population and trafficking survivors
1.18	Broadcast message of anti-trafficking and safe migration from media particularly from National Radio, National Television and FMs	Ministry of Information and Communication (MoIC)	Initiation taken	Expand the message throughout the country by making free of cost of the message on trafficking from the media. GoN should subsidize the media houses for this provision.
Registration of Vital Statistics				
1.19	Maintain birth, death, marriage and migration registration of women and children.	Ministry of Local Development (MoLD)	Being implemented	Make compulsory of Vital registration system should be made compulsory and used for the protection of human rights of women and children.

2. Protection: Towards Adoption and Effective Implementation of a Comprehensive 4Rs Policy

Areas	Lead Ministry/ Department	Implementation status	Recommendation based on the findings of National Report 2008
2.1 Adopt a comprehensive rescue, repatriation, rehabilitation and reintegration (4Rs) policy.	Ministry of Women, Children and Social Welfare (MoWCSW)	Support initiated based on the HTTC Act 2007 OSRT-NHRC conducted study on the 4R Policy	Introduce National policy on 4Rs.
Rescue			
2.2 Capacity building of WCSCs for rescuing the trafficking victims within Nepal.	Ministry of Home Affairs (MoHA)	WCSC upgraded to Directorate and in all 75 districts WCSCs established	Need to make WCSC functional through adequate provision of physical and financial resources and skilled staff
2.3 Raise awareness of the community on trafficking regarding how to rescue and how to inform and where to inform, and form community-based surveillance groups	Ministry of Women, Children and Social Welfare (MoWCSW)	The MoWCSW established para-legal committees in all 75 districts	Strengthen para-legal committees, CBOs, women pressure groups, self-help groups and other women collectivities
2.4 Effective surveillance at major border points between Nepal and India	Ministry of Home Affairs (MoHA)	Being implemented	Implement border surveillance by increasing the capacity of service providers and making effective joint surveillance by Nepali and Indian sites.
2.5 Establish and strengthen the bilateral cooperation between Nepal police and Indian police in major stretches of Nepal-India border	Ministry of Foreign Affairs (MoFA)	The MoFA is initiating the bilateral cooperation	Need to undertake MoU and develop strategy for implementation
Repatriation			
2.6 Appoint Labor Attaché in countries where there are more than 5,000 Nepali workers.	Ministry of Labor and Transport (MoLTM)	Policy implemented as GoN has already established Labor Attaché in four countries	Need to establish Labor Attaché in major Nepali worker destination countries. Review of the established Labor Attaché and adopt policy and programs accordingly
2.7 Strengthen the capacity of embassies/diplomatic missions abroad to deal with the problem of workers and to verify demand of laborers and report accordingly to MoFA.	Ministry of Foreign Affairs (MoFA)	Initiated the intervention activities	Need to strengthen Nepal's diplomatic missions by well-sensitization and increasing resources to protect the labor rights and human rights of Nepali workers.

2.8	Set up temporary shelter for trafficking survivors at the destination countries where magnitude of woman laborers is high and establish a mechanism for repatriation of them.	Ministry of Foreign Affairs (MoFA) Ministry of Labor and Transport (MoLTM)	Established in four countries	Need to establish in Safe House in countries with high number of woman migrant workers and strengthen their capacity with financial support
2.9	Include trafficking protection clause in labor migration agreements with the destination countries Make advocacy for bi-lateral /multi-lateral treaties and SAARC Convention.	Ministry of Labor and Transport (MoLTM) National Human Rights Commission (NHRC)	Yet to be implemented Advocacy strategies on trafficking and migration undertaken by participation and country studies on SAARC convention and its implementation status	Need to make provision. Continue advocacy and materialise the treaties .
2.10	Establish a coordination mechanism between DoLEP, Immigration Department, Interpol and Ministry of Foreign Affairs to facilitate the repatriation of trafficking survivors	Ministry of Women, Children and Social Welfare (MoWCSW)	Yet to be implemented	Need to make provision.
Rehabilitation				
2.11	Establish rehabilitation centers in partnership with NGOs or private sector for trafficking survivors. The centers should be capable of providing physical, legal, medical and psychological assistance including special care for survivors living in HIV/AIDS.	Ministry of Women, Children and Social Welfare (MoWCSW)	Implemented and the details discussed in Chapter 4.	Need to be established in other prone areas and make functional with enhanced capacity.
2.12	Develop minimum standard of care and survivors protection policy for duty bearers and care givers from the human rights perspective.	Ministry of Women, Children and Social Welfare (MoWCSW)	Yet to be implemented	Need to make the provision.
2.13	Activate the NC/DCs to regularly monitor the rehabilitation centers run by GOs or NGOs in order to protect the best interest of the trafficking survivors.	Ministry of Women, Children and Social Welfare (MoWCSW)	Formed NC and DCs	Make NC/ DC functional with programs and monitoring responsibilities

Reintegration				
2.14	Ensure the best interest of trafficking survivors in the process of re-union with their community and family	Ministry of Women, Children and Social Welfare (MoWCSW)	Some NGOs initiated this effort	Need to expand the provision.
2.15	Involve reintegrated survivors with the existing women collectivities like micro-credit and self-help groups	Ministry of Women, Children and Social Welfare (MoWCSW)	Some NGOs initiated this effort	Need to expand the provision.
2.16	Ensure access to education and vocational training and job placement	Ministry of Women, Children and Social Welfare (MoWCSW)	Some NGOs initiated this effort	Need to expand this provision.

3. Prosecution: Towards Reorienting the Law Enforcement and Judiciary System from Human Rights and Gender Perspectives

Areas	Lead Ministry/ Department	Implementation status	Recommendation based on the findings of National Report 2008/09
3.1 Develop OSRT-NHRC as complaint handling of trafficking cases	Office of the Special Rapporteur on Trafficking in Women and Children (OSRT-NHRC)	Preliminary institutionalization being done	Need to develop as functional entity with systematic approach and raising awareness of the people
Amendment of trafficking and foreign employment Acts			
3.2 Amend the Human Trafficking (Control) Act 2064 (2007) that also encompasses internal trafficking	Ministry of Women, Children and Social Welfare (MoCSW)	New Recommendation	Need to be amended to address the problem of internal trafficking especially in dance, bar restaurants, message parlors
3.3 Amend the Foreign Employment Act 2064 (2007) that incorporates women's specific reproductive issues and regulation of agents	Ministry of Labor and Transport Management (MoLTM)	New Recommendation	Need to be amended to address as per the changing dynamics of trafficking (please refer to Chapters 2 and 3: Emerging Challenges for details)
Implementation of trafficking and foreign employment Acts			
3.2 Effectively implement the Human Trafficking (Control) Act 2064 (2007).	Ministry of Women, Children and Social Welfare (MoWCSW)	Implemented moderately (please refer to Chapter 4)	Need to mobilize a range of stakeholders for implementation in line with the provisions of the Act.
3.3 Implement the Foreign Employment Act 2064 (2007) effectively.	Ministry of Labor and Transport Management (MoLTM)	Implemented to some extent (please refer to Chapter 4)	Need to mobilize a range of stakeholders

Strengthening the law enforcement agencies			
3.4 Expand WCSCs from the currently 26 places to other most trafficking prone areas, especially in border points between Nepal and India.	Ministry of Women, Children and Social Welfare (MoWCSW) and Ministry of Home	Implemented and established WCSCs in all 75 districts including in some major border points	Need to be made effective and functional.
Reorienting Judiciary System			
3.5 Need to deal trafficking related cases with priority concerns.	Ministry of Law, Justice and Management of Parliament (MoLJMP)	Yet to be implemented	Unit to be established to deal the cases
3.6 Capacity development of public prosecutors, court officials on anti-trafficking, human rights and gender justice issues.	Ministry of Law, Justice and Management of Parliament (MoLJMP)	New concern	Provide training to personnel in the higher echelon and to the lower rank and file in order to make the whole judicial system as gender friendly.
Monitoring and Coordination			
3.7 Regularly monitor the prosecution by police and status of court cases relating to trafficking.	Office of the Special Rapporteur on Trafficking in Women and Children (OSRT-NHRC)	Yet to be implemented	Need to introduce the provision and make effective and functional.
3.8 Develop a MoU on common operational guidelines for GOs like DLEP, Nepal Police, Immigration Department, MoWCSW, Foreign Ministry engaged in addressing in children and women in order to effectively combat trafficking.	Ministry of Women, Children and Social Welfare (MoCSW)	Yet to be implemented	Need to introduce the provision and make effective and functional.

4. Information Needs: Strategies for Acquiring Primary and Secondary Data

Areas	Lead Ministry/ Department	Implementation status	Recommendations based on the findings of the National Report 2008/09
4.1 Design a reporting system and establish reporting mechanism to help combat trafficking (central, district and village levels)	Office of the Special Rapporteur on Trafficking in Women and Children (OSRT-NHRC)	Preliminary activities undertaken - research on Institutionalization of Reporting Systemn complited Organised orkshop with stakeholders for establishing the modality	Continue the coordination of the stakeholders Establish the reporting system on the institutional base at central and national level.
Maintaining data on foreign labor migrants			
4.2 Maintain data on foreign labor migrants according to workers' social, economic and demographic attributes like origin district, caste/ethnic group, age, sex, poverty level and education, country of destination and occupation.	Department of Labor and Employment Promotion (DOLEP)	Implemented	Continue the management of data with demographic cassification.
4.3 Maintain data on returnees, number of persons deported due to fraudulent travel/working documents, number of persons in detention in the destination countries and their nature of problem, loss of life in relation to work in the foreign country and other nature of violation of human rights and labor rights.	Ministry of Foreign Affairs	Yet to be implemented	Need to implement this provision. And management of data with demographic cassification
4.4 Build up bilateral relations with Government of India to maintain data on those Nepali workers who destined to a third foreign country via India	Ministry of Foreign Affairs	Yet to be implemented	Need to introduce this provision.
Conducting Research			
4.5 Conduct studies on these areas: a. Rapid Assessment on Trafficking in Children and Women in Nepal b. Linkage between denial of social, economic and cultural rights of women and trafficking c. Dynamics of internal trafficking and d. Study the situation of women workers in Gulf countries.	Office of the Special Rapporteur on Trafficking in Women and Children (OSRT-NHRC)	Study on 'Linkage between denial of social, economic and cultural rights of women and trafficking' conducted; other studies have yet to be conducted.	Conduct studies maintained in Column a, c and d and other deemed areas.

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ABC Nepal

Department of Foreign Employment Promotion

Maiti Nepal

National Center for Children at Risk

SERVE Nepal

Shakti Samuha

Women and Children Service Center, WCSC, Valley Police, Kathmandu

Women and Skill Center, Hetauda

WOREC Nepal

Website accessed

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Appendix

Appendix 1.1 Name of the participants in consultation meetings

Consultation in Kathmandu with Government Officials and Members of National Committee
Date of consultation: 2066/12/29

SN	Name	Organization/Office	Designation
1	Anita Adhikari	Women Development Office Bhaktapur	Women Development Officer
2	Bishnu Prasad Pokhrel	Chief District Office, Kathmandu	Assistant Chief District Officer
3	Deepa Acharya	National Women Commission	Legal Counselor
4	Diwakar Devkota	Department of Women Development	Director General
5	Mahes Sharma Poudel	Attorney General Office	Joint Attorney
6	Meena Kattel	Department of Women Development	
7	Meena Swornakar	National Dalit Commission	Honorable Member
8	Mukunda Adhikari	Foreign Employment Promotion Board	Director
9	Namuna Bhusal	Central Child Welfare Board	Program Manager
10	Navaraj Dhungana	Department of Foreign Employment and Promotion	Section Officer
11	Nitu B.K.	WOREC-Nepal	Program Officer
12	Parbati Sharma	Ministry of Foreign Affair	Section Officer
13	Purna Chandra Bhattarai	Ministry of Labor and Transport Management	Joint Secretary
14	Radha Rupakheti	Women Development Office, Lalitpur	Women Development Officer
15	Ram Bahadur Chand	Central Child Welfare Board	Section Officer
16	Shank Kumar Dhakal	Dirtrict Administration Office, Kathmandu	Section Officer
17	Sharada	Central Child Welfare Board	Program officer
18	Sharada Basyal	Women Development Office, Kathmandu	Women Development Officer
19	Sudarshan Prasad Dhakal	Department of Immigration	Director
20	Sunita Danuwar	AATWIN	President ,AATWIN
21	Uma Tamang	Maiti Nepal	Advocate

Contd Appendix 1.1
Consultation in Janakpur with Government Officials, NGOs and Civil Societies

Date of consultation: 2066/12/22-23

SN	Name	Organization/Office	District	Designation
1	Abhimanau Shingh	NHRC Regional Office	Dhanusa	
2	Anita Devkota	Women Human Rights Defender	Saptari	President
3.	Basanti Ghimire	District Police Office	Mahottari	
4.	Bimala Prajuli	Women Human Rights Defender	Saptari	Secretary
5.	Bina Shrestha	W.D. C.		
6.	Binda Lungeli	BSS Lalbandi	Sarlahi	
7.	Chandra kala Shrestha	Women Development Office	Sindhuli	Women Development Officer
8.	Chitrakala Thapa	Zonal Police Office	Dhanusa	
9.	Devaki Neupane	Women Development Office	Saptari	Women Development Officer
10.	Gambhir Kanta Jha	NHRC Regional Office	Dhanusa	
11.	Ganga Karki			District President
12.	Gibachhi KumariYadav	Women Human Rights Defender	Mahottari	
13.	Gyanu Adhikari	Women Human Rights Defender	Udayapur	
14.	Hira Kumari Chaudhary	District Police Office	Sarlahi	
15.	Krishna K. Karki	T. P. O. Mirchaiya	Siraha	
16.	Kumari Bharati Jha	R.P. N.		
17.	Maheshwari Rai	Women Human Rights Defender	Udayapur	
18.	Manju Ghimire	District Police Office		
19.	Maya Bhandari	Paralegal	Udayapur	
20.	Mira Mishra	Women Development Office	Mahottari	Women Development Officer
21.	Munni Das	Pragatishil		
22.	Nirmala Mishra	Women Development Office	Siraha	Women Development Officer
23.	Niru Laxmi Shrestha	Women Development Office	Sarlahi	Women Development Officer
24.	Nitu Das	NHRC Regional Office	Dhanusa	
25.	Nrijbul Khan	Muldhar Mahila Sewa Kendra	Udayapur	President
26.	Pradip K. Mahato	R.R.M. Campus, Tribhuvan University	Dhanusa	Lecturer
27.	Priti Yadav		Mahottari	
28.	Rambinay Mandal	NHRC Regional Office	Dhanusa	
29.	Santosh K. Karna	NHRC Regional Office	Dhanusa	
30.	Santoshi Thakur	WOREC-Nepal	Dhanusa	
31.	Shanta Khadka	District Police Office	Ramechhap	
32.	Sharda Bijukchhe	Women Development Office	Ramechhap	Women Development Officer
33.	Shyam Kumari Shah	WOREC-Nepal	Siraha	
34.	Sita B.C.	District Police Office	Sindhuli	
35.	Subhadra Aale	District Police Office	Dhanusa	
36.	Subhash Siwakoti		Ramechhap	
37.	Sunita Yadav	Women Development Office	Dhanusa	Women Development Officer
38.	Sushama Shah	Prerana Bal Sanrakshan		
39.	Urmila Karki	CDAPN		

Contd Appendix 1.1

Consultation in Hetauda with Government Officials, NGOs and Civil Societies

Date of consultation: 2066/12/7-8

SN	Name	Organization/Office	District	Designation
1.	Aarati Pathak	District NGO Federation	Makawanpur	Member
2.	Bal Krishna Adhikari	KTV Hetauda	Makwanpur	Media person
3.	Bhagawati Shrestha	Para-legal Committee	Chitawan	President
4.	Chandra Dhungana		Makwanpur	
5.	Devaki Nepal	Mahila Surakchha	Rautahat	
6.	Dhan Raj Phuyal	Hetauda Times Weekly	Makwanpur	Editor
7.	Dhruba Bhujel	Municipality of Hetauda	Makwanpur	Section Officer
8.	Durga Ghimire	Women Development Office	Makwanpur	Under Graduate Officer
9.	Ganesh Chaube	District Police Office		
10.	Ganesh Shrestha	EBMTF	Makwanpur	Field Supervisor
11.	Hari Humagain	Hetauda F.M.	Makwanpur	Reporter
12.	Ishwari Pd. Adhikari	District Bar Association	Makwanpur	Member
13.	Jhabindra Gyawali	CWIN- Nepal	Makwanpur	Program Officer
14.	K.R. Pandit	Appellate Court, Central Development Region	Hetauda, Makwanpur	Chief Justice
15.	Kalpna Nepali	District Police Office	Parsa	
16.	Kumari Waiba	HimRights	Makwanpur	Program Coordinator
17.	Laxmi Baral	Nari Awaj Kendra	Rautahat	Coordinator
18.	Man Prasad Bhattarai	CeLLRAD	Makwanpur	Lawyer
19.	Maya Lama	Maiti Nepal	Makwanpur	Coordinator
20.	Mohan Man Sangraula	Hetauda	Makwanpur	
21.	Mukunda Adhikari	Bar Association of Appellate Court, Hetauda	Makwanpur	President
22.	Narendra Sapkota	Radio Thaha Sanchar	Makwanpur	Sub-editor
23.	Prakash Dahal	The Annapurna Post	Makwanpur	Reporter
24.	Prakash Khatiwada	Child Welfare Society	Makawanpur	Coordinator
25.	Pratap Bahadur	NSCC	Makwanpur	Media person
26.	Rajan Dahal	Radio Makawanpur	Makwanpur	Media person
27.	Rajan Rasik	Radio Palurdsandes	Makwanpur	Media person
28.	Ram Chandra Subedi	National Agency	Makwanpur	Reporter
29.	Ramjee Neupane	District NGO Federation	Makawanpur	In-charge
30.	Ram Krishna Adhikari	CeLLRD	Makwanpur	Coordinator
31.	Ram Mani Dahal	FMJ, Hetauda	Makwanpur	President
32.	Ram Saran Timilasin	Child Welfare Society	Makwanpur	Social Worker
33.	Ratna Shrestha	District Police Office		A.S.I.
34.	Ripesh Dahal	Radio Makwanpur	Makwanpur	Media person
35.	Roshan Parajuli	Nepal Samachar Patra	Makwanpur	Reporter
36.	Rudra Prasad Paudyal I	Chief District Office	Makwanpur	CDO
37.	Rajesh Dahal	Kalika FM/Sagarmata	Makwanpur	Media person
38.	Samjhana Karki	NFJ	Makwanpur	Member
39.	Sangita Poudel	District Child Welfare Board	Makwanpur	Child Right Officer
40.	Shiv Biyogi	Bikash Khabar	Makwanpur	Media person
41.	Sita Kumari Sharma	Women Development Office	Bara	Supervisor
42.	Subhash Chaudhary	Regional Office		
43.	Suchana Nepal	Aadarsha Griha	Chitawan	Program Officer
44.	Sunita Nepal	District Police Office		Constable
45.	Suresh Kumar Shah	District Police Office	Makwanpur	Superident Police
46.	Sushila Wagle	Women Development Office		Section Officer
47.	Urban Luitel	Women Development Office	Bara	Women Development Officer
48.	Usha Dhungana	District Police Office	Chitawan	
49.	Vijay C. Kumar	District Police Office	Rautahat	A.S.T.
50.	Yadav Gajurel	District Education Office	Makawanpur	Section Officer
51.	Yogendra B. Karki		Makwanpur	Media person
52.	Yubaraj Dawadi	Maiti Nepal	Chitawan	Regional Program Officer
53.	Yubaraj Subedi	District Development Committee	Makwanpur	Local Development Officer
54.	Prakash Khatiwada	Child Welfare Society	Makawanpur	Programme Coordinator

Appendix 3.1
Country opened up for foreign employment of Nepali workers by GoN
(as of December 2009)

SN	Name of country	SN	Name of country	SN	Name of country
1	Afghanistan	37	Hungary	73	Norway
2	Azerbaijan	38	Iceland	74	Oman
3	Albania	39	Indonesia	75	Pakistan
4	Algeria	40	Iran	76	Panama
5	Argentina	41	Iraq (now banned)	77	Peru
6	Armenia	42	Ireland	78	Philippine
7	Australia	43	Israel	79	Poland
8	Austria	44	Italy	80	Portugal
9	Bahrain	45	Jamaica	81	Qatar
10	Bangladesh	46	Japan	82	Romania
11	Belarus	47	Jordan	83	Rulobeniya
12	Belgian	48	Kazakhstan	84	Russia
13	Bolivia	49	Kenya	85	Saiphon
14	Bosnia Hanja Goviniya	50	Kosovo	86	Saipras
15	Brazil	51	Kuwait	87	Saudi Arab
16	Brunei	52	Laos	88	Silesia
17	Bulgaria	53	Latvia	89	Singapore
18	Cambodia	54	Lebanon	90	Slovak Republic
19	Canada	55	Libya	91	South Africa
20	Check Republic	56	Luxemburg	92	South Korea
21	Chile	57	Macau	93	Spain
22	China	58	Macedonia	94	Sri Lanka
23	Colombia	59	Magnolia	95	Sweden
24	Costa Rica	60	Malaysia	96	Switzerland
25	Crocia	61	Maldives	97	Tanzania
26	Cuba	62	Malta	98	Thailand
27	Denmark	63	Marissa	99	Tunisia
28	Egypt	64	Mexico	100	Turkey
29	Estonia	65	Moldova	101	UK
30	Fiji	66	Morocco	102	Ukraine
31	Finland	67	Mozambique	103	United Arab Emirates
32	France	68	Myanmar	104	USA
33	Germany	69	Netherlands	105	Venezuela
34	Greece	70	New Zealand	106	Viet Name
35	Guyana	71	Nicaragua		
36	Hollis	72	Nigeria		

Annex 3.2

Ratification status of International Convention on the Protection of the Rights of Migrant Workers and their Families, 1990 as of September 22, 2009

Country	Ratification (r), accession (a) and succession to signature (d)	Country	Ratification (r), accession (a) and succession to signature(d)
1. Albania	5 Jun 2007 a	30. Kyrgyzstan	29 Sep 2003 a
2. Algeria	21 Apr 2005 a	31. Lesotho	16 Sep 2005 r
3. Argentina	23 Feb 2007 r	32. Liberia	22 Sep 2004 r
4. Azerbaijan	11 Jan 1999 a	33. Libyan Arab Jamahiriya	18 Jun 2004 a
5. Bangladesh	7 Oct 1998 r	34. Mali	5 Jun 2003 a
6. Belize	14 Nov 2001 a	35. Mauritania	22 Jan 2007 a
7. Benin	15 Sep 2005 r	36. Mexico	8 Mar 1999 r
8. Bolivia	16 Oct 2000 a	37. Montenegro	23 Oct 2006 d
9. Bosnia and Herzegovina	13 Dec 1996 a	38. Morocco	21 Jun 1993 r
10. Burkina Faso	26 Nov 2003 r	39. Nicaragua	26 Oct 2005 a
11. Cambodia	27 Sep 2004 r	40. Niger	18 Mar 2009 a
12. Cameroon	15 Dec 2009 r	41. Nigeria	27 Jul 2009 a
13. Cape Verde	16 Sep 1997 a	42. Paraguay	23 Sep 2008 r
14. Chile	21 Mar 2005 r	43. Peru	14 Sep 2005 r
15. Colombia	24 May 1995 a	44. Philippines	5 Jul 1995 r
16. Comoros	22 Sep 2000 r	45. Rwanda	15 Dec 2008 a
17. Congo	29 Sep 2008 r	46. Sao Tome and Principe	6 Sep 2000 r
18. Ecuador	5 Feb 2002 a	47. Senegal	9 Jun 1999 a
19. Egypt	19 Feb 1993 a	48. Serbia	11 Nov 2004 r
20. El Salvador	14 Mar 2003 r	49. Seychelles	15 Dec 1994 a
21. Gabon	15 Dec 2004 r	50. Sierra Leone	15 Sep 2000 r
22. Ghana	7 Sep 2000 r	51. Sri Lanka	11 Mar 1996 a
23. Guatemala	14 Mar 2003 r	52. Syrian Arab Republic	2 Jun 2005 a
24. Guinea	7 Sep 2000 a	53. Tajikistan	8 Jan 2002 r
25. Guinea-Bissau	12 Sep 2000 r	54. Timor-Leste	30 Jan 2004 a
26. Guyana	15 Sep 2005 r	55. Togo	15 Nov 2001 r
27. Honduras	9 Aug 2005 a	56. Turkey	27 Sep 2004 r
28. Indonesia	22 Sep 2004 r	57. Uganda	14 Nov 1995 a
29. Jamaica	25 Sep 2008 r	58. Uruguay	15 Feb 2001 a

Source: <http://www.mfasia.org/mfaActivities/MWC-RatifyMonitor.html> (Accessed on May 1, 2010).

Appendix 4.1
NGOs/GOs activities at the district level related to women and children issues,
Chitawan, Makwanpur, Parsa, Bara and Rautahat

Name of organization/ district	Major activities
1. Chitawan	
Adarsha Griha Punrsthapana Center	<ul style="list-style-type: none"> • Provides rehabilitation services • 10 disserted girls and women 5 children are in rehab center • Funded by Didi Bahini Foundation of Netherlands • Rs. 25,000 was provided by Nepal Police (through custom office) • It is a 18-month project • There was no rehab center till May 2009. Nepal police provided Rs. 25,000 and it also refers victim women to the organization
Maiti Nepal	<ul style="list-style-type: none"> • From 2007-2009, worked to increase awareness in schools Rickshaw puller, media • Conducting legal aid/support and counseling, • Domestic violence cases – referred to ‘district free legal aid committee’ • Good coordination with the district line agencies
Shakti Samuha	<ul style="list-style-type: none"> • Three working areas: IG, school support, safe house center, legal support • 60 trafficked victims members in the Shakti Samuha (40-45 persons in the 2007/08 and now 2008/09 reached to 60 persons)
WCSC	<ul style="list-style-type: none"> • 5 women are rescued in FY 2008/09 • Many of the victims are Dalit. • Traffickers are own relatives • No monitoring of the budget and evaluation
WDO	<ul style="list-style-type: none"> • Working in 36 VDCs and 2 Municipalities • Established village level networks in 19 VDC • Formed 19 Women Cooperatives and 20 Child Clubs • Good coordination with different organizations like Maiti Nepal • Launched Adolescent Girls Development Program - life skills for those who do not go to school, IG, grants about Rs. 2000) • Capacity building, social inclusive training – domestic violence, trafficking, HIV/AIDS issues are included • Celebration of the Women Day – interaction with different NGOs
Para-legal committee	<ul style="list-style-type: none"> • Talk in schools, in the VDCs and make pressure to allocate the budget • Interaction with political party • Committee in the 9 wards formed • Decentralization Act 5% budget for women and children – the VDC secretary told that to allocate the 5% budget, it was told that letter should be brought from the LDO • Coordinated with the Small and Cottage Industry – for the IG program
CeLLARD	<ul style="list-style-type: none"> • 25 VDCs awareness program • 24 psychosocial counseling • 6 cases filed (3 hostile) • Missing children (10 – 5 untraced rate) • Working with the seven organizations
WCSC	<ul style="list-style-type: none"> • 5 cases in 2007/08 and 3 cases of trafficking in FY 2008/09 are filed • Rescued 4 persons among them one was dead (Mahato)– • Local level Women Police are working – women police are provided pre-orientation training on counseling, investigation, - 75 women police were participated in the program. • Nepal police also work in civil dress – so that women could report freely to the police • Counseling is provided – polygamy, child marriage, and trafficking cases and referred to the rehab center • Women cell should be provided rights from registration to the filing of the cases • Women police who are working in Women Cell are often transferred and skill is lost • Now Police Officer (SP) is very cooperative

2. Makwanpur	
Asmita Nepal	<ul style="list-style-type: none"> • Three activities: Human rights, Women rights, child rights • 43 VDCs coverage • Plan Nepal is supporting • Child rights Radio program launched in the last month • Study to the human rights violation cases in coordination with INSEC • Rights to women in the natural resources • Youth Management Committee formed in 43 VDCs– Peace and rehabilitation • SRH and health rights – abortion (7 VDCs)
Women Skill Center	<ul style="list-style-type: none"> • Livelihood program (5 VDCs) • SRH Rights (7 VDCs) • Women Literacy Program (5 VDCs) • Awareness program in 22 VDCs • Support to admit 80 children of Dalit and Janjati in school • Counseling (35-35 cases monthly) - husband-wife problem • VDC level monitoring committee formed – advisor VDC Secretary - Rs. 25,000 allocated in combating trafficking • VDC, legal, forest user committee, SHMC – coordination meeting • Rescued (one from circus, one from India) referred to Shakti Samuha
CWIN	<ul style="list-style-type: none"> • Coverage area: Rautahat to Chitawan • Hotline telephone service (8 am to 8 pm) 1098 – 77 cities in India, if contracted in India, child line will be contacted in India • Missing and found children – 30 districts children are in contract • Primary health care services • Emergency shelter home • Legal aid and mediator • Emergency support – fair, vehicle accident • Counseling support • Education support • Awareness about Child help line • Rescued 6 children from a Hotel in Hetauda • Efforts to make aware with CZOP network • 11 children from Sarlahi to KTM in carpet industry – they were rescued in Makwanpur
WDO	<ul style="list-style-type: none"> • DC has been formed in FY 2007/08 • 19 VDCs provided training • Women – many problem due to foreign labor migration – physical and mental problem – security should be provided
EBT	<ul style="list-style-type: none"> • Working Chitawan, Dhading, Jhapa, Morang, Bara, Makwanpur • Very few number of 14-16 years children in circus, but adults are • 20 to 30 large and 100-200 small circuses in India • 315 children rescued from 2003 to December 2009 • 14 criminals in Jail (2 persons in 20 years) • School support is provided to 350 children including support to infrastructure • Three rescue team was provided award by the US Embassy for best work
Child Welfare Society	<ul style="list-style-type: none"> • Conducting Better Life Option Program for Adolescent - contents about trafficking, violence against girls and women, awareness program • 10 VDCs – 55 centers • HOPE – CHILD LABOR REDUCTION PROGRAM – below 14 no entry in labor and above 14 protect the working condition – six children were rescued in cooperation with DCWB. • Network – District Juvenile Coordination Committee • HTT network group – CWS member • WE CAN alliance member • Children as a Zone of Peace network member

DCWB	<ul style="list-style-type: none"> • Coordination role • Conducted 'Without Fear in School Program' – all teachers training • Child Friendly Perspective (legal, rights, parents, access to community resources, make able children understand the budget allocated for them in the VDC) – Phakhel VDC – will be implemented • CZOP network – child marriage, violence • Monitoring of rehab centers in one year • Data collection
WDO	<ul style="list-style-type: none"> • DC established and sub-committees have also established some VDCs • Established Rescue Fund of Rs. 250,000 • Conducted adolescent education
DSP office, Rautahat	<ul style="list-style-type: none"> • Public awareness • In FY 2007/08 – one case filed in the court • In FY 2008/09 – 3 cases registered in Police • Rescued a bonded labor in Rautahat district
Mahaila Surascha Dabab Samuha	<ul style="list-style-type: none"> • Work in 12 critical areas of Beijing Plate Form of Action • 35 VDC network (9 to 11 persons) including in the border areas • Formed district network • Plan Nepal is supporting the network – WE CAN network, • Coordination with GOs effective
Nari Awaj Kendra	<ul style="list-style-type: none"> • Awareness program – legal, skills, education, trafficking in children and women • Networks in the 5 VDC established • Border surveillance in Gaur (2 staff) – 2 victims are intercepted but the accused run away. • Rally, street drama related to safe migration and trafficking • Plan Nepal is supporting the program • The organization has also worked during the conflict period – worked as women's rights approach; worked to protect from conflict • Witchcraft – 2 cases are being handled – yet not prosecuted • Dowry related violence – 2 women were killed (Narkatiya and Rangapur) – culprits have not yet been arrested • One rape victim referred WOREC Nepal, and another rape victim's case is filed in the court • 10% budget allocated in the DDC, it but has not been provided to the organization • Threats to the service providers – threats from 'no number'
Shakti Samuha	<ul style="list-style-type: none"> • 3-4 cases lodged in the courts • Legal support provided
3. Bara	
WDO	<ul style="list-style-type: none"> • Violence related program • Legal Officer in the office provides counseling • Own husband sold two times his wife
4. Parsa	
WDO	<ul style="list-style-type: none"> • DC formed • Awareness program to the chairpersons of the women cooperatives about HTT Act 2007 conducted • Maiti Nepal and Nepal Police have surveillance in border area • Free legal aid committee in appellate court • There is no secretaries in the VDC and one secretary is looking three or four VDCs • Action Plan is made by DC, Parsa; Planned for establishing Sub-committees at the VDC level (6 trafficking prone VDCs to be established like Thori etc.)
WCSC	<ul style="list-style-type: none"> • Dowry related violence • Awareness program to the parents to send the children to school • Border surveillance – 2 women police in civil dress, 2 Maiti Nepal • Some potential migrants are followed to the Rakshawal police – check in the train

5. Rautahat	
WDO	<ul style="list-style-type: none"> • DC formed • Awareness program to the chairpersons of the women cooperatives about HTT Act 2007 conducted
WCSC	<ul style="list-style-type: none"> • Domestic violence cases filed in the Police • Run awareness against VAW in schools
Mahila Surachha Dabab Samuha	<ul style="list-style-type: none"> • Working in women empowerment programs through formation and mobilization of woman collectivities • VDC not allocating budget for social sector work
Shakti Samhua	<ul style="list-style-type: none"> • Working for the prevention, protection and legal aid of trafficking survivors
Nari Awaj Kendra	<ul style="list-style-type: none"> • Working for the empowerment of women, VAW and trafficking
HimRights	

Annex 6.1

Outline for the Commitments

1. Do you agree that trafficking in persons is one of the major concerns under violence against women and is against the human right?
2. How do you see the situation of human trafficking in Nepal especially for women and children?
3. Do you visualize foreign labor migration and trafficking closely related? What measures needed for safer employment opportunities for women?
4. There are Acts related to trafficking, child rights and regulation of foreign employment, what is your opinion in such Acts and their implementation status?
5. Considering the depth of problem of trafficking in women and children in the country, what strategies need to be taken for effective implementation of the Acts?
6. What will be your opinion to materialize these Acts into action in dealing with prevention, protection and prosecution aspect of combating trafficking?
7. Please express support you need from Ministries, Departments and Civil Society for making your effort effective?
8. What do you expect from NHRC for supporting you?

PAPER CLIPPINGS

गर्मी पत्रिका २० २०८५ १/३०

(6)

विदेशिएका महिलामाथि शोषणको खुलासा

गर्मी पत्रिका
बर्तमान, २९ साउन

दलानमार्फत विदेशिएर फर्केका महिलाले अरबबलगायत अन्य मुलुकमा नेपाली महिलांमाथि अमानवीय व्यवहार हुने गरेको बताएका छन् ।

गैरकानूनी रूपमा खाडीलगायत अन्य मुलुकमा पुऱ्याइएका महिलांलाई यातना दिने र यौनशोषणसम्म गरिने उनीहरूको दावी छ । राहदानी र भिखालगायतका सम्पूर्ण कागजात पनि दलालले महिलांलाई नै दिने गरेको भन्ने महिलांहरू शोषणमा पर्ने गरेको



प्रहरीलाई खबर गर्ने भन्ने छाम्याउने गरेको सुनाए । गैरकानूनी रूपमा विदेश पुगेका महिलांको अवस्था दयनीय रहेको पनि उनीहरूले जानकारी दिए ।

दलालको प्रलोभना परेर विदेश पुगेका उनीहरू ६ महिनापछि घर फर्केका हुन् । धेरै पैसा कमाउन भनेर साउदी गए । त्यहाँ केही दिन काम गरेपछि गलत काम गर्न दबाव दिए । याेको ६ महिनामा नै त्यही रहेका नेपाली दाजुभाइको सहयोगमा घर फिर्ता हुन सफल भए ।

आफ्नै श्रीमती र छोरा बेचे प्रहरी जवानले !

गोरुप्राई दवाय

पाटन (बैतडी), साउन २९ गते । श्रीमान्द्वारा पाँच वर्षीय छोरा बेचिएको भन्दै २५ वर्षीया यौना नाम न्याय माग्न निस्किएकी एक महिलाको बारेमा प्रहरीले खबर गरिने गरेको छ ।

खाडीमा ५० नेपाली युवती बिचल्लीमा

काठमाडौं, २९ साउन । खाडी मुलुकमा ५० नेपाली युवती बिचल्लीमा परेको भन्ने खबरले नेपाली समाजमा चिन्ता फैलिरहेको छ ।

संरक्षणका नाममा बालबालिकाको व्यापार १२ जना बालबालिका संरक्षण गृहबाटै बेपत्ता

६ children rescued from Raxau

POST REPORT
RAXAU, N.E.P.
A social organization working against human trafficking rescued six children while they were being taken to India from Raxau on Thursday.
Hadasallah, Santosh, Shekh, abed, Mohammad

बर्षी सात हजार नेपाली चेली भारतमा बेचिन्छन्

काठमाडौं, २९ साउन । भारतमा बर्षी सात हजार नेपाली चेली बेचिन्छन् भन्ने खबरले नेपाली समाजमा चिन्ता फैलिरहेको छ ।

लेबनानी जेलमा चार नेपाली

काठमाडौं, २९ साउन । लेबनानमा चार नेपाली जेलमा रहेको भन्ने खबरले नेपाली समाजमा चिन्ता फैलिरहेको छ ।